

DAG Evidence for Appendix 3 (Ev 1-14)

Evidence Bundle of Email Correspondence

EVIDENCE No. 1

Subject: RE: Committee
Date: Tue, 23 Dec 2008 11:18:50 +0000
From: John.Spellman@gov.im
To: Sarah Chantrey
CC: Ziggy Sieczko; [xxx]; [xxx]; Sarah Chantrey; Tracey Spuyman; [xxx]; Nick Campling; [xxx]

Sarah

Thank you for your note.

- 1) The mail addresses will used to correspond. Tested with this email.
- 2) Feel free to inform DAG that **we are establishing a dialogue to ascertain and test possible solutions to the problem before they are presented to Court in January.**
- 3) Despite my wish, I will not be able to release quantitative information as this is maintained and monitored by the Liquidator Provision. I can provide details on the interaction between third parties, Deposit Compensation Scheme and Government contribution and how it is impacted if not done in the most efficient manner. Further, depending on certain circumstances third parties may become involved but at this stage their offers are contingent. However, any decision on behalf of the depositors, by law, has to go to a full creditor meeting for voting.
- 4) The sequence of events that already appears on the DAG website is materially complete. If there are any specifics items to clarify I will be happy to assist.
- 5) The drafting of the terms of the Advance Payment is largely complete and we have just provided final comments to the draftsman. I have forwarded your request to the department who will deal with this to make this available by link. It is my understanding that a website and call centre will be available to support the application process too.

I will draft a short paper describing

- Scheme of Arrangement (preferred option by the Government and as to why this is beneficial)
- Third party offer 1 (on a no names basis as they are a public traded entity)*
- Third party offer 2 (how this would operate)*

We can then discuss the matters plus any questions the Committee would like to raise next week. I am seeking teleconferencing facilities to allow people to dial in.

*In both cases due to delays in the UK Courts we do not believe that, **currently**, they meet the minimum criteria that would be sufficiently attractive to depositors but aim to test this with yourselves. I need their explicit permission to release details due to

commercial sensitivity.

Regards

John Spellman

Director

Financial Services Division

The Treasury, Isle of Man Government

EVIDENCE No. 2

From: Sarah Chantrey

Sent: 23 December 2008 10:35

To: Spellman, John

Subject: committee

John

Following your discussion with Ziggy yesterday, below are contact emails for the proposed committee. Are we to inform the DAG that the committee has been collated and for what purpose at this stage? Could we also ask that on receipt of the framework of proposals we also receive the information to substantiate the proposals in order for us to make informed decisions?

On a separate note, you mentioned that you would be making available some documentation of some sort to explain fully the sequence of events for the DAG, are you still able to provide this? Additionally we discussed the possibility of the claim forms for the £1k payout being accessible via the DAG site, again is this something you wish to pursue?

Best regards

Sarah

EVIDENCE No. 3

Subject: RE: Skype call 4pm
Date: Tue, 30 Dec 2008 16:12:53 +0000
From: John.Spellman@gov.im
To: Ziggy Sieczko; [xxx] Sarah Chantrey
CC: [xxx]; [xxx]; [xxx]; Nick Campling; Tracey Spuyman

All

Tracey / Ziggy – I note your comments.

I am sorry that you feel so suspicious already. I am attempting to manage your expectations rather than have them raised falsely. This is a dialogue which we are very keen to engage in and will / are doing our best despite a multitude of barriers. I am trying to manage your expectations and assist your case not hinder. As a qualified banker and a qualified accountant I feel I can and sincerely would like to try.

Despite your criticism / cynicism I am still happy to take the call.

Regards

John Spellman

Director

Financial Services Division

The Treasury, Isle of Man Government

EVIDENCE No. 4

Subject: RE: Discussion Document
Date: Tue, 30 Dec 2008 17:25:41 +0000
From: John.Spellman@gov.im
To: Ziggy Sieczko; Sarah Chantrey
CC: ; ; ; Nick Campling; Tracey Spuman

All

I have finished with the Attorney General and have agreed on the clarifications that he wanted. See attached.

I understand that the conspiracy theorists are on over drive. There is a great deal of misinformation circulating on this matter which I would like to address during the call and later calls. Some of which the Attorney General and IOMG has been investigating on behalf of the depositors in an effort to resolve the position. For example,

- I cannot find any reference in the FSA order to use anti terrorist laws KSF – it was normal Banking Act powers,
- there appears to be no sealed orders rather the actual order contains the normal restrictions placed by any UK Court on general public (with no interest) access,
- the surplus asset statement issued by the UK Administrator is misleading as it is book values not realisable values, etc.

This is not legal advice rather my observations after research.

However, there is no way in the Isle of Man that any depositors' rights can be altered without it being voted on by all.

Regards

John Spellman

Director

Financial Services Division

The Treasury, Isle of Man Government

EVIDENCE No. 5

Subject: RE: Discussion Document
Date: Fri, 2 Jan 2009 11:03:21 +0000
From: John.Spellman@gov.im
To: Ziggy Sieczko; [xxx m]; Sarah Chantrey
CC: [xxx]; [xxx]; [xxx]; Nick Campling; Tracey Spuyman

All

Further to our conversation on Tuesday evening, I would be happy to answer any questions that have been raised as a result of or subsequently to telephone call.

Just to confirm from our call:

- 1) It is part of the parameters of the Scheme that those covered by the DCS will be covered as they would have been under the DCS but accelerated as intended, if possible.
- 2) The IOMG has offered to provide assistance of up to GBP150m to the DCS. The DCS covers ALL insolvencies during the period which, however unlikely, we are required to plan for. However, there are additional fundamental reasons why the DCS, though fit for purpose, is not the best solution to meet expectations of depositors in KSF **BUT** we are keen to find a better way through. I am happy to meet with representatives to go through the specific legal clauses that create the challenges in order that the DAG can better understand why we are suggesting this.
- 3) If the DCS is called then the planning is already underway (and largely in place) to enact it should the Depositors wish to reject a Scheme of Arrangement.

I am meeting with Alix & Partners on Monday to progress thinking on the precise details of the scheme of arrangement and am keen to build in any expectations and / or challenges from yourselves. Or indeed, if you wish me to progress this at all.

I am meeting with the Insurance Companies next week to have the same conversation as we had Tuesday (though have met with a few informally already). I need to feed back to potential bidders, should the CDs be recovered in time, as to whether it is worth them progressing their offers. Your feedback in advance of these will directly shape the conversations.

I am available later today or from Monday.

Regards

John Spellman

Director

Financial Services Division

The Treasury, Isle of Man Government

EVIDENCE No. 6

Subject: RE: Discussion Document
Date: Fri, 2 Jan 2009 17:52:09 +0000
From: John.Spellman@gov.im
To: Nick Campling
CC: [redacted]; [redacted]; [redacted]; Tracey Spuyman; [redacted]; Ziggy Sieczko; [redacted]; Sarah Chantrey

See below.

Regards

John Spellman

Director

Financial Services Division

The Treasury, Isle of Man Government

From: Nick Campling
Sent: Fri 1/2/2009 4:47 PM
To: Spellman, John
Cc: [redacted]; [redacted]; [redacted]; Tracey Spuyman; [redacted]; Ziggy Sieczko; Sarah Chantrey; Nick Campling

John

Below are some early questions/requests for clarification which will help us consider your discussion document further. Perhaps we should also consider meeting face to face at the earliest opportunity to keep the momentum going on these discussions. London may be best since it would enable you to meet those members you do not know already.

JS: I am happy to fly to London to discuss. Please provide possible days next week.

Why is recovery of funds in KSFLondon, being the largest proportion of assets held by KSFIOM, seemingly being given lower priority than pursuit of the CoD as witnessed by the legal forces being employed to recover the same? Understand the comment regarding 'pursuing certainty' but given the fact that nothing further can be done with CoD until a court hearing, what is being done to gain representation/access to the funds in London?

JS: As discussed on the call, all appropriate actions are already underway. Namely:- NDA and communication with E&Y (LP), appointment of QC (LP), representations to UK Treasury for clarity (IOMG), submissions to the Treasury Select Committee (IOMG), communication with Ministry of Justice (IOMG), Press coverage (IOMG), liaison with front benchers (IOMG), legal opinion on judicial review (various).

Have there been any thoughts regarding taking payment in kind from E&Y in London, i.e. taking loan book instead of cash if this would lead to a higher return; after all in any SoA the current loan book would require administering.

JS: Yes. I believe that in specie transfers have been suggested and the willingness to negotiate on any other suggestions they may have. The Administrator has not been at a stage to consider yet due to ING transfer.

Any constructive feedback regarding the proposed structures of SoA requires further information regarding potential p in £ on which offers are based and the name/credentials of any third party.

JS: These will be provided as part of the design phase of the SoA but from the numbers you have you should be able to ascertain the range of recovery at the moment. I am meeting with AP on Monday to progress. The p in the pound are determined by the recovery of the assets but expect to make estimates as part of the SoA conversations we have. CDs and Repo assets playing material part as with

London recovery.

Would p in £ be higher using route 2 (assume yes)? How much higher? Otherwise it is impossible to calculate its worth to depositors.

JS: Yes. I would estimate c10p to 12p on a like for like basis BUT access to the surplus above the guaranteed amount is lost. Further negotiation and due diligence is required by the counterparties.

Confidentiality agreements will willingly be signed if appropriate.

JS: there are at least two listed companies who are unlikely to sign as it may affect their share price should information be leaked before formal Stock Exchange declarations are made. Once the position on CDs and Repo are clearer, I would anticipate them to make a final formal offer to the liquidator who will then represent the offer to depositors.

It would be useful to know the other SoA structures you have considered and discarded to prevent us from reinventing the wheel in our debates.

JS: A SoA is simply a tool so I assume you mean types of approach. Examples are mergers with local entities (limited interest), asset swaps with London (not interested at this stage), debt sale to Iceland in exchange for assets (extremely complex and uncertain outcome - limited progress), early settlement at a discount by London (E&Y not in a position to consider at present), quasi nationalised entity (uncertain asset recovery position), securitisation (extremely expensive and unattractive to sub 50k), third party deal with IOMG involvement (on hold pending title clarity).

You will need to communicate a clear incentive for the sub £50k depositors as to why the SoA is advantageous to them as opposed to triggering the DCS. You mentioned the timescale involved but a detailed statement to this effect would be required to convince a majority of this group of depositors that a different route would be advantageous to them.

JS: I have made the offer to meet with yourselves to explain clause on clause as to why. Also I would anticipate AP producing a clear statement as part of the creditor pack for the creditor vote. Legal clarity is required on a number of areas.

What would be required to encourage the IOM Government to use the £150m liability to DCS to help reconstitute the bank and provide a near maximum return to depositors?

JS: This is the purpose of a SoA. The commitment to the DCS is intended to cover all defaults during the year. The current uncertain liability ranges between 200m and 500m. The lower the uncertainty the more likely the Government would be prepared to work with a third party. The third party interaction has included reconstitution of the bank.

Since, as you said, it is up to the politicians to decide what can be done in this regard due to their current mandate, what can we do to discuss this proposal with them.

JS: the key Ministers are already very aware of the proposals and are updated at least twice weekly. The uncertain outcome of the asset recovery is the influencing factor here not the will to do it. I am happy to arrange a meeting with the Treasury Minister for some of your number to meet him.

How does the voting system to gain approval of the proposed SoA work in theory and in practice?

JS: My understanding is that it is 50% by count and 75% by value in attendance plus proxy votes. Both tests need to be met.

Since you are also discussing this matter with the life companies at what point do you anticipate addressing all parties at the same time so that all viewpoints are heard and explored together?

JS: Because of simple logistics, it has not been possible. There are significant numbers of representatives, legal counsellors, and compliance people who attend each meeting. They will be in attendance at the creditors meeting. They receive the same documents as yourselves but have no interest in the DCS. I will seek permission from their trade body for named representatives that you can liaise with but the decision will be theirs.

Do the life companies vote on behalf of all their policyholders in number and value?

JS: They have one vote per company and the total value of their deposits.

Please do not advise the media of your conversations with the depositors committee without their prior knowledge and approval. To do otherwise would put committee members in an extremely difficult position especially since we are observing your request for

confidentiality at this point in the discussions.

JS: Noted. For the record, I have previously indicated to journalists and observers that I am seeking to test approaches to depositors but have provided no specifics. This will have to be disclosed in any affidavits to Court I would suspect.

With kind regards

Nick

EVIDENCE No. 7

From: Spellman, John [mailto:John.Spellman@gov.im]
Sent: 02 January 2009 11:16
To: Ziggy Sieczko; [xxx]; Sarah Chantrey
Cc: [xxx]; [xxx]; [xxx]; Nick Campling; Tracey Spuyman; [xxx]
Subject: RE: Discussion Document

All

Further to our conversation on Tuesday evening, I would be happy to answer any questions that have been raised as a result of or subsequently to telephone call.

Just to confirm from our call:

1) It is part of the parameters of the Scheme that those covered by the DCS will be covered as they would have been under the DCS but accelerated as intended, if possible.

2) The IOMG has offered to provide assistance of up to GBP150m to the DCS. The DCS covers ALL insolvencies during the period which, however unlikely, we are required to plan for. However, there are additional fundamental reasons why the DCS, though fit for purpose, is not the best solution to meet expectations of depositors in KSF **BUT** we are keen to find a better way through. I am happy to meet with representatives to go through the specific legal clauses that create the challenges in order that the DAG can better understand why we are suggesting this.

3) If the DCS is called then the planning is already underway (and largely in place) to enact it should the Depositors wish to reject a Scheme of Arrangement.

I am meeting with Alix & Partners on Monday to progress thinking on the precise details of the scheme of arrangement and am keen to build in any expectations and / or challenges from yourselves. Or indeed, if you wish me to progress this at all.

I am meeting with the Insurance Companies next week to have the same conversation as we had Tuesday (though have met with a few informally already). I need to feed back to potential bidders, should the CDs be recovered in time, as to whether it is worth them progressing their offers. Your feedback in advance of these will directly shape the conversations.

I am available later today or from Monday.

Regards

John Spellman

Director

Financial Services Division

The Treasury, Isle of Man Government

EVIDENCE No. 8

From: Spellman, John [mailto:John.Spellman@gov.im]

Sent: 11 January 2009 12:35

To: Ziggy Sieczko

Cc: Sarah Chantrey; Tracey Spuyman

Subject: RE: Monday Meeting

Importance: High

See below

Regards

John Spellman

Director

Financial Services Division

The Treasury, Isle of Man Government

From: Ziggy Sieczko **Sent:** Sat 1/10/2009 5:19 PM

To: Spellman, John

Cc: 'Tracey Spuyman'; 'Sarah Chantrey'

Subject: Monday Meeting

Hi John

Apologies for disturbing your weekend with this email but I just wished to clarify a few things before we meet up on Monday.

1. Is the address for our meeting No. 2 Cornhill? If not, could you let me know what it is please.

JS: The address is 2 Cornhill (opposite the Bank of England). It is almost direct outside Bank tube station.

2. Can we bring other members of the committee (who cannot attend in person) in via conference call?

JS: Yes but we will have to use Skype as they are serviced offices and do not have telephone conferencing facilities.

3. If point 2 is an option, will we be able to fax them any documents you provide in the meeting so that they can see exactly what we are seeing?

JS: As explained to Nick, the documents are not in the public domain due to legal agreements / clarifications pending. They will be presented and questions taken by Alix Partners

4. Will we be allowed to take away any documents you provide to go over in our own time?

JS: No but the documents will be lodged with Courts later in the week and all interested parties (as lodged with the Court) will receive a version. This is expected on Thursday.

5. How many different SoAs can we expect to be given on Monday?

JS: There is only one as the lack of clarity on the recovery of the CDs and London recovery makes third party offers unattractive.

6. Will the information you provide on Monday include approximate 'return in the pound' information together with approximate timings of payouts?

JS: You already have the balance sheet estimations and caveats. They have not altered materially in the last week. As mentioned on the call to Tracey et al, the return on the ? is wholly dependant upon clarification of uncertainties. I have requested that AP prepare a direct comparison to the DCS but this is dependant on the legal advice that they receive.

Thanks for your help with this and I look forward to finally meeting you on Monday.

Kind regards

Ziggy

EVIDENCE No. 9

From: Spellman, John [mailto:John.Spellman@gov.im]
Sent: 18 January 2009 11:22
To: Tracey Spuyman
Cc: KaupthingIOM@googlegroups.com
Subject: RE: KSFIOM meeting

Tracey

You are right to chase me for an update.

Update

- 1) Affidavit: the papers that are lodged with the Courts contain a brief summary of the discussion that we had on Monday (without the details on any numbers). The basic update (rather than a formal proposal) was lodged because the petitioners to the Courts remain neutral as to whether to support the proposal and terms within it. I have requested that, though the property of the Court, these be provided to yourselves. I will hear Monday 19th if this is sanctioned. In any case, they will be provided to the lawyers acting for the depositors as a matter of course, so no doubt you will see them.
- 2) Banks: I have met with the banks (c25 of them) and briefed them using the presentation that you saw on Monday. The general consensus was that they preferred a SoA BUT that they questioned whether enough "clear blue water" existed between the proposals to carry the sub 50k vote despite it being beneficial. Given that financial support under a DCS is only available to the sub 50k, we agreed to further emphasise this when this when finalising our comparisons. Their main challenge was centred on practically getting all the banks to sign up for a SoA and they identified that this may be a protracted process due to each bank including their legal departments. We discussed how the Government may assist them in improving speed of funding but agreed that it was in the best interests of the depositors.
- 3) Insurance Co / IFAs: They were supportive of a SoA but requested that, whatever is decided, that provision of some liquidity in the short term was an overriding criteria in any decision making for their clients.
- 4) Third Party Interest: Two firms have confirmed that they would be interested in a deal IF the clarity on the London recovery could be established which, to my mind, represent good offers given the uncertainty. Via informal sources, we believe that clarity from the UK will not be until February / March.
- 4) Liquidator Provision: a key criteria that you set was the support of the LP. We have met again this week and he feels that he needs more information and is not convinced that enough "clear blue water" exists. We have received no counter proposal.
- 5) Financial Supervision Commission: We have met and presented to their Board. They would be "inclined to support" the SoA but have raised a list of legal points on the current DCS to clarify in order to change terms more favourably for depositors within the DCS before they could make a definitive statement. Time is against us but we are fast tracking a response.
- 6) Lobbying: We have communicated and taken questions from a number of UK politicians and Government has held a large number of face to face meetings have taken place to urge action on the UK position including Vince Cable, Mandelson's chief advisor, Bellingham, etc.
- 7) Press: the move in the press to cynicism in the last week has made a hard job very much more difficult. The Bloomberg article, FT Online and now the Press release from DAG has cast doubt on the achievability of any SoA and its necessary sanction from a local political angle. The current sentiment that the IOM Government is self motivated in its interests rather than trying to help depositors is disappointing. It has a) increased cover from 20k - 50k in DCS b) agreed to contribute upto £150m when no provision previously existed c) footed all legal bills to construct a better Scheme when this would normally be LP d) established an advance payment scheme e) Negotiated with third parties to achieve a restructure subject to clarity from the UK despite nearly 4 months elapsing and no information forthcoming. But, based on your feedback, you believe this is insufficient and, as promised, I will feed this back.
- 8) Asset recovery: the management of all assets is in the hands of the LP. The delay in the UK Courts hearing the position on Certificates of Deposit, to my knowledge, has not been resolved. The worsening position of the UK and Ireland banking stocks is a grave concern to all countries and will naturally increase reliance on the compensation schemes in those countries. This needs to be considered and assessed for implications to the DCS.
- 9) Depositors Lawyers: Alix Partners have met with local lawyers representing the depositors in order to answer questions in advance of the hearing on the 29th. I have no feedback from this meeting yet as it took place Friday pm.

Next Steps

From conversations with a number of the DAG Committee, it is clear that you are coming under criticism despite, like ourselves, motivated to achieve the best outcome. Therefore, I have requested an extraordinary session with all key Government officials to critically examine the current position and events of the last week. This session will take place on Monday.

Regards

John Spellman
Director
Financial Services Division
The Treasury, Isle of Man Government
www.isleofmanfinance.com

Telephone 686400
Mobile: 07624 270277

From: Tracey Spuyman [mailto:tracey@spuyman.com]
Sent: Sat 1/17/2009 3:07 PM
To: Spellman, John; 'John Spellman'; 'John Spellman'
Cc: KaupthingIOM@googlegroups.com
Subject: KSFIOM meeting

John

It is five days since 'the committee' was briefed by Alix & partners and yourself and we would be grateful for an update on the current situation. We are aware that the affidavits have been lodged but what happens next? Are you still wanting to solicit opinion from the group? Are you able to provide any further information? or is everything just drifting into the hands of the legals?

Since we gave up considerable time to both talk and meet with you in the last few weeks, we would appreciate some indication of how you see this route progressing, plus any further detail that may have been worked out/defined since we met. Would it be appropriate to schedule a further conference call?

I appreciate it is weekend (and apologise for interrupting yours) but there was a theory amongst certain committee members that you would contact us before the end of the week to outline next moves. In the absence of this, could you clarify where we go from here?

kind regards

Tracey

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No employee or agent is authorised to conclude any binding agreement on behalf of any of the Departments or Statutory Boards of the Isle of Man Government with any party by e-mail without express written confirmation by a Manager of the relevant Department or Statutory Board.

RAAUE: S'preevaadjagh yn chaghteraght post-l shoh chammah's coadanyn erbee currit marish as ta shoh coadit ec y leigh. Cha nhegin diu coipal ny cur eh da peiagh erbee elley ny ymmydey yn chooid t'ayn er aght erbee dyn kied leayr veih'n choyrtagh. Mannagh nee shiu yn enmyssagh kiarit jeh'n phost-l shoh, doll-shiu magh eh, my sailliu, as cur-shiu fys da'n choyrtagh cha Leah as oddys shiu.

Subject: RE: Call tomorrow
Date: Thu, 22 Jan 2009 12:43:07 +0000
From: John.Spellman@gov.im
To: ksfiom@talktalk.net
CC: sarahchantrey@hotmail.co.uk; tracey@spuyman.com

See below

Regards

John Spellman

Director

Financial Services Division

The Treasury, Isle of Man Government

From: Ziggy Sieczko
Sent: 22 January 2009 12:04
To: Spellman, John
Cc: Sarah Chantrey (KSF); Tracey Spuyman (KSF)
Subject: Re: Call tomorrow

Hi John

I think it may be worth reiterating before the call just what would be needed before depositors could be expected to favour an SoA over the DCS - just so we all know where we stand.

Firstly the wording of any SoA would have to include clauses giving depositors the same legal rights and recourses as a liquidation. Depositors should not have to forgo any potential legal remedies by opting for an SoA.

JS: This is contained in the design of SoA that all depositors vote most vote upon. There is no intentions to undermine any legal rights except to ensure that financially all parties are protected from a double call under the DCS. If you wish to follow up other legal remedies, that is your choice. On a personal note, I strongly urge you to balance the evidence and experience under other banking failures as it is a very expensive and onerous process.

Secondly, we will need a document that is crystal clear on how an SoA will pay out the sub £50k depositors sooner and quicker than the DCS scheme.

JS: You have it in the document.

Thirdly, we will need documentation from Alix Partners giving detailed information on how they intend to maximise returns over and above what the DCS would pay out to higher end depositors. This document will need to be more than a set of 'beliefs' - facts will be required.

JS: That is not possible as it is purely subjective and the Scheme Administrator needs to be appointed. The affidavit lodged by them on Monday is likely to contain qualitative arguments based on their experience but, simply, ever liquidation is different.

Lastly, the information supplied to satisfy the conditions above will need to pass the scrutiny of our Legal team before we can pass judgement or comment.

JS: Accepted. Your judgement call is indicative only and does not commit you to anything. As previously stated, all affected depositors / creditors need to vote. If we cannot find agreement on a SoA, DCS kicks in automatically.

I realise this is just restating what we have discussed before but I thought it was worth mentioning again so there are no surprises on the call.

JS: If you feel unable to support a Scheme of Arrangement, we have made plans to enact a DCS and possible legal changes to improve the timing of payments. For transparency, we have included the improved terms in the document that you have to ensure we have not “artificially” skewed the comparison in favour of a Scheme.

Thanks again for your help

Kind regards

Ziggy

EVIDENCE No. 10

Subject: RE: Clarification on statement
Date: Fri, 30 Jan 2009 13:04:47 +0000
From: John.Spellman@gov.im
To: Sarah Chantrey
CC: Dominic.Debono; David GreeneTracey Spuyman

Sarah

I was in Court yesterday but I must have missed you.

Please see below.

Regards

John Spellman

Director

Financial Services Division

The Treasury, Isle of Man Government

From: Sarah Chantrey
Sent: 30 January 2009 11:41
To: Spellman, John
Cc: Dominic.Debono; David.Greene@; Tracey Spuyman
Subject: Clarification on statement

Subject: Clarification on statement

John

Your point was clear and I have not misunderstood. Ziggy's interpretation from your discussion with him on 23 January was: " if the return from London was good (over 50p) the IoM would consider getting together with a 3rd party to bridge the gap . "

Response: I am working with third parties to assess what is achievable subject to the return from London and timescales. The complete absence of any information from London has meant that the conversations are on hold but I maintain contact with them regularly.

My question to the Treasury Minister, as it was to yourself on Monday, was to ask whether IOMG would be willing to make known in a statement that they are not adverse to "bridging the gap" if the return from London was better than currently expected in the SoA projections. Your response to this was that you would need to consult legal advice.

Response: We would only be able to consider other alternatives once the details from London are known. We do not want to mislead

anyone hence the need to maintain dialogue.

It was my understanding that the Treasury Minister refuted this statement entirely.

Response: Given how you have relayed the conversation it is possibly a misunderstanding. He was in the meeting when we discussed with Ziggy that we had not closed off other options.

It is clearly necessary to get absolute clarity given that any signal that IOMG would look to increase their contribution under a particular set of circumstances could be a very persuasive argument to support a particular route.

Response: I would agree but at this stage that is not possible.

If there is any suggestions of bridging the gap could I ask , for the avoidance of doubt, whether this would also be considered to be included in any terms of a liquidation where the return from London was improved? What we need is a distinction as to whether 'bridging the gap' relates solely to a SoA and not also to liquidation and therefore is it a potential advantage of the SoA for depositors?

Response: Noted.

Regards

Sarah

EVIDENCE No. 11

Subject: RE: Meeting with the Treasury Minister

Date: Thu, 29 Jan 2009 17:57:45 +0000

From: John.Spellman@gov.im

To: Sarah Chantrey

CC: Dominic.de Bono; David Greene; Tracey Spuyman

Sarah

I have been asked to provide an update to the Treasury Minister on a specific matter referred to in the above. To reiterate, the Government has committed up to £150m to the SoA (or the DCS if that is what is eventually decided). You will remember that I said specifically on our call that the Government that it was not considering making further funds available.

However, depending on the recovery from London, the Government has not closed its mind in considering other options and working with third parties. The Treasury Minister was actually in the meeting with Ziggy when I reiterated that. I believe that Ziggy produced details of the meeting which I can provide if that helps.

If this point was not clear then my apologies.

Regards

John Spellman

Director

Financial Services Division

The Treasury, Isle of Man Government

EVIDENCE No12

Subject: Action/Discussion points

Date: Fri, 23 Jan 2009 18:58:01 +0000

From: Ziggy Sieczko

To: John.Spellman@gov.im

Hi John

Thank you once again for your time this afternoon and please pass on my thanks to Alan as well. It was a very useful catch up and I do believe we have a good basis to work from over the next few days.

As agreed I have put together some bullet points that arose out of our conversations as well as some suggestions/questions that occurred to me after our conversation had ended.

ACTIONS FOR ALIX PARTNERS

As I stressed in our conversation we believe that it is important that Alix Partners (AP) step up to the plate and provide depositors some proper information on which they can base a decision as to which road to follow – DCS or SoA. To this extent we request that AP produce the following for Monday:

1. Calculations showing how the DCS and potential SoA compare given certain assumptions. By this I mean that we know the latest calculation showing an end return of 65% is based on an assumption that 15p in the pound is recouped from London (and presumably assumptions have also been made on the recovery from the Certificates of Deposit and the loan book) so it should be possible for AP to show similar calculations with varying assumptions, e.g. zero return from London, 30% return from London and 50% return from London. These assumptions need to be stated clearly and fed into the SoA model as well as the DCS model so that depositors can see the difference – especially any difference in timings. These calculations should extend through years 4, 5 and 6 and not end at yr 3 with the remaining timescale being uncertain.

Before AP put up resistance to this based around the fact they don't want to put their necks on the line regarding the numbers please point this out to them. They will be clearly stating that the numbers supplied are subject to certain important **ASSUMPTIONS** over which they have no control. These models are only to give depositors examples of how the two routes differ and to give **an indication** what % returns may be based on these assumptions.

The assumptions need to be clear and concise so that depositors can see which assumptions they feel most comfortable with and make their decision from there.

2. A document clearly explaining why they believe, in their position as experts, the proposed SoA will benefit higher end depositors over the proposed DCS and how this benefit is likely to come about.

AP should be aware that the comparisons they provide on Monday will be passed over to our Lawyers for comment. What we will be looking for is for our lawyers to be able to say "Yes, you now have enough information on which depositors can make a decision. You have been provided with clear definitions and examples of how the SoA and DCS will work and differ now it is up to you to decide which suits you best." Before submitting any information on Monday AP need to bear this requirement in mind – if their submissions do not satisfy this simple condition we will have nothing to put to depositors and we will all have a big problem leading up to the 29th.

3. Worked examples of how this will all work for bondholders. If we look at page 5 of the latest submission (v1.3) that we received on 21/1 then a similar table showing how bond holders can expect to be treated would be very useful.

WHAT IoM WILL NEED TO SUPPLY ON MONDAY

1. Detailed explanation of the planned early payment scheme including specific timings and size of payments to be made.
2. Clarification on when the IoM will begin to draw down on dividends from the run-down of the bank. From a depositors' point of view it would be seen as a massive vote of confidence in the SoA if the IOM were to agree to defer any draw downs to itself until depositors had, at worst, received, for example, 70p in the pound.
3. Clarification of why the big insurance companies are in favour of this and why the SoA is a good idea for bond holders – I realise we discussed this but something in writing that we could produce to bond holders would be helpful.

OTHER ISSUES FOR THE IoM

1. It is important that the £1,000 pay out to depositors that claimed be paid out ASAP as there are a lot of desperate people out there.
2. Clarification of the exchange rate issue.
3. Documents currently showing the % of depositors that will be paid off within 3 years show that it will be approximately 71%. Technically this is true but is also possibly a little misleading. In this instance, we believe, the bond companies are being treated a single depositor each so the true number of people caught up in this is greater than the number being used to calculate the %. To get the true % we would need to factor in the number of bond holders caught up in this, if this is impractical then we suggest that the percentage not be used.

Lastly I'd like to confirm a couple of great things that came out of our call, those being:

1. We agreed that any SoA should include clauses specifically giving depositors all the legal rights they would have had under a liquidation including all the rights a liquidator would have had (e.g. to pursue 3rd parties on behalf of the company and seeking other legal remedies on behalf of the company)/
2. All further discussion and communications to be made through the informal committee so that everyone is privy to the same level of information.

Once again, thank you for all your efforts and your time. Please pass this email on to Alan as I don't seem to have his details – if you could forward those on to me I would be very grateful.

Kind regards

Ziggy

EVIDENCE No. 13

Dear Sarah

I have put my responses in the second e-mail below, to keep them in line with the issues to which they refer.

Regards

Mark

From: Sarah Chantrey

To: Mark Shimmin

Subject: Responses

Date: Mon, 2 Feb 2009 19:01:48 +0000

Hi Mark

Please see my responses below.

Best regards

Sarah

Dear Sarah

On the points raised :

£150m Government Contribution

The Isle of Man Government is committed to support depositors in achieving the best possible outcome. Whilst the return from London is unknown it is not possible to consider other options but I can confirm that we remain in contact with 3rd Parties. The financial commitment represents 50% of the free cash reserves of the Isle of Man and has the political commitment of Tynwald. The interpretation of the conversation you referred to, which suggested that we would be prepared to go further is not correct, but subject to the recovery from London we have not dismissed other options. Any further comment at this stage is premature.

RESPONSE: We believe that 50% of cash free reserves do not represent 50% of all the Isle of Man reserves ? Could you reveal what proportion of all IoM Government Reserves this actually represents ? We understand that this information is in the public domain and given the reason for the enquiry we hope you will feel obliged to answer this question to save us time and effort. Do your policies prevent you from utilising ALL reserves in such exceptional circumstances? You must be aware that the reputation and future of the IoM is at stake and this is a good reason for utilising such reserves. The UK government has, after all, borrowed a trillion pounds and, whilst

we understand that borrowing is difficult, 50% of free reserves really doesn't meet the situation at hand.

RESPONSE :This is irrelevant. The money committed by the Isle of Man is in line with the liability for funding under the DCS.

We note that you have not dismissed other options. At what stage will you dismiss other options?

RESPONSE : We require clarity on the recovery of the monies from London and the outstanding UK Court Cases.

Your comment indicates that you expect some recovery from London. What proportion of the funds from London do you expect to recover. Assumptions on this subject will have been made in the design of the SoA. What are these assumptions?

RESPONSE : We have no confirmed return from the UK. The indicative return for the SOA is a balanced estimate not a prediction.

Along with other estimates the amount from all sources could vary.

Insurance Bonds

John Spellman has met with the Insurance Companies and agreed to work through proposals with them on how this would apply to a revised Early Payment Scheme pending the Court decision on Scheme of Arrangement. We would anticipate providing clarity on this shortly and will be happy to ensure DAG is kept fully informed of the mechanics and application. The delay here is to ensure the complex financial arrangements that each Insurance Company has are adequately considered and catered for. Insurance Bondholders are not catered for under the DCS.

RESPONSE: Isle of Man regulated banks still appear to be using the DCS as a incentive for attracting business to the Isle of Man, yet by your words and actions, you are suggesting that this scheme would could and could not be activated appropriately. Is it sensible to allow this continue?

RESPONSE : This is incorrect. We are simply attempting to improve the position of depositors.

Mark Shimmin

I am the Chief Financial Officer of the Isle of Man Government responsible to the Treasury Minister. As line manager of John Spellman, he keeps me fully briefed and made aware of the conversations and developments surrounding KSFIOML.

RESPONSE: We understand that John Spellman is not a permanent Civil Servant and is on contract to the IoMG through Webster

Spellman Ltd. Would you please clarify his employment status. If John Spellman is not a full time Civil Servant then surely he is conflicted through his other business interests, especially his connections with the life companies in his capacity as a Director of Assureweb . If John Spellman is a contractor then we would question his accountability and your statement that you are his line manager since our understanding is that line management can only be applicable to employed staff, not contractors. Would you please indicate what experience you are relying on in employing John Spellman and Alix & partners to undertake such a vital task and more importantly to the issue at hand, the basis on which they are being remunerated. Would IOMG consider taking a second opinion from other experienced SOA professionals?

RESPONSE : Alix Partners and John Spellman's contract details are a matter between the Isle of Man Government and them. Both Alix Partners and John are accountable to myself for the work that they undertake. For the record, John has worked tirelessly on behalf of the depositors to ensure that they are supported as best as possible at all times. We support their services with appropriate legal advice and do not believe further professional expertise is necessary.

Legal costs

We requested when we met with John Spellman three weeks ago whether the IOMG would contribute towards our legal costs to enable us to adequately consider the SoA and its implications for depositors. He replied verbally that this may be possible and he would seek clarification from internal IOMG sources. We have yet to have confirmation on this issue and last Thursday John was contacted again and asked by email ' As per our discussions please can you confirm that the Isle Of Man Treasury will be following normal procedures and paying for depositors' legal advice surrounding the SoA proposals. ' He is yet to respond. Please can you confirm this issue for us since it is imperative that the IOMG and depositors are seen to have appropriate legal advice in order to consider this matter properly.

RESPONSE : This matter has been raised with the KSF Steering Committee. It is not normal procedure to pay for counterparties legal advice. After consideration it was agreed that the Isle of Man Government would not contribute towards your legal costs.

EVIDENCE No. 14

From: Dubey, Shagun [mailto:sdubey@alixpartners.com]

Sent: 17 March 2009 09:24

To: Spellman, John

Cc: KSFIOM

Subject: RE: KSF - Letters to the Chief Minister

John

I am drafting an email for Gordon's group I am assuming that we can still address them as a group rather than send to Gordon only to circulate. Have a think while i draft this.

Re Group 3 – I am afraid due to a heavy litigation tone to it, I was advised to do via lawyers. I had left it with Herbert Smith to organise a meeting with Edwin Coe and their clients. Not sure why this has been dragging on. I will today ask Mark Holligon to make the call. I want this started today.

Shagun

From: Spellman, John [mailto:John.Spellman@gov.im]

Sent: 17 March 2009 09:03

To: Dubey, Shagun

Cc: KSFIOM

Subject: RE: KSF - Letters to the Chief Minister

Importance: High

1) I am OK for most days except Thurs pm/Friday

2) Gordon's Group

Large Depositor Group

xxx

xxx

xxx

xxx

xxx

xxx

xxx

some fragmentation between two groups

3) Difficult Group but key people named

DAG (hostile)

Ziggy Sieczko; Ziggy but seems to have backed out

Sarah Chantrey; very hostile, leader

xxx; hostile, leader

xxx; reasonable, leader

xxx

Nick Campling; hostile, leader

xxx; hostile, leader

xxx

xxx; the press woman that they keep referring to

xxx

xxx

xxx

xxx

xxx

xxx

xxx

Regards

John Spellman

Director
Financial Services Division
The Treasury, Isle of Man Government

From: Dubey, Shagun [mailto:sdubey@alixpartners.com]
Sent: 16 March 2009 21:22
To: Spellman, John
Subject: RE: KSF - Letters to the Chief Minister

John

Pls give me the email address of some of these people and also for Gordon Inglis so I can write to them as I cannot find this info. I will do some Q&As as agreed to circulate asap the Tynwald approval comes through. Let go for a meeting date that suits you in London for next week. Does the iom office in the City have a boardroom that we can use?

shagun

Shagun S. Dubey
AlixPartners Limited
London
Tel: +44 7899 066926

From: Spellman, John <John.Spellman@gov.im>
Sent: 16 March 2009 18:48
To: Dubey, Shagun <sdubey@alixpartners.com>
Subject: FW: KSF - Letters to the Chief Minister

I will respond to these but these are starting to increase re lack of direct comms hence my chat...

Regards

John Spellman
Director
Financial Services Division
The Treasury, Isle of Man Government

From: Quayle, Stuart

Sent: 16 March 2009 14:41

To: Spellman, John

Subject: FW: KSF - Letters to the Chief Minister

Dear John

An update from my previous email. Mr Ellis from Northern Wychwood has called about the meeting which he suggested in his letter of 20th February (1st attachment). He is travelling to Africa on Saturday to meet up with some of his KSF clients and would like, if possible, to meet an IOM Government official before then. He won't be back on the Isle of Man until May although a colleague of his will be available from mid April. Under the circumstances, the Chief Minister would like you to meet Mr Ellis to discuss the points he raises in his letter. We're happy to help arrange if that helps. Mr Ellis can be contacted on 678265 or 678251.

Kind regards

Stuart

Stuart Quayle

Private Secretary to the Chief Minister

From: Quayle, Stuart

Sent: 25 February 2009 15:15

To: Spellman, John

Subject: KSF - Letters to the Chief Minister

Dear John,

Please find attached two letters which the Chief Minister has recently received. Although the Chief Minister has received a large volume of correspondence on this issue, the substance of which hasn't generally been addressed, both of these are from Isle of Man residents.

The Chief Minister would welcome your advice regarding a suitable response from him. It might be that you (or another officer) can go back to Mr Ellis (first attachment) separately on the substance of the points which he raises; he does indicate his willingness to meet.

Kind regards,

Stuart

Stuart Quayle

Private Secretary to the Chief Minister