

## **Update on Millennium Bank, Inc. (in Liquidation)**

### **For public release in St. Vincent and the Grenadines**

On 26 March 2009, the International Financial Services Authority (“IFSA”) appointed Charles Thresh of KPMG Advisory Limited, Bermuda and Kris Beighton of KPMG in the Cayman Island, as Joint Receivers of Millennium Bank Inc. (“the Bank”), to assume control over the Bank’s affairs and preserve its assets and records pursuant to Section 21(2) (e) of the International Banks Act 2004 (“IBA”).

Charles Thresh and Kris Beighton were subsequently appointed as Joint Provisional Liquidators (“JPLs”) of the Bank by Order of the Eastern Caribbean Supreme Court (the “Court”) in St. Vincent and the Grenadines (“SVG”) on 9 April 2009.

The appointment of the JPLs followed the winding up petition presented by IFSA in the interest of the Bank’s depositors and other creditors, following IFSA’s determination that the Bank had breached the IBA, and/or had been conducting business in a manner that is detrimental to the public interest.

Pursuant to this Order, the JPLs are authorised to do all things necessary in connection with the collection and preservation of Bank’s assets.

Further to an Order of the Court dated 3 May 2010 Millennium Bank Inc. was duly wound up. Charles Thresh and Kris Beighton were appointed as Joint Liquidators (“JLs”) of the Bank in the same Order.

### **Anticipated Distribution**

The JLs have to date recovered assets in excess of US\$700,000. Further asset recoveries of approximately \$430,000 are progressing. The costs of the insolvency administration (including both the provisional liquidation and liquidation) is expected to total at least \$832,000. The JLs have distributed approximately \$100,000 to creditors in accordance with legal and local statutory requirements.

The JLs have received unsecured creditors claims totaling approximately US\$12 million. However, the majority of these claims do not appear to relate to deposits made with the Bank. The documentation received by the JLs indicates that funds were deposited with other entities connected to William J. Wise (“Wise”), although in some cases it is not clear which Wise entity received the funds.

To date, approximately US\$417,000 of depositors’ claims received by the JLs appear supported by evidence of a deposit with the Bank.

The JLs made an application to the Court to issue a formal call for depositor and other creditor claims and will then adjudicate these claims on receipt. This order was granted and all known depositors or creditors were advised by letter dated 13 August 2010. The JLs have requested creditors complete a sworn Proof of Debt form and provide documentation supporting their claim against the Bank. The sworn Proof of Debt forms must be returned to the JLs by 15 October 2010 (Bar date). Only claims against the Bank will be dealt with through this process. Where funds were not deposited with the Bank, a creditor’s claim is likely to be against another Wise entity and not a claim against the Bank.

The JLs are unable to deal with claims against other Wise entities, as they have no jurisdiction over these entities.

Creditors with claims against other Wise entities may be able to prove in the insolvency administration of other Wise entities, notably those under the control of the US Receiver, Mr. Richard Roper ([www.tklaw.com/millennium\\_bank\\_receivership.cfm](http://www.tklaw.com/millennium_bank_receivership.cfm)). The JLs will continue to move to recover the remaining assets of the Bank and if possible make a further distribution to unsecured creditors. Unless further assets are recovered the first and potentially final distribution is expected to be made within three months of the bar date (15 October 2010).

The distribution to unsecured creditors is dependent upon how many creditors validly prove in the liquidation of the Bank and any further asset recoveries.

### **Other Wise assets under the control of the SVG Joint Receivers appointed under the Proceeds of Crime and Money Laundering Act 2001**

On the 24 April 2009, Carla James of the SVG Financial Intelligence Unit and Michelle Fife of the Ministry of Legal Affairs were appointed as the SVG Joint Receivers. On 17 July 2009, Jennifer Scott was added as an additional SVG Joint Receiver. The SVG Joint Receivers were appointed over the assets of Wise, and Wise's affiliated companies, including Millennium Aviation Inc., Tommy & Nelson Legacy Place Inc., Sterling Administration Inc. and Midnight Falls Inc. These appointments also cover assets held by former employees and directors of the Bank.

The JLs have provided assistance where possible to the appointees, however, any enquiries with respect to these appointments can be directed to the appointees using the following contact details:

Carla James  
Legal Officer  
Financial Intelligence Unit  
P. O. Box 1826  
Kingstown  
St. Vincent and the Grenadines

### **Creditor claims**

#### **Employees**

In accordance with the SVG Protection of the Employment Act 2003, employees' claims are treated as priority creditors. All employee claims have been settled.

#### **Depositors and Suppliers**

So far, 123 depositors have contacted the JLs to lodge claims against the Bank. These claims total approximately US\$12 million. Of these, the majority (107) appear to have claims against United Trust Switzerland or Sterling Bank & Trust, rather than the Bank.

Those creditors that have provided evidence to support their claim against the Bank, or where the Bank's records indicated that they were a depositor of the Bank, total approximately US\$417,000. It remains to

be seen whether further valid claims will be admitted following the formal proof of debt exercise referred to above. Until then, it is not possible to estimate the likely return to unsecured creditors.

The JLs have received further unsecured claims from various service providers to the Bank that, after adjudication, are anticipated will total approximately US\$50,000.

## **US Receiver**

Following an application by the US Securities and Exchange Commission (“SEC”), on 25 March 2009 the US District Court for the Northern District of Texas, Wichita Falls the (“US Court”), appointed Richard Roper as Receiver (“the US Receiver”) with power to control the “Receivership Assets”, effectively the assets named in the US process which include certain assets of the Bank. The SEC believes that investors’ and creditors’ losses, across the entities controlled by Wise, are \$68 million. The US Receiver is appointed over a wide group of US-based entities and is charged with pooling any recoveries from these companies and affiliates for all creditors adversely affected by the actions of Wise and companies associated with him.

Given the appointment of the US Receiver, the JLs have not sought recognition in the US Bankruptcy Court and as such have no jurisdiction to seize assets in the US at this time. If the US Receiver is unsuccessful in recovering known assets, the JLs will consider alternative action.

The JLs have attempted to agree a protocol with the US Receiver for dealing with the Bank’s assets recovered in the US. The US Receiver has indicated that such a protocol is unlikely to be approved by the court that appointed him. In the absence of such a protocol, the Bank’s creditors will have to seek recovery from the US Receiver in addition to proving in the SVG liquidation process.

## **Future actions**

It is anticipated that, by the conclusion of the liquidation, the JLs will have recovered approximately US\$1.2 million. Once the remaining assets have been recovered, the JLs will expedite distribution of any surplus assets (after costs), to creditors. Any distribution is likely to be completed within three months of the bar date (15 October 2010).

Investigations will continue in conjunction with the SVG Receivers, IFSA and The F.I.U. to decide what actions or potential recoveries are possible against the former officers & directors and affiliated companies, as appropriate.