



Kaupthing Singer & Friedlander (Isle of Man) Limited Early Payment Scheme

Additional Guidance Notes

Introduction

Guidance notes on the KSF IOM Early Payment Scheme were issued by Treasury in December 2008, together with the forms which must be completed in order to apply for a payment under the KSF IOM Early Payment Scheme. These new guidance notes deal with questions being asked most frequently by those contacting the Treasury helplines. They are intended to provide general guidance to help KSF IOM account holders decide whether they wish to apply for an early payment of up to £1,000 from the Isle of Man Government.

Attention is drawn to the fact that the KSF IOM Early Payment Scheme is entirely separate from both the Depositors Compensation Scheme and the work of the Liquidator Provisional/Liquidator in identifying the assets available to meet the claims of KSF IOM creditors. These guidance notes are therefore not intended to provide legal or any other advice in relation to either the Depositors Compensation Scheme 2008 (as amended) or the rights of depositors to receive a payment from the Liquidator of KSF IOM or any other source. The Isle of Man Government does not accept any liability for any loss or damage caused to any person relying on any information or omission in this document.

Further information on KSF IOM Early Payment Scheme

The following helplines are available if you want further information in relation to the Early Payment Scheme:

Telephone helpline: +44 (0)1624 685858 (09:00 to 17:00 GMT Monday to Friday)

Email helpline: ksfdepositors@gov.im

Assignment

Why is the Memorandum of Assignment required?

The purpose of the Early Payment Scheme is to allow eligible KSF IOM account holders to receive up to £1,000 before any compensation, liquidation distribution or any other payment is available. It is intended that the payment will effectively be an advance payment of compensation, the final liquidation distribution or any other payment or account balance which may be available following a restructuring or purchase of KSF IOM assets by a new owner.

As a result, eligible account holders who wish to receive a payment under the Early Payment Scheme must agree that the amount of any payment can be set off against any compensation or liquidation distribution or any other payment or account balance to which they become entitled. Those applying for the payment give their consent to this by signing the Memorandum of Assignment.

Will this change any of my rights or entitlements in the future?

By signing the Memorandum of Assignment, an account holder agrees to assign all his/her right, title and interest but only in respect of the amount received from the Early Payment Scheme. As a result, Treasury will 'stand in the shoes' of an account holder but only in respect of the rights relating to the amount of the payment from the Early Payment Scheme. This means that the Treasury:

- has the right to recover the amount of any payment from the Early Payment Scheme directly from the Liquidator, Scheme Manager of the Depositors Compensation Scheme (if the DCS is activated) or any other party (in the event of a restructuring or scheme of arrangement); and
- has the right to vote in relation to any restructuring or scheme of arrangement proposed by the Liquidator Provisional/Liquidator in proportion to the payments made under the Early Payment Scheme.

Attention is drawn to the fact that the Early Payment Scheme will pay a maximum of £1,000 to eligible account holders. It follows that the assignment of rights can never exceed £1,000: rights in relation to any remaining account balance will be entirely unaffected.

How is this assignment expected to work for an account balance of, say, £100,000?

If an eligible account holder has an account of balance at close of business on 8 October 2008 of £100,000, he/she will be entitled to receive £1,000 under the Early Payment Scheme. Treasury will use the Memorandum of Assignment to recover this amount directly from the Liquidator, the Scheme Manager of the Depositors Compensation Scheme (if this is activated) or any other of funds

In addition, the Memorandum of Assignment gives Treasury the right to vote in respect of £1,000 in relation to any restructuring or scheme of arrangement proposed by the Liquidator Provisional/Liquidator. The account holder will retain all other rights and entitlements in relation to the remaining account balance (£99,000) and this will not be affected in any way by the Early Payment Scheme.

How is this assignment expected to work for an account balance of, say, £900?

If an eligible account holder has an account of balance at close of business on 8 October 2008 of £900, he/she will be entitled to receive £900 under the Early Payment Scheme. Treasury will use the Memorandum of Assignment to recover this amount directly from the Liquidator, the Scheme Manager of the Depositors Compensation Scheme (if this is activated) or any other of funds.

In addition, the Memorandum of Assignment gives Treasury the right to vote in respect of £900 in relation to any restructuring or scheme of arrangement proposed by the Liquidator Provisional/Liquidator. As the remaining balance is nil, the account holder will have no residual voting rights. In this situation, because the account holder has received a payment under the Early Payment Scheme which represents his/her full account balance, he/she has assigned all rights and entitlements in relation to that account balance.

How will the reduction in entitlement be allocated between compensation, liquidation distribution or any other payment?

Any payment received will be set off against either:

- any liquidation distribution; or
- any compensation payment; or
- any other payment or account balance that the account holder is entitled to following a restructuring or sale of KSF IOM assets.

The order of set off will depend on when each source of funds becomes available. The set off will be applied against the source of funds to which the account holder first becomes entitled. If it is not possible to set off the payment received by the account holder fully, then the remaining balance will be set off against the next available source of funds. This will continue until the full amount paid under the Early Payment Scheme to each account holder has been set off.

The amount of any reduction in your entitlement will be paid directly to Treasury by the relevant party.

Is it necessary for someone to witness my signature on the Memorandum of Assignment?

No. The Memorandum of Assignment simply needs to be signed by the account holder(s) or a person(s) authorised to sign on behalf of the account holder(s).

What should I do if there are more than 2 account holders?

It is important that all account holders sign the Memorandum of Assignment. If there are more than 2 account holders, the final page of the Memorandum of Assignment can be copied or printed from the website so that each account holder can sign.

Why does the Application Form also mention the assignment of rights?

By signing the Application Form the account holder is simply confirming that "I/we understand thatTreasury may require me/us to assign some or all of my/our rights...". This is simply a confirmation that you understand that additional documentation may be required to create a legally binding assignment. In fact, this documentation is the Memorandum of Assignment which was provided with the Account Holder Information Form and Application Form.

The Application Form also states that other documents may be required?

The Application Form asks account holders to "... agree that we will execute any other instruments which the Treasury may reasonably require for the purpose of securing its interests under the KSF early payment scheme".

This means that you agree to sign another agreement, if Treasury consider that this is required, to ensure that Treasury can set off the amount of the payment under the KSF IOM Early Payment Scheme against any entitlement to a payment from the Liquidator, the Depositors Compensation Scheme and any other payment or account balance.

Currently, it is not envisaged that another document will be required. However, it was necessary to include this requirement to ensure that Treasury can recover the advance payment in all circumstances, even where a creditors' scheme of arrangement or other restructuring of KSF IOM is implemented. As there were no firm proposals in relation to a scheme of arrangement or restructuring at the time the Application Form and original guidance notes were issued, it was necessary to keep the position open.

In practice if Treasury need you to sign another document this will be sent to you and you will have a chance to consider the terms and whether you wish to sign it. If you do not wish to sign for any reason then you would not be able to receive a payment under the Early Payment Scheme.