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Ref: 9/184

30 March 2009

Dear Mr Davison

Freedom of Information Act 2000: Kaupthing, Singer and Friedlander (Isle of Man) (KSF IoM)

Thank you for your enquiry of 1 March 2009, received 2 March, requesting information under the Freedom of Information Act 2000 ("the Act").

2. You asked for:

"what progress has been made in the Government's discussions with the Icelandic government on the status of British depositors with Kaupthing, Singer and Friedlander (Isle of Man)."

The Freedom of Information Act gives the right to be told whether information is held and the right of access to information, subject to the application of exemptions. The right of access applies to recorded information. Broad questions are not valid requests under the Act except as far as we hold recorded information in relation to such questions. The information Commissioner has published a 'Charter for Responsible Requesters', which includes guidance about how to formulate a request for the best prospects of success. A link to the charter is below:

http://www.ico.gov.uk/upload/documents/library/freedom_of_information/practical_application/its_public_information_foi%20charter_final.pdf

3. Given its broad nature, we have interpreted your request as a request for information relating to discussions with the Icelandic Authorities and the Government of the Isle of Man regarding Kaupthing, Singer and Friedlander (Isle of Man). The Government are continuing to work closely with the Icelandic authorities to ensure that Iceland treats all creditors of the failed Icelandic banks, including Kaupthing Singer & Friedlander (Isle of Man), in a fair and equitable manner.

4. The Government takes seriously its constitutional responsibilities for the Crown Dependencies. Although the Ministry of Justice is the Government Department with responsibility for managing the UK's relationship with the Crown Dependencies, HM Government as a whole shares the constitutional responsibilities the UK has for them. The Treasury is the UK Department with the necessary expertise to represent the Isle of Man in negotiations with the Icelandic authorities and is fulfilling this role.



5. We judge that information relating to discussions with the Icelandic authorities and with the Isle of Man falls under the exemptions at sections s27(1)(a) (international relations) and 35(1)(a) (formulation and development of policy) of the Act. These exemptions are qualified and we are required to consider whether, in all the circumstances of the case, the public interest in maintaining the exemptions outweighs the public interest in favour of disclosure.

6. As well as the general public interest in the manner in which Government policy is formulated and developed, in this case we recognise that there is specific public interest in knowing how the interest of those affected by the failure of Icelandic banks is being represented.

7. We also consider that there are strong reasons for maintaining the exemptions cited in this case.

8. Section 27(1)(a) applies to information if its disclosure would, or would be likely to prejudice relations between the United Kingdom and any other State. In this case, to the United Kingdom's relations with Iceland and the Isle of Man. The effective conduct of international relations depends upon maintaining trust and confidence between states and international organisations. The disclosure of the information held may affect the UK's relationship with Iceland and the Isle of Man and inhibit the ongoing discussions between the UK and Icelandic Authorities to ensure the fair treatment of UK depositors and creditors. This would not be in the public interest.

9. Section 35(1)(a) applies to information relating to the formulation and development of government policy. It is important that decision-making is based on the best advice available and a full consideration of all the options. If advice was routinely made public there is a risk that officials could come under public pressure not to challenge ideas in the formulation of policy, thus leading to poorer decision-making. The disclosure of information could also prevent Ministers and officials conducting rigorous and candid risk assessments of the negotiation options available to them as premature disclosure might close off discussions and the development of better options. This is especially important where, discussions are not finalised.

10. On balance we judge that the public interest lies with not disclosing this information.

If you have any queries about this letter, please contact me. It will be helpful to us if you remember to quote the reference number above in any future communications.

Information Rights Unit
On behalf of HM Treasury

Your Rights to Complain under the FOI Act

If you are not happy with this reply, you may request a review by writing to HM Treasury, Information Rights Unit, 2/S2, 1 Horse Guards Road, London SW1A 2HQ. Email public.enquiries@hm-treasury.gov.uk <<mailto:public.enquiries@hm-treasury.gov.uk>>.

Any review request must be made within 2 months of the date of this letter.

It would assist our review if you set out which aspects of the reply concern you and why you are dissatisfied.

If you are not content with the outcome your complaint, you may apply directly to the Information Commissioner for a decision. Generally, the ICO cannot make a decision unless you have exhausted the complaints procedure provided by the Treasury. The Information Commissioner can be contacted at: The Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF.