

**Unofficial Translation  
of German Original**

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To the customers and creditors of  
Bank Hottinger & Cie AG in bankruptcy liquidation

Küsnacht, December 2016

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## **Bank Hottinger & Cie AG in bankruptcy liquidation; Circular No. 2**

Dear Sir or Madam

This Circular provides information on the current status of the bankruptcy proceedings relating to Bank Hottinger & Cie AG in bankruptcy liquidation ("Bank Hottinger").

### **I. GENERAL**

Upon commencement of bankruptcy proceedings, we entered into employment contracts with a number of Bank Hottinger employees on behalf of the bankruptcy estate. The object of this exercise was to ensure that the necessary expertise and resources were available at the bank for the purpose of conducting the liquidation. Owing to the progress made in the liquidation, we have now been able to reduce the relevant closedown team, which currently comprises some 10 individuals.

In early summer 2016, we also closed the Geneva branch and returned the rented premises to the landlord. We are currently engaging in discussions with various providers regarding the future archiving of bank records. We are aiming

to find a solution where the provider concerned will not simply archive the records, but also respond to enquiries from the authorities.

## **II. SITUATION REGARDING PAYOUTS OF PRIVILEGED DEPOSITS / DELIVERY OF CUSTODY ACCOUNT ASSETS**

### **1. PAYMENT OF PRIVILEGED DEPOSITS NOT EXCEEDING CHF 100,000**

Upon opening of bankruptcy, Bank Hottinger had approximately 1,300 customers with privileged deposits (please see section 1, Part IV. of Circular no. 1 for an explanation of the term "privileged deposits"). By the end of November 2016, we had paid out privileged deposits to approximately 1,200 customers. Over CHF 36 million in privileged deposits has been paid out in total. This means that the vast majority of privileged deposits have been paid out to customers from whom we have received valid instructions and whose assets are not subject to seizure by the law enforcement authorities or who do not have outstanding debts.

### **2. DELIVERY OF CUSTODY ACCOUNT ASSETS**

Upon commencement of bankruptcy proceedings, Bank Hottinger held approximately 12,500 securities positions. We have now delivered all the securities except for around 200 positions. With regard to the repayment of fiduciary deposits, approximately CHF 1.2 billion in custody account assets have been delivered since the initiation of bankruptcy proceedings. We have taken steps to achieve an efficient reduction in the residual volume of securities held.

## **III. TRANSACTION WITH BANQUE HERITAGE**

Shortly after the initiation of bankruptcy proceedings, Bank Hottinger entered into an agreement with Banque Heritage SA ("Bank Heritage") for the transfer of privileged deposits and custody account assets relating to specific customers (please see Part III. of Circular no. 1). In accordance with the agreement, assets have only been transferred to Bank Heritage where customers have given their express or implied consent to the transfer.

The transfer of assets to Bank Heritage was completed in summer 2016. Over CHF 15 million in privileged deposits and approximately CHF 455 million in custody account assets (including repayments of fiduciary deposits) were transferred in total. Bank Heritage paid CHF 1,925,000 to Bank Hottinger in consideration of the transfer of these assets.

#### **IV. REALISATION OF ASSETS**

A number of assets have been sold following the initiation of bankruptcy proceedings:

##### **1. TRADE MARKS**

Upon opening of bankruptcy, Bank Hottinger owned various trade marks and domain names. We conducted a bidding process involving various prospective purchasers to facilitate the sale of the trade marks and domain names. Bank Hottinger shareholders and parties closely associated with them were also given the opportunity to submit bids. H.R. Participations SA, Luxembourg, submitted the highest bid, purchasing the trade marks and domain names for a total of EUR 70,000. The purchase price has already been added to the bankruptcy estate.

##### **2. STAKE IN HOTTINGER SION**

HOTTINGER & ASSOCIES, Gestion Patrimoniaire SA ("Hottinger Sion") was a subsidiary of Bank Hottinger, operating as an external asset management company. With the insolvency of Bank Hottinger, Hottinger Sion soon ran into financial difficulties, given that it was unable to carry on business or its business activities were curtailed over a certain period of time. By the beginning of February 2016, it had become evident that Hottinger Sion would not survive without a short-term injection of cash. Following extensive negotiations with the management of Hottinger Sion, a purchase agreement was concluded. Members of the management purchased the shares in Hottinger Sion from Bank Hottinger at a price of CHF 50,000. The transaction has not yet been completed due to some disagreement regarding the relevant contractual obligations.

### **3. SALE OF OFFICE EQUIPMENT**

Following closure of the Geneva branch, we sold the office furniture with the assistance of Troostwijk AG, Zurich, which specialises in conducting liquidation sales. The sale generated net proceeds of just under CHF 15,000 for the benefit of the bankruptcy estate.

### **4. REPAYMENT OF LOANS**

Upon commencement of bankruptcy proceedings, the outstanding customer loan obligations owed to Bank Hottinger approximated CHF 17.5 million. Since then, around CHF 10 million of these loan facilities have been repaid. Intensive efforts are underway to recover the outstanding debts.

### **V. RETURN OF IT EQUIPMENT**

Prior to the opening of bankruptcy, Bank Hottinger had entered into a comprehensive service agreement with Banque Lombard Odier & Cie SA ("Lombard Odier") for the supply of an IT platform and various software applications etc. Lombard Odier also supplied hardware to Bank Hottinger under this agreement. Having looked into the matter, we have established that Lombard Odier is the owner of the hardware concerned. In order to cut costs, we returned IT equipment that was no longer needed for liquidation purposes to Lombard Odier in May 2016. The value of the hardware returned is approximately CHF 7,000.

### **VI. STATEMENT OF ASSETS FOR BANK HOTTINGER AS AT 30 SEPTEMBER 2016**

#### **1. PRELIMINARY REMARKS**

We have drawn up a statement showing the assets and liabilities of Bank Hottinger comprising the bankruptcy estate. This statement will be updated to reflect the current phase of the liquidation and any new findings. We enclose the statement of assets as at 30 September 2016.

## **2. ASSETS**

The statement shows assets of approximately 160 million as at 30 September 2016. Conservative estimates have been used in respect of assets other than cash or bank deposits. For example, approximately CHF 1.7 million in provisions has been set aside for loan receivables amounting to roughly CHF 7.5 million.

## **3. DEBTS INCURRED IN THE COURSE OF LIQUIDATION**

The statement as at 30 September 2016 shows approximately CHF 105 million in debts incurred in the course of liquidation. This includes CHF 10.5 million in claims by bank customers based on payments received in relation to custody account assets following the initiation of bankruptcy proceedings. In addition, we have included provisions for future procedural costs based on the information available as at the end of September 2016.

A special case is reflected in the provisions of approximately CHF 86.5 million that have been set aside for claims by O. Ltd. In the case of O. Ltd., a payment of around USD 89.2 million was pending upon the opening of bankruptcy. The payment was not executed, in line with instructions issued by us on the date of the opening of bankruptcy to stop all pending transactions with customers. O. Ltd. believes that this payment was stopped unlawfully and therefore requires payment of the amount in full. However, we maintain that the proper procedure was followed and that, accordingly, O. Ltd. only has a third-class claim. We considered it prudent to include provisions in the statement for the contentious claim of O. Ltd.

## **VII. SCHEDULE OF CLAIMS PROCEEDINGS**

We have prepared the schedule of claims on the basis of claims registered by creditors and claims apparent from the accounting records of Bank Hottinger. We intend to submit the draft schedule of claims to FINMA for review before Christmas. We are proceeding on the assumption that the schedule of claims will be available for inspection by creditors in the first half of 2017.

We enclose an overview of the current status of the claims registered. The values shown could change in the course of the schedule of claims proceedings. Based on the statement of assets prepared by Bank Hottinger as

at 30 September 2016 and the current estimates for claims included in the schedule of claims, a bankruptcy dividend in excess of 60% is anticipated.

We hope that this Circular gives you an overview of the proceedings and the further measures that will be taken. We will issue another Circular informing creditors when the schedule of claims is available for inspection.

Yours faithfully

Bank Hottinger & Cie AG in bankruptcy liquidation  
The Liquidators

Brigitte Umbach-Spahn

Karl Wüthrich

Encl.: Statement as at 30 September 2016;  
Overview of current status of registered claims

# Bank Hottinger & Cie AG in Konkursliquidation

Status per 30. September 2016

	30. September 2016		Bemerkungen
	CHF		
<b>AKTIVEN</b>			
<b>Barschaft</b>		<b>1'336</b>	
Kasse Zürich	1'336		
Kasse Genf	-		
<b>Guthaben gegenüber Banken</b>		<b>146'295'189</b>	
Schweizerische Nationalbank	13'498'781		
Credit Suisse	189'785		
UBS AG	39'026		
Zürcher Kantonalbank	788'754		
Zürcher Kantonalbank (Konkursmasse)	36'944'373		
Lombard Odier	94'799'868		Mögliche Sicherungsrechte: Forderungen aus Outsourcing-Vertrag von maximal CHF 8.5 Mio.
DNB	-		
Euroclear	6'488		
Sal. Oppenheim	28'114		
<b>Wertschriften und Beteiligungen</b>		<b>4'074'918</b>	
<b>Forderungen gegenüber Bankkunden</b>		<b>7'463'119</b>	
<b>Übrige Forderungen</b>		<b>2'735'000</b>	
Rückerstattung Mehrwertsteuern	350'000		
Diverse Forderungen	460'000		
Bank Heritage (Entschädigung für Übertragung Vermögenswerte von Bankkunden; vereinbart)	1'925'000		
Anfechtungsansprüche	p.m.		
Verantwortlichkeitsansprüche	p.m.		
<b>Grundstücke</b>		-	
<b>Bewegliche Sachen</b>		<b>28'500</b>	
Mobilier Genf	-		
Mobilier Zürich	p.m.		
Mobilier Archiv Zürich	p.m.		
Fahrzeug Mercedes	28'500		Eigentumsansprache: Mercedes-Benz Financial Services Schweiz AG (erledigt)
<b>TOTAL AKTIVEN</b>		<b>160'598'062</b>	
<b>PASSIVEN</b>			
<b>Massenschulden</b>			
Forderungen Bankkunden (nach Konkurseröffnung)		10'523'250	
Rückstellung für Forderungen gegenüber Bankkunden (Kreditrisiken)		1'700'000	
Rückstellung Forderung O. Ltd. (USD 89'245'800)		86'512'201	
Rückstellung für Löhne und Sozialversicherungen Close Down Team		900'000	
Rückstellung Kosten Outsourcing Lombard Odier		2'380'000	
Rückstellung Honorar Liquidatoren		1'500'000	
Rückstellung übrige Liquidationskosten inkl. Miete Büros		1'250'000	
<b>Total Massenschulden</b>		<b>104'765'451</b>	
<b>TOTAL AKTIVEN VERFÜGBAR</b>		<b>55'832'611</b>	

# Bank Hottinger & Cie AG in Konkursliquidation

## Übersicht über den aktuellen Stand der angemeldeten Forderungen

Kategorie	angemeldet		Im Kollokationsverfahren maximal zuzulassende Forderungen gemäss aktueller Risikoschätzung der Liquidatoren	Bemerkungen
	CHF	CHF		
Pfandges cherte (Outsourc ng Lombard Od er)	8'531'802	5'120'000.00		
Pfandges cherte (Schadenersatzforderungen)	3'149'9256	15'700'000.00		Pfandrechte an a fä gen Vers cherungsansprüchen
1. Kasse	2'472'207	1'100'000		
2. Kasse (Bankkunden aus den Büchern)	37'954'454	37'954'454		
2. Kasse	373'049	273'000		
3. Kasse	160'202'762	6'000'000		
3. Kasse (Bankkunden aus den Büchern)	49'946'814	49'946'814		
3. Kasse (O. Ltd.)	87'655'978	87'655'978		Sofern Forderung O. Ltd. n cht a s Masseforderung vo ständ g bezah t werden muss
<b>Total Nachlassforderungen</b>	<b>378'636'322</b>	<b>203'750'246</b>		