

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

Guidance Notes

Introduction

Purpose

This document provides guidance on the Kaupthing Singer & Friedlander (IOM) Limited Early Payment Scheme. The guidance notes set out the background to the development of the Early Payment Scheme as well as the rules in relation to eligibility and other information 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.

It is important to note that the KSF IOM Early Payment Scheme is entirely separate from both the Depositors' Compensation Scheme and the work of the Provisional Liquidators 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 Account Holders to receive a payment from the Liquidator of KSF IOM. 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 from 22 December 2008 if you want further information or 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

Further information on restructuring and other arrangements for KSF IOM

Updated information on this can be found on the Isle of Man Government website (www.gov.im) and the Financial Supervision website (www.fsc.gov.im). These websites are updated regularly when more information becomes available.

Background

Why was the Early Payment Scheme developed?

On 27 November 2008 the Isle of Man High Court agreed to a further deferment of the order to wind up KSF IOM. This was to allow Isle of Man Government more time to develop a number of potential options ranging from a sale of KSF IOM to a restructuring of the business. Isle of Man Government considered that KSF IOM Account Holders may be better off under these alternative arrangements than if the Court had simply made a traditional winding up order.

The Isle of Man Government recognised however that a number of Account Holders may be experiencing hardship as bank accounts in KSF IOM had been frozen by the Provisional Liquidator. The deferral of the winding up order would inevitably delay payments to KSF IOM Account Holders from either the liquidation or the Depositors Compensation Scheme (DCS).

Isle of Man Government developed the Early Payment Scheme so that eligible Account Holders could effectively receive an advance payment of their entitlement to a payment from the Liquidator, the DCS, or from any other source. Tynwald approved the development of the Early Payment Scheme at its December 2008 sitting.

What is the Early Payment Scheme?

Tynwald approved the development of a scheme to provide an early payment to eligible Account Holders of KSF IOM of up to £1,000 per account holder. Funding of up to £11 million has been approved from the Isle of Man Government Reserves Fund to meet the cost of these payments. The Department of Treasury has been given responsibility for making payments, in accordance with the eligibility rules and other arrangements set out in this guidance note.

How was the maximum payment of £1,000 decided?

The maximum payment amount per account holder was set in order to help those experiencing hardship but to avoid any adverse impact on the restructuring proposals or liquidation.

The payment is available to all eligible Account Holders. It is recognised that £1,000 is a relatively small amount for those with significant financial resources however more than 30% of account holders with KSF (IOM) Ltd have deposits of £4,000 or less.

Why will any payment be set-off against future payments from the Liquidator or the Depositors Compensation Scheme, or any other source?

The Early Payment Scheme is entirely separate from the Depositors Compensation Scheme (DCS) and also any work which may be carried out by the Liquidator to distribute KSF IOM assets. The payments under the Early Payment Scheme are intended to be an advance payment of amounts which Account Holders might eventually receive from the Liquidator, the DCS or any other source.

As a result, 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 their entitlement to any payment they might be entitled to receive from the Liquidator and/or any compensation they might be entitled to receive from the DCS should KSF IOM be placed in liquidation, or will be deducted from any other source.

Who will pay the costs of making the payments?

The costs of the management and administration of the Early Payment Scheme will be borne by IOM Government.

Why can't the Provisional Liquidators make an advanced payment?

The Provisional Liquidators have no powers to make an advanced payment or any other distribution of the assets of KSF IOM unless KSF (IOM) is placed into liquidation.

Why can't a payment simply be made from the Depositors Compensation Scheme?

As KSF IOM has not been formally placed in liquidation, the Depositors Compensation Scheme (DCS) has not been activated. It is therefore not possible for the DCS to make a payment now.

Eligibility

Who decides on eligibility?

The Early Payment Scheme is being managed and administered by Treasury in accordance with the Early Payment Scheme arrangements approved by Tynwald at its sitting in January 2009. Treasury therefore have a responsibility to ensure that payments to account holders are in accordance with the eligibility requirements approved by Tynwald.

Why can't you advise me about the eligibility requirements now?

The Early Payment Scheme eligibility requirements will be considered by Tynwald at its sitting in January 2009. It is therefore not possible to provide details of the Early Payment Scheme eligibility rules now.

Once Tynwald has approved the Early Payment Scheme, the eligibility rules will be posted on the Isle of Man Government website (www.gov.im) and the Financial Supervision website (www.fsc.gov.im). In addition, a copy of the eligibility rules will be sent by post to account holders who have applied for a payment under the Early Payment Scheme but are considered to be ineligible.

Will I receive confirmation of eligibility?

Treasury will not send out any confirmation of your eligibility. Treasury will send you an advice of payment when your application and payment has been approved and processed.

In the event that the Treasury consider that you are not eligible you will receive a letter advising you of this enclosing a copy of the Early Payment Scheme eligibility rules.

Treasury expect to start making payments to eligible account holders shortly after the Tynwald sitting which commences on 20 January 2009.

What if I am advised I am not eligible but don't agree?

If you have been advised that you are not eligible to receive a payment under the Early Payment Scheme but consider that you should be eligible, then you should either write or e-mail Treasury (ksfdepositors@gov.im) asking for your case to be reviewed stating the reasons why you think you are eligible. Treasury will review your case and advise you of the outcome.

How will any payment under the Early Payment Scheme be calculated?

A payment will be made to account holders of KSF IOM. Where an account holder has several accounts, the accounts will be aggregated and one payment will be made to that account holder.

The amount of the payment is the lower of:

- the aggregate of the Sterling equivalent of the balance on all deposit accounts of an account holder in any currency including interest as at 8 October 2008; and
- £1,000.

Does my eligibility under the Early Payment Scheme also establish my entitlement to compensation or liquidation distributions?

The Early Payment Scheme is entirely separate from the Depositors Compensation Scheme (DCS) and any liquidation of KSF IOM assets.

As a result, if you receive notice that you are eligible for a payment under the Early Payment Scheme this does not mean that you will also be entitled to receive either a compensation payment from the DCS or a payment from the Liquidator of KSF IOM. In both cases you will be required to make a formal claim in accordance with the requirements of the DCS Scheme Manager or the Liquidator.

Equally, if you are not considered eligible for a payment under the Early Payment Scheme, this will not prevent you from making a claim for compensation from the DCS or a distribution as a creditor of KSF IOM.

Applications

How can I apply for a payment under the Early Payment Scheme?

If you consider that you may be eligible for a payment you should complete the Account Holder Information Form and sign the Application Form together with the separate Memorandum of Assignment. Both documents should then be returned to Treasury.

It is important that you consider the contents of the guidance notes so that you understand the arrangements in relation to eligibility and the set-off of payments against future liquidation proceeds and/or compensation, or any other source.

How can I send the Forms to Treasury?

The completed Account Holder Information Form and signed Application Form can be sent to Treasury by post to:-

KSF Early Payment Scheme, PO Box 211, Douglas, Isle of Man, British Isles, IM86 2TE

What is the deadline for returning the Forms?

No deadline has been set for returning the Account Holder Information Form and Application Form. It is intended that the Early Payment Scheme will continue to make payments to eligible Account Holders until either the Liquidator advises Treasury that an initial distribution to KSF IOM creditors can be made or the DCS is able to start making compensation payments or, any other source.

Once a closing date for the Early Payment Scheme has been set, Treasury will advise everyone of the closing date by advertising in the local press and also placing a notice on the Isle of Man Government and FSC websites.

What will happen to the Forms once they are received by Treasury?

When your forms are received they will be checked to ensure all the required information is complete and the Application Form and Memorandum of Assignment have both been signed. Your account details and identity will then be verified. Finally, your eligibility to receive a payment under the Early Payment Scheme will be confirmed. The work required to check account details and verify your identity will be carried out by the Provisional Liquidator/Liquidator.

What arrangements are in place in relation data protection?

Treasury is registered as a Data Controller under the Isle of Man Data Protection Act and is therefore obliged to ensure that the information you provide is held confidentially.

By signing the Application Form you give Treasury your permission to share the information on the Customer Information Form and the signed Application Form with:

- the Provisional Liquidators/Liquidator;
- the Scheme Manager and Scheme Administrator of the Depositors Compensation Scheme; and
- the new owner or manager of KSF IOM assets following any restructuring or sale.

Treasury consider that this may be helpful to you in ensuring that any future payments to which you may be entitled are paid as quickly as possible. However, the information you provide will only be used in connection with payments under the Early Payment Scheme, compensation payments from the DCS or liquidation distributions from the Liquidator.

Why couldn't you use the customer information already held by KSF IOM?

It was not possible to use customer information already held by KSF IOM owing to legal restrictions which prevent the Provisional Liquidator from providing customer information to third parties.

Who will check the eligibility of depositors?

Treasury will check the eligibility of Account Holders.

Will I receive any kind of confirmation?

Treasury will send you an advice of payment when your application and payment has been approved and processed. In the event that the Treasury consider that you are not eligible to receive a payment from the Early Payment Scheme you will receive a letter advising you of this. E-mail applications are not acceptable and will receive an automated e-mail acknowledgement of receipt. Only signed original documents are acceptable.

How will the payments be made?

It is intended that all payments under the Early Payment Scheme will be made by bank transfer directly to the Sterling account nominated by the KSF IOM depositor on the Account Holder Information Form. Transfer charges and other banking costs will be borne by Treasury.

If it is not possible for you to receive a payment in this way, please advise us on the Account Holder Information Form so we can consider alternative payment arrangements.

When can I expect to receive a payment?

In general we aim to complete all the required confirmation and verification work so that a payment can be made within 15 working days from the date that Treasury receive your completed account holder Information Form signed Application Form and Memorandum of Assignment. Treasury expect to start making payments to eligible Account Holders in the week commencing 19 January 2009 following Tynwald approval of the formal Early Payment Scheme.

Who will pay the costs of making the payments?

The costs of the management and administration of the Early Payment Scheme will be borne by IOM Government.

Set-off arrangements

Why is the set-off arrangement 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 or liquidation distribution 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 and/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 Application Form and Memorandum of Assignment.

Will this effect any other rights or entitlements in the future?

Receiving a payment will have no impact on your rights or entitlement under either the Account Holders Compensation Scheme or liquidation. In particular, receiving a payment under the Early Payment Scheme will have no impact on your rights to vote in relation to any restructuring or scheme of arrangement proposed by the Provisional Liquidator/Liquidator.

How will the set-off be allocated between compensation or the final liquidation distribution?

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.

What about set-off for foreign currency accounts?

All payments under the Early Payment Scheme will be paid in Sterling.

What if I don't agree with the way the set-off has been applied?

If you receive a liquidation distribution then the amount of any set-off as a result of receiving a payment under the Early Payment Scheme will be advised to you by the Liquidator. If you consider that the set-off has not been calculated in accordance with these guidance notes then you should contact the Liquidator and ask for clarification of the set-off deduction.

Similarly, if you have a query over an adjustment to any compensation payment under the Account Holders Compensation Scheme (DCS) or a payment from any other source then you should contact the relevant party to resolve the query.