

**Hill Insurance Company Limited (In Compulsory Liquidation)**

**Liquidator's Progress Report to Creditors**

**31 January 2016**

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## **1. Introduction and background**

- 1.1 On 24 January 2013 the Supreme Court of Gibraltar ordered the winding up of Hill Insurance Company Limited and appointed me as liquidator. The Court also permitted me to disclaim all contracts of insurance and all contracts of reinsurance under which the Company was or may have been liable, which I did by written notice of disclaimer signed before the Court on 24 January 2013.
- 1.2 Paragraph 10 of the Court's Order provided that "the liquidator is to report to the Court within 8 weeks of the date of this Order with a recommendation as to the constitution of a Committee of Inspection to be appointed by the court, having regard to the provisions of section 13(2) of the Reorganisation Act, and (if the liquidator's recommendation is that such Committee should be appointed) is to fix an appointment for the Court to consider the recommendation and, if thought fit, appoint a Committee of Inspection."
- 1.3 On 20 March 2013 I reported to the Court that no creditors had expressed interest in participating in such a Committee and, given the fact that nearly all insurance creditors were based in Italy, that it was not feasible to recommend the appointment of a Committee of Inspection. Instead, I proposed that I would report to the Company's creditors bi-annually on the conduct of the liquidation by publishing a report on the website and making it available in hard copy upon request.
- 1.4 In my biannual reports (available for download from [www.hillinsurance.eu](http://www.hillinsurance.eu)) I set out the strategy and actions taken so far since my appointment.
- 1.5 This is my sixth report to creditors covering the period to 31 January 2016 including an account of Receipts and Payments to that same date.

## **2. Liquidation Strategy**

- 2.1 The background to the Company's collapse and insolvency is that there appears to have been significant fraud from the outset in that no share capital was ever paid into the Company and the purported capital on which the Company relied for regulatory and trading purposes did not exist.
- 2.2 The liquidation strategy is to pursue the remaining assets which comprise – litigation recoveries, cash and collateral pledged to the company as counter-indemnities, broker funds and reinsurance assets due to the company and premiums written in the name of Hill but diverted.

- 2.3 Once the above actions are completed and recoveries have been made, I will be looking to distribute dividends to creditors in accordance with the statutory scheme as early as possible. I am not yet in a position to say when that is likely to be, or whether I will consider it appropriate to pay an interim dividend.

### **3. Notices and Advertisement**

- 3.1 My appointment as Liquidator of the Company and the Notice of Disclaimer of Contracts of Insurance have been advertised in Gibraltar, in the Gibraltar Gazette, The Chronicle and The Panorama and in Italy in La Stampa and Corriere della Sera.
- 3.2 The opening of the winding up proceedings has also been published in the Official Journal of the European Union.
- 3.3 I have sent out Notices in English and in Italian to the addresses of all those who, it appeared from the records available to me, are or may be policyholders or beneficiaries under contracts of insurance issued by the company, or otherwise a creditor of the Company. In summary, Notices have been sent to 3,320 policyholders and 1,916 beneficiaries. A further 164 Notices have been sent to brokers, and to others who are believed to be creditors of the Company.
- 3.4 I have also continued to make documents relevant to the liquidation of the Company available on the website [www.hillinsurance.eu](http://www.hillinsurance.eu) and have drawn attention to this website in the Notices.

### **4. Company's premises and staff**

- 4.1 The company's office premises were surrendered on 15 February 2013 when the Company's computer servers and physical records were transferred to Deloitte's offices in Gibraltar.
- 4.2 At 24 January 2013 the Company had four full time employees. By 15 February 2013 staff numbers were reduced from four to two full-time employees who have been retained to assist with the liquidation. By 31 July 2014 this was reduced to one full time employee who continues to be retained by the liquidation.

## **5. Claims handling and Legal Service Providers**

- 5.1 All insurance claims are being handled by the Milan office of Curtis, Mallet-Prevost, Colt & Mosle LLP (“Curtis Mallet”) which I have also retained to advise me on all matters of Italian Law, including assisting with the recovery of debts due from Italian brokers and the recovery of cash and collateral provided by policyholders as counterindemnities.
- 5.2 In Gibraltar I engaged Isolas (“Isolas”) as my solicitors to assist with insurance, insolvency, litigation and general legal issues.
- 5.3 Isolas have instructed Jonathan Adkin QC and Ruth Den Besten of Serle Court Chambers, London to assist and advise in relation to the various proceedings I intend to bring in the Supreme Court of Gibraltar for the recovery of monies from various parties.

## **6. Investigations and Proceedings**

- 6.1 My team and I have undertaken a comprehensive investigation into the affairs of the Company. The number and complexity of the issues surrounding the collapse of the Company is extensive and they are being given due and careful consideration. These investigations have uncovered a large amount of evidence which I have processed and collated, and passed on to my legal teams for advice with a view to pursuing claims against third parties. I have previously been advised by my legal team that there are strong prospects of success for these claims. Accordingly, we have issued a number of letters before action to the relevant parties and are assessing their respective replies. In parallel, my legal team and I are engaging with relevant parties in order to seek amicable settlements to our claims which will provide the best recovery for creditors without the expense of a lengthy court trial. These negotiations are in an advanced stage for some parties and I intend to fully explore all settlement avenues as advised by my legal teams. In anticipation of any unsatisfactory responses being received in relation to our letters before action, or if, on advice, a settlement is unlikely to be reached on acceptable terms, I instructed my legal team to prepare the necessary documents in order to issue proceedings in the Supreme Court of Gibraltar. These documents are now in near final form allowing me to start legal proceedings should it prove necessary within a short timeframe in order to swiftly pursue recovery of funds for the benefit of creditors.

6.2 Following the above approach we have secured and recovered over €1,433,448.87 and £2,104.60 from diverted insurance premiums. We have also agreed settlement terms with certain former directors and service provider for which the sanction of the court has been obtained and that will see the liquidation receive £550,000 (approximately €700,000). This latter amount is not presently reflected in the Liquidator's Receipts and Payments account as it is due to be received after 31 January 2016.

6.3 Further litigation recoveries are being pursued against other parties.

## **7. Broker debts**

7.1 We have reconciled most of the broker accounts and are seeking recovery of all sums identified as due from brokers in respect of insurance premiums collected on behalf of the Company. There are two significant broker balances due which we have passed to our Italian legal advisers to initiate legal proceedings. One of the cases is significantly advanced in the Italian Courts.

## **8. Reinsurance**

8.1 We continue in discussions with the Company's reinsurers with a view to recovering the unexpired re-insurance premiums relating to the period post 24 January 2013, being the date when all contracts of insurance were disclaimed, as well as claims for losses covered by the reinsurance treaties. We have engaged Hogan Lovells in London to assist with this recovery.

## **9. Disclaimer**

9.1 With the consent of the Court, on 24 January 2013 I signed a notice of disclaimer by which I disclaimed all contracts of insurance and all contracts of reinsurance under which the Company was or might be liable. The Disclaimer does not affect claims which had arisen under a contract of insurance prior to 24 January 2013, the date of the winding up. Beneficiaries should report any such claims to me at Deloitte Limited, Merchant House, 22/24 John Mackintosh Square, Gibraltar or by email to [liquidatore@hillinsurance.eu](mailto:liquidatore@hillinsurance.eu)

9.2 As a result of the Disclaimer, beneficiaries will not be able to claim under their policy for an insured event or claim arising on or after 24 January 2013. Those policyholders with an unexpired period of a contract of insurance as at that date will have a pro rata claim for return of the premium which they have paid (unless the liquidator agrees or the Court directs that they are entitled to prove in the liquidation for a different amount). I am permitted to admit such return of premium claims without requiring a formal proof, and I hope to be writing in the near future informing policyholders with such claims of the figure to which I have calculated they are entitled.

## **10. Creditors**

### ***Insurance Creditors***

10.1 Under Gibraltar legislation, insurance creditors have priority over non-insurance creditors. These include:

10.2 All insurance claims under a policy of insurance issued by the Company arising before 24 January 2013 and approved by me as liquidator. Notified and admitted insurance claims at 31 January 2016 amount to €9,911,157. In addition there are claims amounting to €286,707 which are presently being disputed.

10.3 Claims for return of premium for the unexpired terms of policies cancelled on 24 January 2013 by the Notice of Disclaimer. These are presently estimated to amount to €5,362,572 although this figure is subject to change pending reconciliation of broker debts.

### ***Other Creditors***

10.4 The current level of insurance claims indicates that such claims will not be met in full and therefore there is at present no prospect of any distribution from the estate to anyone other than insurance creditors.

## **11. Receipts and Payments Account**

11.1 I attach a copy of the Liquidation Receipts and Payments from 24 January 2013, being the date of my appointment as Liquidator, to 31 January 2016. Additional notes to the accounts follow:

- a) Staff numbers were decreased from four, at the time of my appointment, to one effective 30 June 2014. The employee I have retained has good knowledge of the Company's history, systems and processes and are an invaluable resource for the liquidation.
- b) Liquidation fees paid cover the period to 31 July 2015. Fees have been computed on the basis of time spent by team members at our standard charge out rates (as per the Schedule of charge out rates annexed to the Order by which I was appointed) and have been approved for payment by the Registrar of the Supreme Court.
- c) The Company's office premises were surrendered on 15 February 2013. The Company's records were transferred to a dedicated store at a cost of £1,200 per annum.
- d) Bank balances are held predominantly in Euros, being the base currency in which the Company operated. Interest rates over the period have been at historically low levels giving rise to a nominal sum of bank interest received. My team monitors interest rates offered by different international banks on a monthly basis to ensure the Company earns an appropriate level of bank interest without exposing the funds to counterparty, liquidity or currency risk.

This Report is intended to cover the major steps in the liquidation of the Company up to 31 January 2016. I have taken account of subsequent developments where I consider it relevant to do so.



**JOSEPH CARUANA Esq**  
**Liquidator**  
**Hill Insurance Company Limited**

**13<sup>th</sup> April 2016**



**Hill Insurance Company Limited**  
**Liquidator's Receipts and Payments Account**  
**For The Period 24 January 2013 to 31 January 2016**

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**Receipts**

Bank balances taken over from Provisional Liquidation	3,766,968
Premiums collected from brokers	1,574,096
Counter Indemnities recoveries	418,157
Proceeds from sale of company's office furniture and equipment	17,619
Bank interest	7,336

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**5,784,176**

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**Payments**

Staff salaries & employment costs	(116,810)
Legal fees – Gibraltar & UK counsel	(955,200)
Legal fees – Italian counsel	(576,098)
Translation fees	(5,401)
Liquidator's fees	(662,388)
Professional fees	(51,409)
Office and store rent	(8,256)
Computer & software expenses	(34,744)
Telephone	(5,854)
Internet	(348)
Couriers	(15,069)
Office insurance refund	164
Office expenses	(5,201)
Travel expenses	(4,089)
Bank charges	(5,684)
Exchange difference on revaluation of GBP bank accounts	(37,426)

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**(2,483,813)**

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**Bank balance at 31<sup>st</sup> January 2016**

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**3,300,363**

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**Breakdown of Accounts by Currencies**

	£	€
Euros		3,294,382
GBP Sterling (@1.31)	4,566	5,981

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**3,300,363**

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