

Bank Hottinger & Cie AG in bankruptcy liquidation

Circular No. 9

www.liquidation-bankhottinger.ch

Hotline Bank Hottinger & Cie AG in bankruptcy liquidation

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To the bank clients and creditors of Bank Hottinger
& Cie AG in liquidation proceedings

Küsnacht, September 2018

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**Bank Hottinger & Cie AG in liquidation proceedings;
Circular No. 9**

Dear Sir or Madam,

We are pleased to provide you with updated information on the current status of Bank Hottinger & Cie AG in liquidation proceedings ("**Bank Hottinger**"), and in particular on the second interim payment and the planned waiver of claims against bank clients.

I. SETTLEMENT STATUS OF SCHEDULE OF CLAIMS

The three settlement offers submitted to the creditors to avert the creditor objection proceedings described in Circular No. 7 for approval were accepted and duly implemented. However, two objection proceedings initiated by creditors in a total amount of around CHF 16 million are still pending.

Please find attached a current overview of the schedule of claims proceedings.

II. LIQUIDATION STATUS AS AT 30 JUNE 2018

We have updated the liquidation status effective 30 June 2018. There have been very few changes since the liquidation status as at 31 December 2017, on which we reported to you in Circular No. 7.

The credit balances towards banks dropped from around CHF 93.7 million to around CHF 91.2 million. This reduction is due to the execution of payments to creditors under the first interim payment, the disbursement of credit balances to bank clients arising after the commencement of the insolvency proceedings and the payment of invoices for costs incurred.

The provisions for the O. Ltd. case were adjusted from around CHF 60.7 million to around CHF 62.75 million to allow for the changed exchange rate of the US dollar.

III. SECOND INTERIM PAYMENT

In view of Bank Hottinger's current financial situation and the fact that a large portion of the schedule of claims has been settled, we have submitted a proposal to FINMA to make a second interim payment of 8% to creditors with legally recognised third class claims. FINMA has approved this proposal. Preparations for this interim payment have now been completed. Enclosed with this circular is the corresponding special notice, which provides more procedural details. Payments will be made as from the beginning of October at the earliest.

IV. LIQUIDATION OF ASSETS

1. CLAIMS AGAINST BANK CLIENTS

1.1 Introduction

We have reviewed the individual claims in order to determine the next steps to be taken in recovering amounts owed by bank clients. In doing so, we discovered that most of the claims are valued at less than CHF 15,000 and that most of these debtors are domiciled or have their legal residence in foreign countries. Moreover, the recoverability of some of the amounts owed is questionable. Specifically, we assess the situation as follows:

1.2 *Claims against bank clients with an individual converted amount of less than CHF 15,000 arising from bank fee charges*

The claims against bank clients itemised in the following list have primarily arisen from periodic bank fee charges. No transactions had been executed via the accounts concerned for an extended period of time prior to the commencement of the insolvency proceedings. It is not clear why these accounts were not closed.

No debt acknowledgement declarations in the form of balance confirmations have been received for the individual claims. For this reason alone, it is not clear whether it would be possible to easily recover the outstanding amounts even if the clients concerned were domiciled or had their legal residence in Switzerland. Moreover, the cost of recovering these amounts by means of enforcement proceedings would be too great given the amounts concerned especially as most of the account holders are domiciled or have their legal residence in foreign countries.

Account No.	Original currency	Debit balance	Domicile or address according to the Bank's files
H5114800	USD	-10.80	Switzerland
H0412800	EUR	-63.41	Marshall Islands
H6129100	CHF	-117.36	Switzerland
H5097400	EUR	-119.41	Italy
H0985000	CHF	-150.00	Belgium
H4005000	EUR	-188.53	Italy
H5099900	EUR	-226.88	Switzerland
H5099600	EUR	-246.36	Italy
H0956600	EUR	-251.96	France
H0292600	EUR	-298.39	Panama
H0690400	CHF	-240.84	Côte d'Ivoire
	EUR	-63.57	
H4064200	USD	-384.64	British Virgin Islands
H4064600	USD	-384.64	Panama
H6135500	USD	-384.64	Russian Federation
H6133800	EUR	-446.68	Germany
H4037900	USD	-545.41	Switzerland
H8035400	USD	-551.09	Russian Federation
H4055100	EUR	-493.92	Panama

Account No.	Original currency	Debit balance	Domicile or address according to the Bank's files
H4039200	USD	-576.14	British Virgin Islands
H6136700	CHF	-614.50	Russian Federation
H5117200	EUR	-540.24	N/A
H0978600	EUR	-593.28	France
H0985000	EUR	-641.03	Belgium
H8053200	EUR	-684.73	France
H5208800	USD	-822.19	Argentina
H5048100	EUR	-714.44	Italy
H5059400	EUR	-770.21	Italy
H5049500	EUR	-772.74	Italy
H5086200	EUR	-792.16	France
H0983400	EUR	-807.84	France
H5057300	EUR	-853.79	Italy
H0927400	CHF	-998.05	France
H0934800	USD	-1,022.38	France
H0618500	EUR	-935.21	Spain
H5056100	EUR	-995.75	Italy
H8003800	EUR	-1,005.64	France
H3348800	USD	-1,213.95	Canada
H0289700	USD	-874.84	Panama
	EUR	-134.06	
H5045400	EUR	-1,043.98	Italy
H0279200	EUR	-1,141.99	Mauritius
H5073300	EUR	-1,190.71	Germany
H5097300	EUR	-1,355.83	Italy
H5045100	EUR	-894.39	Italy
	EUR	-199.11	
H0659900	CHF	-1,741.33	Switzerland
H0260300	EUR	-1,518.48	Bahamas
H3668900	CHF	-1,783.30	Switzerland
H0682500	EUR	-1,585.60	Tunisia
H5056300	EUR	-1,660.86	Italy
H3923400	CHF	-1,322.07	France
	EUR	-576.14	
H0625000	CHF	-2,017.15	United Kingdom
H8041000	EUR	-2,465.68	Spain
H5044000	EUR	-2,557.38	Italy
H0969900	USD	-3,038.57	USA
H0974700	EUR	-2,800.47	France

Account No.	Original currency	Debit balance	Domicile or address according to the Bank's files
H5094800	EUR	-4,086.26	Italy
H5097600	EUR	-4,498.53	Mexico
H0977000	USD	-6,780.01	Spain
H0260600	EUR	-10,054.25	Bahamas
H3919200	CHF	-11,682.56	France

1.3 *Claims against bank clients with an individual converted amount of less than CHF 15,000 arising from account overdrafts and loans*

The claims against bank clients itemised in the following list have arisen from account overdrafts or the grant of loans. Similarly, no debt acknowledgement declarations in the form of balance confirmations have been received for these claims. Except in two cases (H0618000; H5099700), all the debtors have their legal residence in foreign countries. The cost of recovering these claims is too great given the amounts concerned.

Account No.	Original currency	Debit balance	Domicile or address according to the Bank's files
H5103300	EUR	-257.69	Germany
H6111500	EUR	-295.41	Russia
H5099700	EUR	-308.35	Switzerland
H0962700	GBP	-244.96	United Kingdom
H0949300	USD	-409.24	Indonesia
H0694100	EUR	-371.67	Tunisia
H3273500	CHF	-1,206.18	Bahamas
H6111400	EUR	-1,551.39	Russia
H3263400	USD	-2042.17	Curaçao
H5056600	EUR	-2,997.73	Italy
H3283000	EUR	-3,013.63	Bahamas
H0618000	CHF EUR	-1,503.78 -1,290.18	Switzerland
H5048200	EUR	-6,088.11	Italy

1.4 *Claim of a converted amount of CHF 39,146.48 against a bank client under account H0971800*

The debit balance of a converted amount of CHF 39,146.48 in account H0971800 arose as a result of account overdrafts before 2013 and bank fee charges. There are no balance confirmations in the Bank's files.

According to the documents available, the account holder is a Spanish national with an address in Spain. However, all mail sent to this address has been returned. Investigations taken to ascertain the account holder's address have so far failed.

It would be necessary to retain local counsel in Spain in order to recover this amount. However, we consider the risk of non-recoverability and the imbalance between the expense involved and the potential recovery amount to be too great.

1.5 *Claim of CHF 143,926.61 against bank client under account H0242100*

A written debt acknowledgement declaration dated 3/4 August 2010 is in Bank Hottinger's files for the debit balance of CHF 143,926.61 in account H0242100. This claim arose from unsuccessful joint activities between the debtor and Bank Hottinger. No collateral had been provided in the Bank's favour for this claim.

Insolvency proceedings were commenced against the debtor in August 2016 and suspended due to insufficient funds. The debtor was officially deleted from the commercial register at the beginning of 2017.

2. INSPECTION OF FILES

All interested creditors may inspect the Bank's documents pertaining to these claims against bank clients at the offices of the Liquidators, Brigitte Umbach-Spahn and Karl Wüthrich, Wenger Plattner, Seestrasse 39, Goldbach-Center, 8700 Küsnacht (please call +41 43 222 38 50 to arrange an appointment).

Creditors who wish to do so must sign a statement that they will use the information consulted solely to protect their own direct financial interests (Article 5(4) of the FINMA Banking Insolvency Ordinance, BIO-FINMA).

3. LIQUIDATION PLAN

Based on the above assessment and in view of the risks and costs arising from the recovery of these amounts, the liquidators will not be taking any steps to assert the claims listed in Sections IV. 1.2 - 1.5 or initiate court proceedings in this connection.

V. PROCEEDINGS

1. ASSIGNMENT

The liquidators offer to assign to the creditors the litigation rights to recover the aforementioned amounts itemised in Section IV. 1.2 - 1.5 in accordance with Article 32 BIO-FINMA in connection with Art. 260 of the Swiss Federal Debt Enforcement and Bankruptcy Act.

Requests for assignment may be submitted **in writing** to the undersigned liquidators by no later than **9 October 2018** (date of postmark of a Swiss post office). The right to request assignment is deemed to have been **forfeited** if this deadline is not respected. Assignment is subject to the requirement that no contestable ruling as defined in Section 2 below is requested or a corresponding complaint is rejected.

2. CONTESTABLE RULING

Creditors who do not agree with the intended liquidation activities described have until **1 October 2018** (date of postmark of a Swiss post office) to request a contestable ruling from FINMA (Federal Financial Supervisory Authority FINMA, Laupenstrasse 27, 3003 Berne) (Article 34(4) BIO-FINMA). A fee is payable for a contestable ruling. Creditors resident or incorporated outside Switzerland must provide a postal address within Switzerland where official communications may be served, otherwise communications will be announced by publication in the Swiss Official Gazette of Commerce.

We will continue to keep you updated on the progress of the liquidation proceedings as and when new developments emerge.

Kind regards

Bank Hottinger & Cie AG in liquidation proceedings
The Liquidators:

Brigitte Umbach-Spahn

Karl Wüthrich

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Annexes: Liquidation status of Bank Hottinger as at 30 June 2018 (in German)

Bank Hottinger & Cie AG in Konkursliquidation

Status per 30. Juni 2018

	30. Juni 2018		Bemerkungen
	CHF		
AKTIVEN			
Barschaft		-	
Kasse Zürich	-		Kasse aufgelöst
Guthaben gegenüber Banken		91'196'618	
Postfinance	56'714		
UBS AG	24'303		
Zürcher Kantonalbank (Konkursmasse)	23'750'563		
Lombard Odier	66'714'139		
Euroclear	6'731		
Sal. Oppenheim	644'168		
Wertschriften und Beteiligungen		102'000	
Forderungen gegenüber Bankkunden		4'528'812	
Übrige Forderungen		883'606	
Rückerstattung Mehrwertsteuern	72'368		
Verrechnungsteuer	1'238		
Diverse Forderungen	810'000		
Anfechtungsansprüche	-		Verzicht
Verantwortlichkeitsansprüche	p.m.		
Grundstücke		-	
Bewegliche Sachen		-	
Mobiliar Genf	-		Verkauft
Mobiliar Zürich	-		Verkauft
Mobiliar Archiv Zürich	-		Verkauft
Fahrzeug Mercedes	-		Verkauft
TOTAL AKTIVEN		96'711'036	
PASSIVEN			
Massenschulden			
Forderungen Bankkunden (nach Konkurseröffnung)		4'824'625	
Rückstellung für Forderungen gegenüber Bankkunden (Kreditrisiken)		3'500'000	
Rückstellung Forderung O. Ltd. (USD 62'277'496)		62'755'787	
Rückstellung für 1. Abschlagszahlung		8'305'848	
Rückstellung Kosten Outsourcing Lombard Odier		-	
Rückstellung Honorar Liquidatoren		1'750'000	
Rückstellung übrige Liquidationskosten		1'800'000	
Total Massenschulden		82'936'259	
TOTAL AKTIVEN VERFÜGBAR		13'774'777	

Bank Hottinger & Cie AG in Konkursliquidation

Übersicht über den Stand des Kollokationsverfahrens per 30. Juni 2018

Kategorie	angemeldet	Im Kollokationsverfahren					Konkursdividende in %				
		zugelassen	als bedingte Forderungen zugelassen	Kollokationsklage hängig	ausgesetzt resp. p.m.	abgewiesen	1. Abschlagszahlung	zukünftige Dividende		Total	
								minimal ^{1) 3)}	maximal ^{2) 3)}	minimal ^{1) 3)}	maximal ^{2) 3)}
Pfandgesicherte (Outsourcing Lombard Odier)	8'455'446	3'558'229				4'897'217		100%	100%	100%	100%
Pfandgesicherte (Schadenersatzforderungen)	36'464'785	4'870'000		16'003'431		15'591'354					
1. Klasse	2'484'777	1'048'560				1'436'217	100%	-	-	100%	100%
2. Klasse	373'049	137'442				235'607	100%	-	-	100%	100%
2. Klasse (Bankkunden aus den Büchern)	37'879'500	37'979'500	100'000			-200'000	100%	-	-	100%	100%
3. Klasse	156'751'782	4'662'630	227'000		235'511	151'626'641	30%	27.81%	55.43%	57.81%	85.43%
3. Klasse (Bankkunden aus den Büchern)	49'692'269	49'545'703				146'566	30%	27.81%	55.43%	57.81%	85.43%
3. Klasse (O. Ltd.)	87'655'978		87'655'978			-	30%		55.43%		85.43%
Total Nachlassforderungen	379'757'586	101'802'065	87'982'978	16'003'431	235'511	173'733'602					

Bemerkungen

¹⁾ Minimaldividende: Die noch hängigen Kollokationsklagen für Schadensersatzforderungen aus dem Lugano-Fall müssen zu 60 % anerkannt werden und sie werden nur zu 30 % durch Versicherungsleistungen gedeckt; im Übrigen werden keine Versicherungsleistungen bezahlt; die Forderung der O. Ltd. wird als Masseforderung qualifiziert; die übrigen in der 3. Klasse ausgesetzten oder pro memoria kollozierten Forderungen müssen anerkannt werden.

²⁾ Maximaldividende: Alle noch hängigen Kollokationsklagen werden abgewiesen; die Forderung der O. Ltd. wird nicht als Masseforderung qualifiziert; die ausgesetzten oder pro memoria kollozierten Forderungen werden nicht anerkannt; auf den anerkannten pfandgesicherten Schadenersatzforderungen werden keine Versicherungsbeträge geleistet.

³⁾ Die durch den Strafbefehl der Bundesanwaltschaft vom 2. Mai 2018 verhängten Busse und Kosten sind bei der Berechnung der Dividenden nicht berücksichtigt.