

**IN THE HIGH COURT OF JUSTICE
CHANCERY DIVISION, COMPANIES COURT**

No. 007615 of 1991

**RE: BANK OF CREDIT & COMMERCE INTERNATIONAL SA ("BCCI SA")
(IN LIQUIDATION)**

**REPORT TO THE SECRETARY OF STATE FOR BUSINESS INNOVATION AND
SKILLS PURSUANT TO REGULATION 14 OF THE INSOLVENCY
REGULATIONS 1994 FOR THE PERIOD 16 JANUARY 2008 TO 15 JANUARY 2009**

**BCCI SA
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GLOSSARY & DEFINITIONS OF ABBREVIATIONS

ACAS	Advisory Conciliation and Arbitration Service
ADIA	Abu Dhabi Investment Authority
BAII	Banque Arabe et Internationale d'Investissement
Bank	Bank of Credit and Commerce International SA
BOA	Bank of America
BCCI Pooling Agreements	Agreements enabling the assets of BCCI Holdings and its subsidiaries (currently BCCI SA, BCCI Overseas and CFC, including participating branches of BCCI SA and BCCI Overseas), to be pooled and distributed pari passu amongst creditors
BCCI Group	BCCI Holdings and its subsidiaries and affiliates
BCCI Holdings	Bank of Credit and Commerce International Holdings (Luxembourg) SA
BCCI Overseas	Bank of Credit and Commerce International (Overseas) Limited
BCCI SA	Bank of Credit and Commerce International SA
CFC	Credit and Finance Corporation Limited
DCS	Depositors' Compensation Scheme in the Isle of Man
Deloitte	Deloitte LLP
ESI	Employee Settlement Initiative effective from 25 June 2003
English Branches of BCCI SA	The operations of BCCI SA in England comprising as at 5 July 1991 22 branches of BCCI SA in England, of which 19 were in London and 3 out of London (but excluding Scotland and the Isle of Man which are separate jurisdictions)
English Liquidation	The liquidation of BCCI SA in England which commenced on 14 January 1992
English Liquidators	The Liquidators of BCCI SA appointed in England. Currently these are John Richards (appointed by the Secretary of State on 14 January 1992 pursuant to S137 of the Insolvency Act 1986), Ralph Preece and Angus Martin (appointed by the High Court of Justice on 6 February 1998 and 26 April 2007 respectively).

English Provisional Liquidation	The provisional liquidation of BCCI SA in England which commenced on 5 July 1991, and ran to 14 January 1992
English Provisional Liquidators	Christopher Morris, John Richards and Nicholas Lyle, appointed on 5 July 1991, pursuant to an application by the Bank of England
Seventeenth year of the liquidation	16 January 2008 to 15 January 2009
First American Trust	A trust set up in 1992 under the auspices of the US Court for the purpose of severing First American Corporation and First American Bankshares, Inc from their foreign ownership (which included BCCI-nominated shareholders), in order to facilitate their sale
FSCS	Financial Services Compensation Scheme in the UK, formerly the Deposit Protection Scheme
Geneva Agreement	The agreement executed on 8 January 1994 to resolve potential claims against parties related to the Government of Abu Dhabi by the US Authorities. First American Corporation, First American Bankshares, Inc and the First American Trustee were additional parties to the agreement
Global Cost and Recovery Sharing Agreement	Agreement negotiated between the Liquidators to share the costs of activities designated as global and all recoveries arising therefrom in predetermined proportions
Global Projects	Certain major projects which, by their nature and size, potentially affected all companies within the BCCI Group
ICIC Apex	ICIC Apex Holding Limited
ICIC Holdings	ICIC Holdings Limited
ICIC Investments	ICIC Investments Limited
ICIC Overseas	International Credit and Investment Company (Overseas) Limited
ICIC Pooling Agreement	The agreement (supplementary to the BCCI Pooling Agreements) enabling the assets of the Principal BCCI Companies and the Principal ICIC Companies to be pooled and distributed rateably amongst creditors
ISA	The Insolvency Service Account held at the Bank of England into which monies received and held within the English Liquidation are deposited as required by statute

Khalil	Abdul Raouf Khalil
Liquidators	As appointed by the District Court of Luxembourg, Georges Ravarani (resigned in 1997) and Claude Penning (resigned in 1993), Jacques Delvaux (appointed in 1993), Marc Kleyr (appointed in 1997, resigned in 2007) and Michael Larter (appointed in 1997, resigned in 2004) and Yvette Hamilius (appointed in 2004), liquidators of BCCI Holdings; as appointed by the District Court of Luxembourg, Georges Baden (resigned in 2004), Julien Roden (resigned in 2004), Brian Smouha (resigned in 1997), George Cihra (appointed in 1997, resigned in 2004), Yvette Hamilius (appointed in 2003), Jacques Delvaux (appointed in 2004) and Marc Kleyr (appointed in 2004, resigned in 2007), liquidators of BCCI SA; as appointed by the Secretary of State in England, Christopher Morris (resigned in 2005), John Richards, Nicholas Lyle (resigned in 1996) and Stephen Akers (resigned in 2005) liquidators of BCCI SA; as appointed by the High Court of Justice in England, Ralph Preece (appointed in 1998) and Angus Martin (appointed in 2007), liquidators of BCCI SA; and as appointed by the Grand Court of the Cayman Islands, Ian Wight, Robert Axford (resigned in 1996), Michael Pilling (appointed in 1996) and Michael Mackey, Official Liquidators of BCCI Overseas and CFC
Luxembourg Liquidators	Georges Baden (resigned in 2004), Julien Roden (resigned in 2004), Brian Smouha (resigned in 1997), George Cihra (resigned in 2004), Yvette Hamilius (appointed in 2003), Jacques Delvaux (appointed in 2004) and Marc Kleyr (appointed in 2004, resigned in 2007) liquidators of BCCI SA appointed in Luxembourg
Mahfouz Parties	Sheikh Khalid Salem Bin Mahfouz, The National Commercial Bank of Saudi Arabia and Haroon Rashid Khalon
Majority Shareholders	<p>(a) His Highness Sheikh Zayed bin Sultan al Nahyan, Ruler of the Emirate of Abu Dhabi and President of the United Arab Emirates;</p> <p>(b) His Highness Sheikh Khalifa bin Zayed al Nahyan;</p> <p>(c) The Government of the Emirate of Abu Dhabi; and</p> <p>(d) ADIA</p>
New Agreements	Agreements with the Majority Shareholders under which the Government of Abu Dhabi have made funds available to the Liquidators

Officeholders	The Officeholders comprise Jacques Delvaux, Constant Franssens and Brian Smouha, Commissaires de Surveillance of BCCI Holdings; Brian Smouha, Commissaire de Surveillance of BCCI SA; Christopher Morris, John Richards and Nicholas Lyle, provisional liquidators of BCCI SA; Ian Wight and Robert Axford, provisional liquidators of BCCI Overseas, ICIC Overseas and CFC
Original Majority Shareholders' Agreements	The conditional agreement with the Majority Shareholders under which the Government of Abu Dhabi would originally have made funds available, subject to conditions, for distribution to certain ordinary unsecured creditors of the Principal BCCI Companies
Pharaon	Dr Ghaith Rashad Pharaon
Plea Agreement	The Agreement dated 19 December 1991 between US Federal and New York prosecuting authorities and BCCI Holdings, BCCI SA, BCCI Overseas and ICIC Overseas and their relevant Officeholders and others in relation to certain US Federal and New York criminal proceedings
Principal BCCI Companies	BCCI Holdings, BCCI SA, BCCI Overseas and CFC
Principal Companies	BCCI Holdings, BCCI SA, BCCI Overseas, CFC, ICIC Overseas, ICIC Holdings, ICIC Investments and ICIC Apex
Principal ICIC Companies	ICIC Overseas, ICIC Holdings, ICIC Investments and ICIC Apex
Provisional Liquidation	The provisional liquidation of BCCI SA, BCCI Overseas, ICIC Overseas and CFC
Provisional Liquidators	Christopher Morris, John Richards and Nicholas Lyle, provisional liquidators of BCCI SA, and Ian Wight and Robert Axford, provisional liquidators of BCCI Overseas, ICIC Overseas and CFC
RICO	US Racketeer Influenced and Corrupt Organisations
Saadi	Shahabuddin Saadi
US Authorities	The US Department of Justice, the Board of Governors of the Federal Reserve, and the District Attorney of New York County
US Forfeited Assets	Assets of BCCI Holdings, BCCI SA, BCCI Overseas and ICIC Overseas in the United States, which the Officeholders agreed to forfeit to the United States as part of the Plea Agreement. The assets themselves were specifically listed in seven orders of forfeiture entered by the US Court

1. INTRODUCTION

This is the report of the English Liquidators to the Secretary of State for Business Innovation and Skills on the seventeenth year of the English Liquidation.

The report covers the period from 16 January 2008 to 15 January 2009 and includes cumulative receipts and payments for the provisional liquidation of BCCI SA in England and the subsequent English Liquidation, covering the period from 5 July 1991 to 15 January 2009.

The English Liquidators' report builds upon the information provided in their previous reports, the main points of which are summarised in Appendix I.

2. ENGLISH LIQUIDATORS' REPORT

The English Liquidators have three fundamental objectives:

- maximising net recoveries and hence the amount available to be paid to creditors;
- agreeing claims of creditors against BCCI SA and ensuring dividends are paid to them in the shortest reasonable timescale within the terms of the BCCI Pooling Agreements and subsequent Orders of the English Court; and
- co-operating with the other liquidators of the Principal Companies including the liquidators of the UAE branches of BCCI SA to close the liquidation as quickly and cost effectively as reasonably and practicably possible.

This section of the report comments on progress made during the year in pursuit of these objectives and gives details of significant events in the English Liquidation.

2.1 DIVIDENDS

Dividend payments

During the year the Liquidators declared and paid a seventh dividend bringing the total return to creditors to 86.5%

The dividends were paid as follows:

- | | | |
|---|------------------|-------|
| • | 10 December 1996 | 24.5% |
| • | 30 June 1998 | 21.5% |
| • | 16 May 2000 | 14.0% |
| • | 25 June 2003 | 15.0% |
| • | 15 December 2005 | 6.0% |
| • | 27 November 2007 | 3.0% |
| • | 10 December 2008 | 2.5% |

During 2008 some US\$58 million was paid to creditors who had filed their claims in England. US\$11.7 million was paid from the English estate and US\$46.3 million from the Luxembourg estate in accordance with the BCCI Pooling Agreement and subsequent Orders of the English Court.

In addition to the payment of the seventh dividend there were also “catch up” payments made to creditors whose claims were admitted during the year or who had not previously complied with the payment requirements. A provision is retained for “catch-up” payments still to be made to admitted creditors who have not yet complied with the payment requirements. There remain approximately 16,000 admitted creditors within this category holding almost 23,500 claims.

Payments also included a number of cheques that were re-issued during the year to creditors who had filed their claims in England.

A further provision is retained in respect of claims received but not admitted or approved for payment to allow for them to receive the same level of dividend (including payments of past dividends) once they are admitted or approved. Certain of

these claims may ultimately be rejected in which case the relevant provisions will be released.

Further information regarding the dividend payment process is set out in Section 9 of Appendix I.

Future Dividends

It is not anticipated at present that any further interim dividends will be paid prior to a final dividend. The matter will however be reviewed if substantial further sums become available for distribution, for example from recoveries or from the release of provisions resulting from the rejection or withdrawal of creditor claims, or if closure becomes delayed unduly.

Creditors should not make assumptions as to the ultimate amount that may be received or the timing of a final dividend. Notification of a final dividend, or of a further interim dividend if indeed one is paid, will be communicated to admitted creditors in writing and be posted on the BCCI web site (www.bcci.info).

2.2 CREDITOR CLAIMS ACTIVITY IN 2008

Creditor claims fall into two broad categories:

- employee claims; and
- depositor / trade claims.

Detailed information regarding the employee claims is set out in Section 2.4 of this report and in Sections 6.4, 6.5 and 10.1 of Appendix I.

The process for dealing with non-employee claims is set out in Section 9 of Appendix I.

The work on depositor / trade claims in 2008 was primarily concerned with the following areas:

- *Processed Claims – Admitted / Rejected / Withdrawn*

A total of 188 non-employee claims with a value of US\$3.6 million were processed by the English Liquidators during the year. 96 claims with a value of US\$0.4 million were admitted, 90 claims with a value of US\$3.2 million were rejected and 2 claims with a value of US\$407 were withdrawn.

In addition to these 188 claims, 99 claims with a value of US\$1.09 million were processed for admittance in 2008 but were not formally admitted in Luxembourg until July 2009.

1,667 Beneficial Ownership forms and approximately 8,000 Payment Instruction forms received by the English Liquidators from creditors, were processed during the year. These forms are requested in order to meet with compliance requirements applicable to admitted claims prior to dividend release. Further information regarding the compliance documentation is set out in Section 9.1 of Appendix I.

- *New Claims*

284 new non-employee claims were received during the year with a value of some US\$1.5 million. The majority of these claims were received following the exercise described in the next paragraphs which was carried out in an attempt to diminish the amount of work that will need to be carried out in the closing stages of the liquidation. In September 2008, the English Liquidators reviewed the Bank's paper files to ascertain last known addresses of account holders where there was no address recorded on the Bank's computer system when the Bank closed. Once completed, these account holders were then written to as they neither were sent a Proof of Debt form when all initial forms were dispatched in 1992 nor were they sent a letter when the English Liquidators wrote to all unclaimed account holders in 2006 and 2007. Some 260 claims were received as a direct result of this exercise.

- *Claims that remain 'In-Progress'*

On 15 January 2009 there were 319 non-employee claims "in-progress" with a value of some US\$9.8 million, including new claims detailed above and the 99 claims awaiting formal admittance.

There is 1 high value claim that accounts for US\$8.3 million or 85% of the "in-progress" claims.

Of the remaining 318 claims, by the end of 2009 it is anticipated that 258, with a value of US\$1.3 million, will be put forward for admittance, and the remaining 60 claims, with a value of US\$0.2 million, will either be put forward for rejection or be withdrawn irrevocably by the creditor.

Claims will be rejected for a number of reasons. For example, despite numerous written requests, some creditors have failed to submit satisfactory evidence to validate their claims. All rejected claims will be sent a formal notice of rejection from the English Liquidators and will have their claims sent to Luxembourg for rejection through the Luxembourg procedures.

The provisions currently held by the English Liquidators and the Luxembourg Liquidators in respect of these invalid claims will be released once the rejection process is complete or a satisfactory statement of withdrawal is received. If any appeal against the rejection is successful then the provision will be paid out by way of dividend.

2.3 RECOVERIES IN 2008

During the year the English Liquidators recovered US\$7.8 million from receipts in their domestic liquidation and from their entitlement to a share in global recoveries under the Global Cost and Recovery Sharing Agreement. A further US\$2.7 million of bank and ISA interest was collected by the English Liquidators.

English Branch Recoveries

- *Collected loans*

In the year to 15 January 2009 the English Liquidators collected US\$1.3 million in principal and US\$0.2 million in interest.

- *Loans outstanding*

There are 41 commercial loans and 157 credit card debts outstanding that could realise approximately US\$1.6 million. The commercial loans fall into three main categories:

- 18 by number are awaiting the disposal of property provided as security;
- 20 by number are the subject of a repayment programme by the debtor including collection by means of dividends from other liquidations in the BCCI Group; and
- the remaining cases are currently the subject of negotiation in an attempt to produce settlements.

The credit card debts are administered by agents under the overall control of the English Liquidators.

In addition there are a small number of loans where the English Liquidators continue to pursue recoveries in Pakistan and Saudi Arabia. The potential amounts to be recovered total approximately US\$3 million, but the issues and jurisdictions involved make recovery efforts very difficult and time consuming and the outcome uncertain.

Global Recoveries

The English Liquidation's share of global recoveries received during 2008 totalled \$6.3 million. This includes the English Liquidators' entitlement to US\$4.3 million from the Majority Shareholders' payment made prior to the seventh interim dividend in accordance with the New Agreements.

The English Liquidation's share of other global recoveries totalled US\$2.0 million, comprising US\$1.0 million of interest on Bank of America funds, and US\$1.0 million of US Forfeited Assets.

2.4 EMPLOYEES

The process for, and history of dealing with employee claims is set out in Sections 6.4, 6.5 and 10.1 of Appendix I.

There are 68 employee claims that remain outstanding in the English Liquidation which the English Liquidators expect to resolve by the end of 2009.

- 2 claims remain outstanding of value US\$0.1 million relating to employees whose last place of employment was in England; and
- 66 claims remain outstanding of value US\$7.2 million relating to employees whose last place of employment was outside England and whose claims are largely duplicates of claims lodged in Luxembourg and/or Abu Dhabi.

2.5 INVESTIGATIONS AND LITIGATION

Khalil & Associated Claims

As explained in previous reports the Liquidators have continued to seek enforcement of the judgments obtained in the US courts of some US\$979 million (reflecting treble damages under RICO which may not be enforceable outside the USA) against Khalil in jurisdictions where he is believed to have assets. In Saudi Arabia, an application was made to the Board of Grievances requesting its assistance in enforcing the US common law judgment of US \$326.4 million (Appendix 1, 10.3 refers). The Board of Grievances issued a judgment during 2005 turning down the request. An appeal against this judgment was lodged in 2005.

The Appeal Court found in favour of the Liquidators and the matter was referred back to the Board of Grievances for reconsideration. The Board of Grievances subsequently issued a judgment in favour of the Liquidators but Khalil appealed the judgement. In 2008 the Appeal Court again found in favour of the Liquidators.

Accordingly, as of June 2008 the Liquidators have had an unappealable judgment in Saudi Arabia recognising the US common law judgment of US\$326.4 million for the purposes of enforcement within Saudi Arabia. Since that date the Liquidators have continued and are continuing to pursue enforcement of the judgment in Saudi Arabia. Khalil died in March 2009. The Liquidators are advised that they can continue to pursue enforcement against Khalil's estate and his heirs.

Saadi

In 2005, the liquidators of BCCI SA and BCCI Overseas obtained a UK judgment through the English Courts against Mr Saadi (an ex-employee of the bank) in the amount of approximately £17.9 million in relation to misappropriations from BCCI. In 2008, the BCCI SA and BCCI Overseas liquidators commenced enforcement action against Mr Saadi in Pakistan in relation to the judgment against him. The liquidators also filed a criminal complaint against him and certain others.

These proceedings against Mr Saadi continue. Recoveries to date are approximately US \$0.5 million.

Summary

All major litigation in England is now completed. Enforcement action will continue to be undertaken to execute the Khalil judgment and to pursue the Saadi recovery.

2.6 CLOSURE PLANNING & MANAGEMENT

It is anticipated that most of the activities relating to loan recovery and claims admission and rejection in the English Liquidation will be substantially complete by the end of 2009 although some will inevitably continue through to closure. At this stage, it appears possible that other estates may not complete the processing of all claims and recovery actions until a later date.

A significant amount of time was spent in 2008 preparing this complex cross border liquidation for closure. This included but was not limited to at least seven separate meetings between the liquidators of the Principal Companies including the liquidators of the UAE branches of BCCI SA to agree closure strategy. For example;

- determining whether the English Liquidation should remain open until the closure of the Luxembourg Liquidation or whether the English Liquidation should close at an earlier date;
- determining a common format and timetable for the financial schedules; and
- determining a common document retention policy.

The liquidators decision as to when to proceed to close will be balanced against their obligations to maximise recoveries.

2.7 LIQUIDATORS' REMUNERATION

The process and history of approval of the English Liquidators' remuneration is set out in Section 12 of Appendix I.

The remuneration claimed by the English Liquidators for the year to 31 December 2008, for their time and that of their staff, amounts to £3,876,684 before a discount of £193,835 and has been approved by the English Liquidation Committee. This compares to £4,077,011 in 2007.

Remuneration has also been approved by the English Liquidation Committee for the period to 30 June 2009.

The remuneration covers Deloitte UK time spent on both domestic and global activities. A proportion of the costs of global activities was previously recovered from other BCCI estates under the Global Cost and Recovery Sharing Agreement (Section 6.2 Appendix I). This agreement was terminated in April 2008 by the liquidators of the Principal BCCI Companies and the Principal ICIC Companies.

2.8 OTHER UK JURISDICTIONS

The Scottish and Isle of Man liquidations of BCCI SA have now been closed, with all claims being dealt with through the English Liquidation.

2.9 ENGLISH LIQUIDATION COMMITTEE

In 2008 the English Liquidators and the English Liquidation Committee met 4 times.

The Committee has:

- monitored the ongoing litigation;
- approved compromises with debtors recommended by the English Liquidators;
- reviewed the ‘closure plan’; and
- considered the English Liquidators’ remuneration.

The English Liquidation Committee continues to be independently advised on various matters by Bernard Clarke of Bernard Clarke & Co and the English Liquidators and their lawyers have met with Bernard Clarke on an ad hoc basis on a number of occasions to brief him or to ascertain the Committee’s views on specific matters.

3. RECEIPTS AND PAYMENTS ACCOUNT FOR THE PERIOD 16 JANUARY 2008 TO 15 JANUARY 2009

The Receipts and Payments Account set out below shows the receipts and payments of the English Liquidation for the seventeenth year of the liquidation and for the period 5 July 1991 to 15 January 2009 which includes the period of the English Provisional Liquidation.

Receipts	Notes	Seventeenth Year of liquidation US\$ million	Total to 15.1.2009 US\$ million
Entitlement to share of Global Recoveries			
Agreements with Majority Shareholders	s5.1.1	4.3	1,059.2
US Forfeited Assets:	s6.7 App I		
Contract	s5.1.2	1.0	312.6
Discretionary		0.0	220.5
First American - Geneva Agreement	s6.7 App I	0.0	84.1
Mahfouz Settlement	s6.8 App I	0.0	215.8
Interest on Global Recoveries		0.0	83.4
Other Global Recoveries	s5.1.3	1.0	385.3
		<hr/>	<hr/>
		6.3	2,360.9
		<hr/>	<hr/>
Domestic Receipts			
Loans & Overdrafts	s5.2.1	1.3	822.0
Other Domestic Asset Recoveries	s5.2.2	0.0	535.4
Interest	s5.2.3	2.9	373.5
Corporation Tax Refund		0.0	45.9
Other Receipts	s5.2.4	0.0	9.7
Surplus Funds of Scottish and Isle of Man liquidations		0.0	41.6
		<hr/>	<hr/>
		4.2	1,828.1
		<hr/>	<hr/>
Total Receipts		10.5	4,189.0
		<hr/>	<hr/>

Payments	Notes	Seventeenth Year of liquidation US\$ million	Total to 15.1.2009 US\$ million
English Liquidators' Remuneration	s5.3.1	6.9	355.8
Legal Fees	s5.3.2	3.4	232.7
English Liquidators' Expenses	s5.3.3	0.1	20.4
English Liquidation Committee's Costs	s5.3.4	0.9	6.9
Payroll and Contract Staff	s5.3.5	1.0	56.9
Premises and Office Services	s5.3.6	1.2	81.3
Other Professional Fees		0.0	17.3
Insolvency Service Fees		0.0	13.7
Other Payments	s5.3.7	0.1	17.9
Net VAT Costs	s5.3.8	1.1	59.8
Bank of England costs	s6.17 App I	0.0	63.6
Litigation Agreements	s6.18 App I	0.0	6.2
Establishing the employee trusts	s6.5 App I	0.0	24.4
Paying Agent Funding	s6.19 App I	0.0	6.5
Payment to or for other estates	s6.20 App I	0.0	93.6
		14.7	1,057.0
Dividend Related Payments			
Payment to Luxembourg for Scottish and Isle of Man Dividends		0.0	40.9
Preferential Creditors	s5.4.1	0.0	1.2
Dividend Payments	s5.4.2	10.7	617.3
Released to Pool	s5.4.3	(31.2)	2,427.3
		(20.5)	3,086.7
Total Payments		(5.8)	4,143.7
Net Receipts		16.3	45.3
Currency Translation Adjustments	s5.5	(11.5)	1.4
Balance brought forward		41.9	-
Balance at 15 January 2009		46.7	46.7

4. ACCOUNTING POLICIES

4.1 Basis of Preparation

The accounts are prepared on the basis of the actual cash receipts and payments in the period. No provision is made for anticipated receipts, accrued expenses or prepayments.

4.2 Reporting Currency

BCCI SA is a Luxembourg registered company whose accounts, prior to liquidation, were reported in US dollars. The English Liquidators have continued the policy of reporting in US dollars.

Transactions in other currencies are translated at the exchange rate prevailing at the time of payment and the closing balance has been translated at the rates prevailing on 15 January 2009.

4.3 Receipts and Payments

The English Liquidators maintain bank accounts in Sterling and US dollars. These accounts are controlled within the terms agreed with the Department for Business Innovation and Skills.

In particular, other than an agreed local bank account balance for immediate use, it is a statutory requirement that monies received and held within the English Liquidation are deposited with the ISA at the Bank of England. As at 15 January 2009 the ISA account paid interest of 2.75% per annum on Sterling balances. The rate on US dollar balances as at 15 January 2009 was 0.0%.

4.4 Book Value at the Date of English Provisional Liquidation

The book values of assets stated are translated at the exchange rate prevailing as at 5 July 1991, being the date on which BCCI SA was placed into provisional liquidation in England. Adjustments have been made to opening book figures as a consequence of reconciliations and other work performed since that date.

4.5 Entitlement to Global Recoveries

The English Liquidators' entitlement to their share of global recoveries is 48.75% under the Global Cost and Recovery Sharing Agreement. This Agreement was terminated in April 2008, but future recoveries (if any) from ongoing Global Projects will still be accounted for in the same proportions as set out in the Agreement after deduction of costs incurred by the estate concerned.

5. NOTES TO THE ACCOUNT FOR THE PERIOD 16 JANUARY 2008 TO 15 JANUARY 2009

5.1 Entitlement to Global Recoveries

5.1.1 Agreements with Majority Shareholders

	Seventeenth Year of liquidation US\$ million	Total to 15.1.2009 US\$ million
Agreements with Majority Shareholders	4.3	1,059.2

The Liquidators received US\$8.9 million from the Majority Shareholders in accordance with the New Agreements prior to the seventh interim dividend. The English estate's share was US \$4.3 million.

5.1.2 US Forfeited Assets

	Seventeenth Year of liquidation US\$ million	Total to 15.1.2009 US\$ million
Contract	1.0	312.6
Discretionary	0.0	220.5
	<u>1.0</u>	<u>533.1</u>

Under the contractual terms of the Plea Agreement with the US Authorities, US \$2.0 million was released to the Liquidators during the year, of which the English Liquidation's share was US \$1.0 million. The total amount released under the Plea Agreement now stands at US \$1,093.5 million of which the English Liquidation's share is US \$533.1 million.

5.1.3 Other Global Recoveries

	Seventeenth Year of liquidation US\$ million	Total to 15.1.2009 US\$ million
Other Global Recoveries	1.0	385.3

This is the English Liquidation's share of other recoveries that are made on a co-operative basis with the other liquidators of the Principal Companies under the terms of the Global Cost and Recovery Sharing Agreement.

During 2008, interest of US \$2.0 million on BoA funds was received; the English Liquidation's share was US\$1.0 million.

5.2 Domestic Receipts

5.2.1 Loans & Overdrafts

	Book Value of Assets at 5 July 1991 US\$ million	Seventeenth Year of liquidation US\$ million	Total to 15.1.2009 US\$ million
Loans & Overdrafts	1,724.5	1.3	822.0

The recoveries during 2008 comprise US\$1.3 million in respect of loan and credit card recoveries.

The cumulative total to 15.1.2009 has been increased by US\$9.6 million which represents loan recoveries in previous years shown as “Other Receipts”

5.2.2 Other Domestic Asset Recoveries

	Seventeenth Year of liquidation US\$ million	Total to 15.1.2009 US\$ million
Other Domestic Asset Recoveries	0.0	535.4

There were no significant Other Domestic Asset Recoveries in 2008.

The cumulative total to 15.1.2009 has been increased by US\$107.8 million in respect of asset recoveries in previous years which were previously shown as “Other Receipts”. A full breakdown can be found in the table in Section 8, Appendix 1.

5.2.3 Interest

	Seventeenth Year of liquidation US\$ million	Total to 15.1.2009 US\$ million
Interest	2.9	373.5

US\$0.2 million was in respect of interest received on outstanding loans and US\$2.7 million in respect of bank and ISA interest.

5.2.4 Other Receipts

	Seventeenth Year of liquidation US\$ million	Total to 15.1.2009 US\$ million
Other Receipts	0.0	9.7

There were no significant other receipts in 2008.

Following a re-analysis of the receipts in previous years US\$120.3 million has been allocated to other categories of the Receipts and Payments Account – refer to sections 5.2.1, 5.2.2, 5.3.2 and 5.4.2.

5.3 Payments

5.3.1 English Liquidators' Remuneration

	Seventeenth Year of liquidation US\$ million	Total to 15.1.2009 US\$ million
English Liquidators' Remuneration	6.9	355.8

This remuneration, approved by the English Liquidation Committee covers all Deloitte UK time spent on domestic and global activities. Remuneration is paid in Sterling and the equivalent figure is £4.0 million.

5.3.2 Legal Fees

	Seventeenth Year of liquidation US\$ million	Total to 15.1.2009 US\$ million
Legal Fees	3.4	232.7

US\$2.8 million of fees were paid to Lovells LLP and counsel of which a substantial proportion comprised work undertaken in preparation of closure of the liquidation. US\$0.6 million relates to legal advice received from LG LLP (formerly Lawrence Graham) and a small handful of overseas firms as regards proceedings being conducted outside England. US\$3.2 million of these fees were paid in Sterling and the equivalent figure was £1.8 million

An adjustment of US\$(2.8) million has been made to reduce the cumulative total to 15.1.2009. This represents returns of security for costs or third party contributions to legal costs which had previously been analysed as "Other Receipts"..

5.3.3 English Liquidators' Expenses

	Seventeenth Year of liquidation US\$ million	Total to 15.1.2009 US\$ million
English Liquidators' Expenses	0.1	20.4

This includes the travelling and subsistence cost of the English Liquidators and their staff.

5.3.4 English Liquidation Committee's Costs

	Seventeenth Year of liquidation US\$ million	Total to 15.1.2009 US\$ million
English Liquidation Committee's Costs	0.9	6.9
	<u> </u>	<u> </u>

On 27 May 1993 an elected Liquidation Committee was formed at a general meeting of creditors.

During the year, payments totalling US\$0.1 million were made to members of the Committee for travel and subsistence for their attendance at the meetings, particularly in relation to two members of the Committee who reside overseas. A further US \$0.8 million was paid to Bernard Clarke & Co, legal advisor to the Committee, for services to the Committee.

5.3.5 Payroll and Contract Staff

	Seventeenth Year of liquidation US\$ million	Total to 15.1.2009 US\$ million
Payroll and Contract Staff	1.0	56.9
	<u> </u>	<u> </u>

These payments relate to the costs of non-Deloitte staff engaged by the English Liquidators and short term contract/temporary staff for the benefit of the liquidation.

5.3.6 Premises and Office Services

	Seventeenth Year of liquidation US\$ million	Total to 15.1.2009 US\$ million
Premises and Office Services	1.2	81.3
	<u> </u>	<u> </u>

These costs include:

- rent, rates, repairs, insurance, light & heat and telephone, US\$0.5 million; and
- document storage and removal, US\$0.6 million.

5.3.7 Other Payments

	Seventeenth Year of liquidation US\$ million	Total to 15.1.2009 US\$ million
Other Payments	0.1	17.9
	<u> </u>	<u> </u>

Other payments include US\$0.06 million in computer equipment and maintenance.

5.3.8 Net VAT Costs

	Seventeenth Year of liquidation US\$ million	Total to 15.1.2009 US\$ million
Net VAT Costs	1.1	59.8
	<u> </u>	<u> </u>

BCCI SA is registered for VAT purposes. It is categorised as being partially exempt and therefore is unable to recover all VAT incurred. This is the amount of VAT that was paid and is irrecoverable.

5.4 Dividend Related Payments**5.4.1 Preferential Creditors**

	Seventeenth Year of liquidation US\$ million	Total to 15.1.2009 US\$ million
Preferential Creditors	0.0	1.2
	<u> </u>	<u> </u>

No preferential creditors were paid dividends in 2008.

An adjustment of US\$0.1 million has been made to increase the cumulative total to correct for historical exchange rate differences on payments made to preferential creditors in Sterling since 1996.

5.4.2 Dividend Payments

	Seventeenth Year of liquidation US\$ million	Total to 15.1.2009 US\$ million
Dividend Payments	10.7	617.3
	<u> </u>	<u> </u>

BCCI SA

The English Liquidators pay dividends, in accordance with the English Court's directions, principally to those creditors who filed their claims in the English Liquidation and who were entitled to exercise a set-off that would be treated less favourably under Luxembourg law.

A seventh dividend of 2.5% was declared for payment to creditors on 10 December 2008. In addition, a number of "catch up" payments were made during the course of 2008.

US\$11.7 million was paid in dividends by the English Liquidators of which US\$3.0 million was diverted to the FSCS, DCS and Department of Employment to repay the compensation that they had provided.

US\$1.0 million was reclaimed from the dividend funding account which represented a release of surplus funds held in this account.

The cumulative total to 15.1.2009 has been increased by US\$1.9 million and reflected:

- a reclassification of an "Other Receipt" of US\$(0.1) million relating to dividend refunds – see section 5.2.4;
- an adjustment of US\$2.0 million to correct for historical exchange rate differences on payments made to the FSCS in Sterling since 1996.

5.4.3 Released to Pool

	Seventeenth Year of liquidation US\$ million	Total to 15.1.2009 US\$ million
Released to Pool	(31.2)	2,427.3

The amount released to the pool by the English Liquidation in accordance with the BCCI Pooling Agreements and ICIC Pooling Agreement comprised two elements:

- US\$6.3 million released to the pool, being the English Liquidation's share of the US\$12.9 million global recoveries received during the year; and
- US\$37.5 million received from the pool to provide sufficient funding for the English estate for payment of the seventh interim dividend.

5.5 Currency Translation Adjustments

	Seventeenth Year of liquidation US\$ million	Total to 15.1.2009 US\$ million
Currency Translation Adjustments	(11.5)	1.4

As set out in Section 4.2, BCCI SA reported in US dollars and this has been continued in the English Liquidation. Bank accounts are maintained in both Sterling and US dollars.

During the year the US dollar appreciated substantially against Sterling, the effect of which was to decrease the cumulative dollar exchange adjustment. This creates, in US dollar terms, an unrealised currency translation loss for the year ended 15 January 2009. Currency translation differences will only be realised if funds held in other currencies are converted into US dollars.

An adjustment of US\$2.0 million has been made to the cumulative total to correct for exchange rate differences on payments made to the FSCS in Sterling since 1996.

6. CERTIFICATION BY THE ENGLISH LIQUIDATORS

The English Liquidators certify that the Receipts and Payments Account in Section 3 gives a fair representation of the Receipts and Payments of the English Liquidation for the period 16 January 2008 to 15 January 2009.

Pursuant to Regulation 14 of the Insolvency Regulations 1994, details of assets and amounts realised have been provided in the Receipts and Payments Account in Section 3 of this report. Section 2 includes details of unrealised assets, and to the extent it is possible to quantify, the value of assets. It is inappropriate to speculate on the recovery from litigation.

A handwritten signature in black ink, appearing to read 'J.P. Richards', with a stylized flourish at the end.

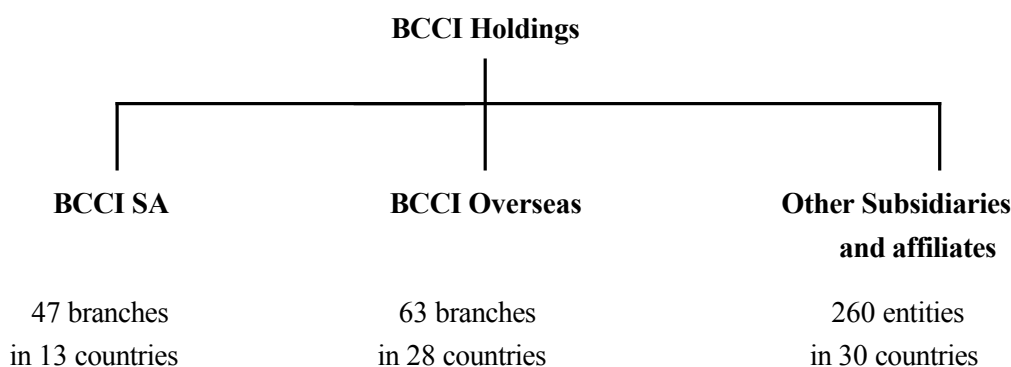
J P Richards
For and on behalf of
the English Liquidators of BCCI SA

**BACKGROUND INFORMATION DRAWN FROM THE PREVIOUS REPORTS OF
THE ENGLISH LIQUIDATORS**

1. Background

BCCI SA was incorporated in Luxembourg in September 1972. By 1991 BCCI SA was one of the two principal operating subsidiaries of BCCI Holdings, also incorporated in Luxembourg. The other principal operating subsidiary of BCCI Holdings was BCCI Overseas, which was incorporated in the Cayman Islands.

By 30 June 1991, the BCCI Group operated in some 69 countries as follows:



2. Provisional Liquidation

On 5 July 1991, Christopher Morris, John Richards and Nicholas Lyle of Touche Ross & Co. were appointed provisional liquidators of BCCI SA by the High Court in England on the application of the Bank of England. Following the application by the Bank of England to wind up BCCI SA in England, the BCCI Group collapsed. Within days, most branches of BCCI SA and BCCI Overseas and most subsidiaries of BCCI Holdings had been placed in liquidation (or its equivalent) by authorities in the countries in which they were situated.

On 8 July 1991, Brian Smouha of Touche Ross & Co. was appointed "Commissaire de Surveillance" of BCCI SA by the District Court of Luxembourg. Mr Smouha was also appointed Commissaire de Surveillance of BCCI Holdings, together with Jacques Delvaux, a Luxembourg notary, and Constant Franssens, a retired banker.

In the Cayman Islands, a receiver was appointed over BCCI Overseas and associated companies on 5 July 1991, and on 22 July 1991 Ian Wight and Robert Axford of Deloitte Ross Tohmatsu were appointed provisional liquidators of (inter alia) BCCI Overseas by the Grand Court of the Cayman Islands.

Pursuant to Letters of Request issued by the High Court in England on 5 July 1991, partners of Touche Ross & Co. were appointed provisional liquidators of BCCI SA by the Court of Session in Scotland on 5 July 1991 and by the High Court of the Isle of Man on 6 July 1991.

Under the terms of their appointment, the English Provisional Liquidators were charged with securing the assets of BCCI SA worldwide wherever they arose. Accordingly, to adhere to the terms of their appointment and to try and maintain the

integrity of the BCCI Group during its insolvency, the partners in Touche Ross & Co., and its associated partnerships worldwide referred to above, having been appointed, along with others, as officeholders of BCCI Holdings, BCCI SA and BCCI Overseas in the countries of incorporation, sought to work together to take control of, and co-ordinate the liquidation of the Principal BCCI Companies and their foreign branches.

In pursuance of the above mentioned objectives, the Officeholders encountered a number of problems in conducting negotiations in certain foreign countries. Locally appointed officers, administrators, receivers or Central Bank authorities often had different objectives from those of the Officeholders. Authorities in certain countries would not recognise the appointment of the Officeholders and in certain instances, issued instructions to local administrators preventing them from holding discussions with the Officeholders. In a number of jurisdictions local legislation prevented the Officeholders from realising the maximum potential benefits for worldwide creditors of the BCCI Group. Such legislation, sometimes retrospective, included ring-fencing where a local administrator seized assets within his jurisdiction to pay local creditors, taking no account of foreign creditors or inter-company claims.

On 30 July 1991, the Vice-Chancellor (then Sir Nicolas Browne-Wilkinson) adjourned the hearing of the winding up petition in England for four months to allow the Majority Shareholders to explore the possibility of restructuring the BCCI Group. In the meantime, the English Provisional Liquidators took urgent steps to protect and collect assets and to try to minimise, to the extent possible, the impact of the English Provisional Liquidation on depositors and members of staff, both in the UK and overseas. To that end, they negotiated with the Majority Shareholders a shadow depositors' protection scheme and a shadow employee compensation scheme enabling certain payments to be made to depositors and employees during the English Provisional Liquidation. In both cases, the statutory schemes in England could not be activated prior to BCCI SA being placed into "full" liquidation. The Majority Shareholders also agreed to fund the BCCI SA payroll in the UK for two months.

From an early stage the Officeholders of the Principal BCCI Companies engaged the Majority Shareholders in confidential and intensive discussions with a view to settling claims outstanding between the BCCI Group and the Majority Shareholders, to alleviate the losses suffered by creditors, and to maximise returns to them. The Majority Shareholders instructed J Henry Schroder Wagg & Co. to prepare a report on the feasibility of restructuring BCCI SA in the UK and on the condition of the UK loan book. We understand that Schrodgers reported to the Majority Shareholders at the end of September 1991 to the effect that it was not possible to restructure BCCI SA in the UK. In the light of this, steps were taken by the English Provisional Liquidators, in accordance with directions from the Court, to dispose of branch premises in the UK, to dismiss employees and to start the process of realising the UK loan book.

At the hearing on 2 December 1991, the English Provisional Liquidators advised the Court of the discussions with the Majority Shareholders and sought a further short adjournment to enable discussions with the Majority Shareholders to continue, with a view to finalising proposed arrangements, and to allow the winding up orders in respect of BCCI SA and BCCI Overseas to be synchronised, as far as possible, in the UK, Luxembourg and the Cayman Islands.

3. Magnitude and Complexity of the Insolvency of the BCCI Group

The insolvency of the BCCI Group remains one of the largest ever in terms of liabilities. It also involves probably more jurisdictions outside the countries of incorporation of the companies of the BCCI Group than any previous insolvency. The resultant complexities have been the subject of judicial recognition on a number of occasions and were encapsulated by the Vice-Chancellor (then Sir Donald Nicholls) when, having referred to the earlier adjournments of the winding up petition, he continued:

"...the Provisional Liquidators of the BCCI Group have been engaged in the truly gargantuan task of preserving and realising assets of the BCCI Group worldwide in conjunction with Mr Smouha, the Commissaire of BCCI Holdings appointed by the District Court of Luxembourg, and in conjunction with the provisional liquidators of BCCI Overseas and in conjunction also with other court appointed officers in other jurisdictions".

"One only has to read the Provisional Liquidators' report to the Court dated 29 November 1991 to see what a mammoth and difficult task this is. The BCCI Group operated through branches or representative offices in 69 countries, each has its own legal system and some have exchange control restrictions. Further, the affairs of BCCI SA and BCCI Overseas are inextricably intermingled. Plainly, worldwide co-operation is essential if the assets in the different jurisdictions are to be realised to the best advantage of the creditors. Otherwise and all too obviously there is likely to be long drawn out litigation in many jurisdictions between the different parts of the BCCI Group".

4. The Appointment of and changes to the Liquidators

On 3 January 1992, the Luxembourg Court ordered the liquidation of BCCI SA and appointed Georges Baden, Julien Roden and Brian Smouha as liquidators (Maitres Baden and Roden are Luxembourg lawyers).

On 14 January 1992, an order for the winding up of BCCI SA was made in the High Court in England. On the same day the Secretary of State for Trade and Industry appointed Christopher Morris, John Richards, Nicholas Lyle and Stephen Akers as liquidators of BCCI SA under section 137 of the Insolvency Act 1986.

Winding up orders were made in Scotland and the Isle of Man on 14 and 15 January 1992 respectively. Partners of Touche Ross & Co. were appointed liquidators.

Also on 14 January 1992, the Grand Court of the Cayman Islands ordered BCCI Overseas to be wound up and Ian Wight, Robert Axford and Michael Mackey of Deloitte Ross Tohmatsu were appointed official liquidators.

On 29 April 1992, the Grand Court of the Cayman Islands ordered the liquidation of ICIC Overseas and Ian Wight, Michael Mackey and Robert Axford were appointed official liquidators.

On 17 August 1992, the Luxembourg Court ordered the liquidation of BCCI Holdings in Luxembourg and appointed Georges Ravarani and Claude Penning as liquidators (Maitres Ravarani and Penning are Luxembourg lawyers).

On 9 July 1993, the Grand Court of the Cayman Islands ordered the liquidation of ICIC Holdings and Ian Wight, Robert Axford, Michael Mackey and Richard Douglas were appointed official liquidators.

On 9 July 1993, the Grand Court of the Cayman Islands ordered the liquidation of ICIC Investments and Ian Wight, Robert Axford, Michael Mackey and Richard Douglas were appointed official liquidators.

On 14 October 1993, the Luxembourg Court appointed Jacques Delvaux as a liquidator of BCCI Holdings in Luxembourg. On 27 December 1993, Claude Penning resigned as a liquidator of BCCI Holdings in Luxembourg.

On 11 May 1994, the Grand Court of the Cayman Islands ordered the liquidation of ICIC Apex and Ian Wight, Robert Axford, Michael Mackey and Richard Douglas were appointed official liquidators.

Nicholas Lyle resigned as a liquidator of BCCI SA in England in 1996.

On 30 June 1996, the Grand Court of the Cayman Islands appointed Michael Pilling as a liquidator of BCCI Overseas. On 30 June 1996 Robert Axford resigned as a liquidator of BCCI Overseas.

On 30 June 1996, the Grand Court of the Cayman Islands appointed Michael Pilling as a liquidator of ICIC Overseas, ICIC Holdings, ICIC Investments and ICIC Apex.

On 30 June 1996 Robert Axford resigned as a liquidator of ICIC Overseas, ICIC Holdings, ICIC Investments and ICIC Apex.

On 30 January 1997 Georges Ravarani resigned as a liquidator of BCCI Holdings in Luxembourg.

On 31 January 1997 the Luxembourg Court appointed Marc Kleyr as a liquidator of BCCI Holdings in Luxembourg.

On 7 March 1997 the Luxembourg Court appointed Mike Larter as a liquidator of BCCI Holdings in Luxembourg.

On 31 March 1997 Brian Smouha resigned as a liquidator of BCCI SA in Luxembourg.

On 2 May 1997 the Luxembourg Court appointed George Cihra as a liquidator of BCCI SA in Luxembourg.

On 6 February 1998, the High Court in England appointed Ralph Preece as a liquidator of BCCI SA.

On 4 June 2003 the Luxembourg Court appointed Yvette Hamilius as a liquidator of BCCI SA in Luxembourg.

On 30 April 2004 George Baden, Julian Roden and George Cihra resigned as liquidators of BCCI SA in Luxembourg. The Luxembourg Court appointed Jacques Delvaux and Marc Kleyr in their place.

On 30 April 2004 Mike Larter resigned as a liquidator of BCCI Holdings in Luxembourg. The Luxembourg Court appointed Yvette Hamilius in his place.

On 19 July 2005 Christopher Morris and Stephen Akers resigned as liquidators of BCCI SA in England.

On 24 January 2007 the remaining liquidator of the Scottish branch of BCCI SA Luxembourg was released as liquidator in accordance with the Interlocutor issued on 6 December 2006 by the Scottish Court of Session.

On 26 April 2007, the High Court in England appointed Angus Martin as a liquidator of BCCI SA.

On 31 December 2007 Marc Kleyr resigned as a liquidator of BCCI Holdings in Luxembourg and of BCCI SA in Luxembourg. The Luxembourg Court is not expected to appoint any person as a replacement.

5. Significant Liquidation Activities

In addition to the preservation and realisation of tangible assets, considerable effort has been devoted to the areas of documentation and investigation. Until 1990, the BCCI Group's head office was situated in London. In 1990 the head office was moved to Abu Dhabi which also necessitated moving much of the relevant documentation. The Liquidators, including the English Liquidators, had, therefore, not only to take control of and collate the very considerable amount of documentation which remained in the UK, but also to negotiate, with the relevant authorities, access to documentation in other jurisdictions.

Another very significant area of the English Liquidators' work has been the investigation of a wide range of major debtors, as well as individuals and companies closely involved with the activities of the BCCI Group (including the former auditors). These investigations have resulted in the commencement of a number of substantial pieces of litigation in several countries, and also settlements, which are discussed in Section 2 of the report and Sections 6 and 10 of this Appendix.

6. Arrangements and Agreements

6.1 The BCCI Pooling Agreements

The intermingling of the affairs of BCCI SA and BCCI Overseas was such that it would have been impracticable without very considerable delay and enormous expense (and might well have been impossible) to determine, as between the two companies, their respective assets and liabilities. In addition, since the closure, almost all of the different companies in the BCCI Group and the branches of BCCI SA and BCCI Overseas, had become the subject of a multiplicity of local liquidations or similar proceedings in the jurisdictions in which they were incorporated or located.

In order to avoid the expense, difficulty and delay which would otherwise have arisen, a pooling agreement was negotiated between the liquidators of the Principal BCCI Companies and was initialled on 20 February 1992. In brief, the BCCI Pooling Agreement provides for the pooling of the assets of the Principal BCCI Companies and their branches which agree to participate, and for admitted creditors all to receive the same rate of dividend out of the pooled assets.

To date the following participating branches have, along with the UK, Luxembourg and the Cayman Islands, joined the pool: BCCI SA Japan, BCCI SA Cyprus, BCCI SA Bahrain, BCCI SA United Arab Emirates and BCCI Overseas China.

6.2 Global Cost and Recovery Sharing Agreement

With effect from 15 January 1993, the liquidators of the Principal BCCI Companies and the Principal ICIC Companies entered into the Global Cost and Recovery Sharing Agreement to share the costs of pursuing global actions and to share the global recoveries. Under this agreement, the English Liquidation bore 48.75% of the global costs and received 48.75% of the global recoveries.

This agreement was terminated in April 2008 by the liquidators of the Principal BCCI Companies and the Principal ICIC Companies. Future global recoveries (if any) from ongoing Global Projects will still be accounted for in the same proportions as set out in the Agreement after deduction of costs incurred by the estate concerned..

6.3 The Majority Shareholders' Agreements

The discussions referred to in Section 2 of this Appendix led to the initialling of the Original Majority Shareholders' Agreements on 20 February 1992. In brief, the principal benefits of the Original Majority Shareholders' Agreements, were they to have become unconditional, were considered to be an improved and accelerated return to creditors.

The Original Majority Shareholders' Agreements and the BCCI Pooling Agreements were described in detail in a report to the High Court in England dated 16 March 1992. The report set out the reasons why the English Liquidators considered that the High Court should authorise the execution and implementation of the agreements. The report was widely circulated to creditors in advance of the court hearings in England, the Cayman Islands and Luxembourg in the summer of 1992.

On 27 October 1993, the Court of Appeal in Luxembourg upheld an appeal brought by a number of creditors of BCCI SA against the Contribution Agreement (one of the Original Majority Shareholders' Agreements) negotiated between the Liquidators and the Majority Shareholders. This proposed agreement had been explained to creditors in the report dated 16 March 1992 and had been approved by Court Order in England, the Cayman Islands and, at first instance, in Luxembourg a year earlier. However, as the Contribution Agreement required approval in each jurisdiction, the Liquidators could not proceed further with it.

Following this decision, the Liquidators (accompanied by an observer from the Luxembourg Creditors' Committee and the English Liquidation Committee) entered into further discussions with representatives of the Majority Shareholders. As a result of those discussions, drafts of the New Agreements were finalised on 13 July 1994.

The New Agreements were unanimously approved by all members of the English Liquidation Committee (apart from the ADIA representative who, being a party to the New Agreements, was not eligible to vote), all members of the Luxembourg Creditors' Committee of BCCI SA, and the Luxembourg Creditors' Committee of BCCI Holdings (apart from one member who did not express a view and the ADIA representative who did not attend) and all members of the BCCI Overseas Creditors' Committee (apart from the ADIA representative).

During November 1994, the Liquidators sent a circular to creditors advising them about the New Agreements, providing the creditors with summaries of the New Agreements and a "Question and Answer booklet" and informing them of the dates of the court hearings for approval of the New Agreements.

The New Agreements, together with the proposed ICIC Pooling Agreement (Section 6.6) were presented for approval to the Court in Luxembourg at hearings on 30 November 1994, 1 December 1994, and 19 January 1995; the High Court in England on 19 December 1994; and the Grand Court of the Cayman Islands at hearings on 12 and 13 January 1995.

Approval of the New Agreements was obtained from the High Court in England on 19 December 1994, the Grand Court in the Cayman Islands on 13 January 1995 and from the Court in Luxembourg on 31 January 1995.

The principal financial terms of the New Agreements are:

- the Majority Shareholders to pay the Liquidators a total of US\$1.8 billion;
- if the Liquidators make recoveries to which the Majority Shareholders are required by third parties to contribute (with certain exceptions), the contribution, limited in aggregate to US\$450 million, is to be returned to the Majority Shareholders;
- if the Majority Shareholders make recoveries to which the Liquidators have been required by third parties to contribute, such contribution is to be returned to the Liquidators;
- the UAE branches of BCCI SA are allowed to pool with the other Principal BCCI Companies. The Majority Shareholders will, however, pay shortly before each dividend payment a sum equivalent to the cost of the dividends to be paid on the liabilities of the UAE branches over US\$540 million, having taken into account the assets of the UAE branches. The UAE branches will not make any other claim against the Principal BCCI Companies. UAE branch creditors will receive the same rate of dividend as the creditors of the Principal BCCI Companies;
- the Majority Shareholders waive all rights to dividends arising from US Forfeited Assets which are received by the Liquidators.

Appeal Against the New Agreements

On 28 April 1995, four former employees of the BCCI Group filed an appeal in the District Court of Luxembourg, on the grounds that:

- the New Agreements were contrary to Luxembourg public order and in particular, contrary to the principle of equality among creditors;
- the New Agreements were economically unacceptable, after considering the commitments given by the Majority Shareholder prior to the liquidation; and
- the sum offered under the New Agreements was disproportionate to the suffering of creditors.

As a consequence of the above, the former employees argued that the sum offered was insufficient.

The Luxembourg Court set aside two dates to hear this appeal, in October and November 1995. However, prior to the hearing of the appeal, the liquidators of BCCI Overseas reached an agreement with employee representatives to settle litigation over the BCCI and ICIC Staff Benefit Trusts, (see Section 6.4 of this Appendix) a condition of which settlement was that the appeal against approval of the New Agreements be withdrawn.

Following agreement of the outline terms of settlement of the Trusts litigation in November 1995, the appeal in Luxembourg was withdrawn. All applicable appeal periods following service of the Luxembourg Appeal Court's order of 20 December 1995 expired on 29 April 1996.

The New Agreements were completed on 14 May 1996 with payments of US\$1.55 billion directly to the Liquidators and US\$250 million to be held in escrow to be released in two tranches. The first tranche of US\$150 million was received in May 1998 and the second tranche of US\$100 million was received in June 1998, which represented an acceleration of the second tranche which had been contractually due in May 1999.

In January 1997, the Majority Shareholders paid a further US\$50 million, which represents agreed payments in connection with the implementation of the New Agreements and offsets the cost of the delay of almost two years in receipt of funds by the Liquidators resulting from the legal approval process.

Under their obligation to contribute towards the cost of dividends to be paid on the liabilities of the UAE branches (as explained above), the Majority Shareholders have made payments totalling approximately US\$323 million in relation to the first seven dividends.

6.4 Employee Loans and Claims

There were approximately 1,900 employees in the UK with loans outstanding at the closure of the Bank of whom some 1,200 or so were still employed at closure. The amount due on these loans on 5 July 1991 before agreed set-off was in excess of £53 million. Since closure the English Liquidators have sought, where possible, to recover these loans without recourse to litigation. However, the employees, largely with the benefit of public funding (legal aid), mounted a series of claims since closure

in 1991, notably the proprietary claim (see 6.5 below) and the stigma/misrepresentation claims (see below and, for the current position, Section 2.4 in the main report above). Notwithstanding these claims, some £37 million has been collected since closure (including post closure accrued interest) directly from the debtors but excluding sums collected from the Staff Benefit Trusts and the amounts repaid under the ESI (see below).

Initially the employees focused on claims based on the “stigma” that they asserted had affected their employment prospects as a result of having worked for the BCCI Group. The existence of such a claim was successfully challenged by the English Liquidators at first instance and in the Court of Appeal based on established House of Lords authority.

However, the House of Lords decided in 1997 that the claims for stigma could not necessarily be ruled out as a matter of law. Nevertheless each claim and the loss suffered had to be proved individually. The House of Lords indicated that there were significant hurdles in the way of a successful stigma claim.

As a result of the House of Lords decision on the stigma claim and the fact that a number of employees continued to refuse to make any settlement proposals, in the summer of 1997 the English Liquidators commenced legal actions against over 200 former employees for repayment of their outstanding staff loans. In order to ensure that these actions and claims (including the stigma and misrepresentation claims) were dealt with in the most cost-effective and efficient manner, the English Liquidators’ solicitors asked the Vice-Chancellor to assign one judge to oversee the conduct of all the relevant court actions. Mr Justice Lightman was duly assigned and on 11 December 1997 he made an Order under which all relevant proceedings were, where possible, transferred and assigned to him. All proceedings brought within this case management system were stayed, pending his further direction. (In July 2001 Mr Justice Lawrence Collins was appointed to replace Mr Justice Lightman.)

Substantive hearings of major issues began towards the end of 1998 with three distinct issues tried during the course of 1998/1999.

The first issue was whether the staff loans were rendered unenforceable by the Consumer Credit Act 1974. The Court found in favour of the BCCI Group in ruling that this Act did not render the loans unenforceable. No appeal was lodged against this decision.

The second issue concerned the effect of the ACAS waiver form which had been signed by a number of employees who took voluntary redundancy in 1990. The Judge at first instance held that the waiver form prevented the signatories from pursuing any claims against the BCCI Group employer including stigma and misrepresentation claims. The employees successfully appealed the decision. The House of Lords decided in 2001 that the waiver form did not prevent employees from pursuing stigma and misrepresentation type claims, as they were not contemplated by either party when the releases were signed.

A third trial dealt with the stigma claims of five individual ‘lead’ cases. Although the Judge at first instance found that the BCCI Group employer’s conduct prior to liquidation did constitute a breach of the trust and confidence term implied into employment contracts, none of the lead case claims succeeded. The Judge gave

guidelines to assist in the resolution of the claims of other employees and reaffirmed the views expressed by the House of Lords that there were significant hurdles in the way of a successful stigma claim. He indicated that success would be rare in the absence of reliable and tested evidence from actual prospective employers. He also warned against other claims proceeding in the absence of appropriate evidence. Appeals by two of the test case employees were dismissed in February 2002 although the Court of Appeal did comment on the guidelines laid down by the Judge at first instance.

All remaining employees within the case management system were required to serve their own witness statements and particulars of loss if they wished to continue with a stigma claim. The conduct of those claims then proceeded in accordance with directions from the case management judge. (Some 54 employees in the event did serve witness statements.)

In addition, employees who wished to continue with their other case management claims (notably the misrepresentation type claims) were all required to serve their Statements of Case covering their remaining defences/claims. (Some 115 employees' Statements of Case were served.) The processing of these case management claims through the Court was for a time put on hold pending the making of a cost sharing order. This cost sharing order was required in order to determine the manner in which the employees were to share their own costs of the case management litigation and also their liability for costs orders made in favour of the BCCI Group. Preliminary issues were identified for determination by the Court. However the resolution of the preliminary issues and the making of the cost sharing order itself, were in turn put on hold pending the outcome of the ESI.

In 2000, after the third dividend had been declared, four "new" claims were lodged by a small number of employees for a total of US\$2.5 billion. The English Liquidators believed that these claims were unfounded and were in effect a refile of the claims that had formed part of the Staff Benefit Fund litigation settlement in September 1996 (see Section 6.5 below). The Luxembourg Liquidators considered that they should make provision against these claims until rejected by the Luxembourg Court. The Luxembourg Court finally rejected these claims in 2002.

In order to close off the employee litigation, and to facilitate payment of the fourth dividend, a settlement proposal was put together during 2001/2002 involving the Liquidators, a member of the English Liquidation Committee, and employee representatives. Certain major creditors of the Principal BCCI Companies agreed to contribute to a settlement fund from their fourth dividend, with the Trustee of the Triangle Loans Trust (see Section 6.5 below) utilising the Trust funds towards the settlement. The Legal Services Commission (in view of the legal aid funding of the litigation) and HM Revenue and Customs (in view of the tax implications of the ESI) were necessary parties to certain of the arrangements under the ESI.

The ESI involved a conditional settlement offer being circulated in July 2002 to some 600 or so BCCI Group employees. The required level of acceptances were received and the ESI became unconditional and effective in June 2003.

As at 24 June 2003 there had been employee loans still outstanding amounting in aggregate to a book value (including accrued interest) of some £63 million (after agreed set-offs). On 25 June 2003 as a part of the ESI, monies amounting to US\$ 21.2

million (the balance of the English staff loan book at commencement of the English Liquidation that, up until 25 June 2003, had remained unpaid) were received towards repayment of the English staff loan book. This comprised some US\$9.3 million received from the Triangle Loans Trust (see Section 6.5 below) together with US\$11.9 million received from the creditors who had funded the ESI. The ESI resulted in the removal of the financial burden of the loan liability from the employees. A further distribution from the Triangle Loans Trust occurred in August 2004 and in November 2005 with \$0.9 million and \$0.4 million being made available to the English Liquidators in repayment of the English staff loan book.

6.5 Employee Staff Benefit Funds Settlement

Shortly after closure of the Bank certain employees submitted a proprietary claim in relation to Staff Benefit Funds for a sum in the region of US\$250 million including interest. The Liquidators strongly refuted this claim but litigation was commenced. In October 1995, prior to the payment of the first dividend, the liquidators of BCCI Overseas reached an agreement with employee representatives to settle this litigation. Under the original proposal US\$50 million was to be paid to reconstitute an employees' trust fund. In addition, an unnamed third party agreed to contribute US\$20 million to a new trust for the benefit of former employees in relation to staff loans.

As part of this agreement, the employee representatives agreed to withdraw their appeal in Luxembourg against the New Agreements with the Majority Shareholders and to provide releases of certain other alleged claims against the BCCI Group. The employees also agreed to withdraw their proprietary claims.

Subsequently, after protracted negotiations and court hearings, the original proposal was varied such that the liquidators of BCCI Overseas would pay US\$40 million to reconstitute the employees' trust fund ("the Hexagon Welfare Trust") and US\$10 million to the new trust ("the Triangle Loans Trust") relating to staff loans, bringing the funding for this up to US\$30 million.

US\$15 million of the US\$30 million Triangle Loans Trust ("Part 1") was to assist in the repayment of outstanding BCCI Group staff loans. The other US\$15 million ("Part 2") was to be held for the benefit of employees who had repaid BCCI Group staff loans or who had subsidised loans from third party financiers.

This settlement agreement was approved by the Courts in the Cayman Islands on 28 June 1996 and in England on 9 July 1996. The Hexagon Welfare Trust was set up in the Cayman Islands (US\$40 million) and the Triangle Loans Trust set up in Guernsey (US\$30 million).

Following approval in the relevant Courts, the Trustees of the Triangle Loans Trust and the Hexagon Welfare Trust announced the commencement of distributions in April 2003. As at 15 January 2009, distributions had been paid or committed to be paid of:

- US\$15.5 million from Part 1 of the Triangle Loans Trust to assist in the repayment of outstanding BCCI Group staff loans for the benefit of 989 beneficiaries worldwide (including US\$10.7 million to the English Liquidators);

- US\$10 million from Part 2 of the Triangle Loans Trust to 2,091 beneficiaries worldwide; and
- US\$18 million from the Hexagon Welfare Trust to 7,272 beneficiaries worldwide.

No further distributions are expected to be received into the English Liquidation from Part 1 of the Triangle Loans Trust. It is believed that these Trusts have now been closed and all funds distributed.

6.6 ICIC Pooling Agreement

Following the commencement of the various liquidations in 1992 and the decision by the Liquidators to enter into the BCCI Pooling Agreements, the liquidators of the Principal BCCI Companies had extensive discussions with the liquidators of the Principal ICIC Companies and concluded that, given the extent to which the affairs of the Principal BCCI Companies and Principal ICIC Companies were commingled, the only practical and efficient way of conducting the liquidation of those companies was to enter into a further pooling agreement between the Principal BCCI Companies and the Principal ICIC Companies. The terms of the New Agreements were reached in anticipation of and on the basis that pooling arrangements would be entered into between the Principal BCCI Companies and the Principal ICIC Companies. The Court approval process for the New Agreements therefore, included a proposed ICIC Pooling Agreement. The New Agreements and the ICIC Pooling Agreement were approved by the Courts in Luxembourg, England and the Cayman Islands in December 1994 and January 1995.

6.7 USA and Plea Agreement

The estimated total net realisable value of the assets of BCCI SA and BCCI Overseas in the USA (disregarding any value attributable to BCCI SA's or BCCI Overseas' alleged interest in two banks, First American Bankshares Inc. and Independence Bank), was approximately US\$550 million at January 1992.

This value consisted mainly of deposits and other assets in banks and brokerage firms in the USA and loan portfolios. The majority of the assets of BCCI SA had been seized by New York and Californian banking authorities as liquidators of the estates of the New York and Californian agencies of BCCI SA.

Independence Bank failed in 1992 and has been liquidated by US regulatory authorities (resulting in a loss to the BCCI Group forfeiture pool of at least US\$116 million). The assets of First American Bankshares Inc., were, however, sold without a loss to the forfeiture pool. In addition, the state-run liquidations of the BCCI SA agencies in New York and California have resulted in a substantial surplus. Thus, as circumstances have developed, the value of assets collected in the USA, including the proceeds of the sale of First American Bankshares Inc., is in excess of US\$1 billion.

The assets of BCCI SA and BCCI Overseas in the USA were at serious risk of being lost in their entirety due to fines and civil penalties. In order to maximise and accelerate a return to creditors, the Officeholders engaged in negotiations with a number of prosecuting and regulatory authorities in the USA.

These negotiations, which were carried out in strict confidence, culminated in the Plea Agreement entered into on 19 December 1991 between the various Officeholders (other than the English Provisional Liquidators) and various US prosecuting and regulatory authorities.

Under the terms of the Plea Agreement, all assets of BCCI SA, BCCI Overseas, BCCI Holdings and ICIC Overseas in the USA were forfeited to the United States Department of Justice.

Approximately half of such assets were retained by the Department of Justice for specified purposes including possible remission to creditors, and the other half, subject to certain conditions being satisfied, were to be paid over to the Officeholders. The assets are identified on specific forfeiture orders and have been distributed on the resolution of claims made against the assets.

As part of the Plea Agreement, the Federal Reserve agreed not to enforce its previously announced US\$200 million penalty against the BCCI Group, and the US Authorities agreed to settle all pending criminal and civil proceedings against the BCCI Group and to refrain from bringing any such proceedings in the future with certain limited exceptions.

As stated above, the English Provisional Liquidators were not signatories to the Plea Agreement. They were, however, directly affected by its execution. Under the terms of the Plea Agreement, the Officeholders were obliged, upon execution of the Plea Agreement, to make available a sum of US\$5 million to be paid as an interim capitalisation payment to Independence Bank in exchange for shares in Independence Bank. The US\$5 million was to be refunded to the Officeholders out of forfeited assets in priority to any other payment from such forfeited assets. If the sum of US\$5 million had been paid by Officeholders other than the English Provisional Liquidators, the Officeholders anticipated that there would be difficulties in these Officeholders continuing to exercise their functions by reason of the limited funds which would then be available to them.

Accordingly, it was proposed that such payment should be made out of the funds held under the control of the English Provisional Liquidators, a proposal, which the Vice-Chancellor approved. During the second year of the English Liquidation, the sum was repaid to the English Liquidators under the terms of the Plea Agreement.

Before entering into the Plea Agreement, the Officeholders (including the English Provisional Liquidators) sought advice from their US Attorneys and sought directions from the Court that appointed them. The provisional liquidators of BCCI Overseas and ICIC Overseas obtained orders and directions from the Cayman Court on 13 December 1991 and the Commissaires of BCCI SA and BCCI Holdings obtained orders and directions from the Luxembourg Court on 18 December 1991 authorising them to enter the guilty pleas on behalf of BCCI Overseas, BCCI SA and BCCI Holdings respectively, in accordance with the terms of the Plea Agreement.

In 1994 the District Court in Washington issued a procedural order for the winding up of the First American Group of companies. On 11 January 1995 the Boards of First American Bank shares and First American Corporation adopted resolutions for the winding up of these companies, which were subsequently approved by the First

American Trustee. These arrangements were an important part of the process of releasing the net proceeds in the First American Group.

Between 1995 and 1998 the Liquidators received over US\$700m under various disbursement orders pursuant to the Plea Agreement. In July 1999 the District Court made a final order of disbursement and closed the US criminal case. As a result of that final order, the Liquidators received US\$155.9 million plus an additional US\$15 million approximately in illiquid assets. In March 2000 the Attorney General exercised her discretion to disburse a further US\$170.9 million to the Liquidators plus, in August 2000, a further discretionary disbursement of approximately US\$4 million was approved.

Since the closing of the criminal case in July 1999, the Liquidators have supervised the realisation of the illiquid US assets disbursed to them. These assets have been under the direct management of an experienced Trustee. To date, the Trustee's efforts have resulted in recoveries of approximately US\$22.5 million - which is substantially above the book value of the assets when they were distributed to the Liquidators in July 1999.

Under the Geneva Agreement, parties related to the Government of Abu Dhabi relinquished their claims to, and interests in, various assets within the US jurisdiction in favour of the US Authorities and certain US entities. Under the terms and conditions of the Geneva Agreement the US Authorities agreed to distribute to the Liquidators a part of the realisations from these various assets. Over US\$170 million in total has been received from the US Authorities under the Geneva Agreement.

The total recoveries from the USA under the Plea Agreement and Geneva Agreement are as follows:

Year	Plea Agreement Contract US\$ million	Plea Agreement Discretionary US\$ million	Geneva Agreement US\$ million	Total US\$ million
1995	244.1	-	-	244.1
1996	-	83.7	71.1	154.8
1997	125.3	125.8	46.4	297.5
1998	66.9	67.9	53.3	188.1
1999	155.9	-	1.7	157.6
2000	15.4	174.9	-	190.3
2001	3.8	-	-	3.8
2002	0.2	-	-	0.2
2003	3.9	-	-	3.9
2004	3.6	-	-	3.6
2005	19.6	-	-	19.6
2006	0.5	-	-	0.5
2007	-	-	-	-
2008	2.0	-	-	2.0
	641.2	452.3	172.5	1,266.0

6.8 Mahfouz Parties

One of the most significant of the claims initiated by the Liquidators to have been successfully finalised is that against the Mahfouz Parties.

Negotiations were held over a long period with representatives of Sheikh Khalid bin Mahfouz, aimed at settling the various legal actions which had been commenced by and against the Liquidators.

Agreement in principle was reached in October 1994 and approved by the English Liquidation Committee on 1 May 1995, by the Cayman Court on 28 April 1995 and by a judgement of the District Court of Luxembourg on 8 June 1995.

The Agreements were completed on 30 June 1995 in the following general terms:

- the Mahfouz Parties paid US\$253 million including interest to the Liquidators;
- all litigation between the Liquidators and the Mahfouz Parties has been withdrawn and are not to be recommenced; and
- all claims by the Mahfouz Parties and certain other parties to rank as creditors in the liquidations of the BCCI Group, have been withdrawn.

As a consequence of the settlement, US\$189 million paid to the District Attorney for New York and the US Federal Reserve Board under their separate agreement with the Mahfouz Parties, was paid to the Liquidators for the benefit of creditors (excluding the Majority Shareholders).

6.9 Auditors

The Liquidators pursued claims in England against BCCI SA's former auditors, Price Waterhouse and Ernst & Whinney, alleging negligence, particularly concerning the imprudent conduct of business by the BCCI Group and the lending practices of the BCCI Group in relation to certain borrowers.

After lengthy negotiations a settlement was agreed in the first half of 1998. The principal terms of that settlement were payment by the defendants and others of US\$195 million to the Liquidators in return for which all litigation controlled by the Liquidators against the auditors was discontinued.

As a result of the settlement agreement the Liquidators were also able to recover funds previously set aside as security for costs. The English Liquidators' share of these funds was US\$33.8 million plus interest of US\$7.5 million.

6.10 Pharaon

Judgement was obtained in 1995 in England and Cayman in favour of the Liquidators confirming ownership within the Principal ICIC Companies of Attock Oil in Pakistan. Damages for the increase in the deficit of ICIC Overseas were quantified by the Cayman Court of Appeal in 1997 at US\$2.1 billion. The Liquidators also received an assignment from First American Bankshares of the judgement that they had obtained in the United States of approximately US\$500 million.

The Liquidators and Pharaon concluded, as at 5 September 2001, a comprehensive settlement between the BCCI Group and Pharaon and related parties which requires Pharaon and related parties to pay US\$175 million over a four-year period. The final instalment of US\$25 million was commuted to US\$24.4 million for early payment and the amount due under the agreement has accordingly been discharged fully and all litigation between the parties has been dropped with no admission of liability.

6.11 Banque Arabe et Internationale d'Investissement

Proceedings were issued in England against BAI in October 1997 for fraudulent trading. A statement of claim was served in November 1997 alleging that BAI assisted BCCI SA in balance sheet manipulation and in the illegal acquisition of two US banks.

The Liquidators made a settlement approach in November 2000 with a view to avoiding the costs of further pre-trial preparation and the trial itself which was set for April 2001. This was successful and on 1 February 2001 an agreement was made whereby BAI paid the Liquidators US\$12.5 million in full and final settlement of the action. This sum had been held in escrow, but was released to the Liquidators in May 2007.

6.12 Adham

In 1998 the Liquidators, His Excellency Sheikh Kamal Adham ("His Excellency"), a prominent Saudi businessman, and certain related parties, finalised an agreement under which His Excellency paid to the Liquidators US\$45 million in settlement of claims between the parties. A further US\$2 million was paid by related parties. In addition, His Excellency also transferred certain BCCI Group related assets for the benefit of the Liquidators. During 2003 and 2005, US\$5.22 million was realised by the Liquidators upon the sale of certain of these transferred assets.

Up to 1997, the Liquidators received a total of approximately US\$86 million from His Excellency under the terms of a plea agreement entered into by His Excellency and related parties, with the US Authorities. The 1998 settlement with the Liquidators triggered the release to the Liquidators of a further US\$25 million approximately under this plea agreement. Prior to release, this US\$25 million was held in escrow by the District Attorney of New York under a separate agreement with His Excellency for the benefit of creditors (excluding the Majority Shareholders). Following the conclusion of the Liquidators' closing agreement with the US Internal Revenue Service, the District Attorney released their tax reserve in respect of the Adham escrow and remitted slightly more than US\$2 million to the Liquidators.

Total funds received by the Liquidators under this Adham plea agreement are now approximately US\$113 million. Total funds received under the settlement agreement with His Excellency are now US\$52.2 million.

6.13 State Bank of India

On 2 July 1997, the English Liquidators and the liquidators of BCCI Overseas applied to the High Court in England for an order that State Bank of India contribute to the assets of BCCI SA and/or BCCI Overseas, on account of State Bank of India's alleged fraudulent trading under section 213 of the English Insolvency Act 1986.

The case came to trial in June 2003 and ran for three weeks. The State Bank of India admitted that fraudulent trading had occurred and that they had participated in it but denied that they had done so with the requisite knowledge.

The judge gave a reserved judgment dismissing the English Liquidators case on the grounds that, despite casting doubt on the veracity of one of the witnesses for the State Bank of India, he was not persuaded that the requisite knowledge was proved.

6.14 Bank of America

Early in 1998, proceedings were commenced against BOA in relation to both their divestment from the BCCI Group in the late 1970s and early 1980s and BOA's continued correspondent banking relationship with the BCCI Group following the divestment.

These proceedings, along with the proceedings against BOA as successor to Security Pacific International Bank (discussed below) were settled pursuant to an agreement concluded in the first quarter of 2004. As a result of the settlement, the terms of which are confidential, the Liquidators voluntarily dismissed both pieces of litigation.

6.15 Security Pacific International Bank ("SPIB") (now Bank of America as successor corporation)

In 1998, the liquidators of BCCI SA and BCCI Overseas commenced an action in the United States District Court in the Southern District of New York against BankAmerica Corp (and certain affiliates) as successors by merger to SPIB (and certain affiliates). This action was for, among other things, aiding and abetting breaches of fiduciary duty by certain corrupt officers of the BCCI Group in relation to certain bank accounts opened and operated by SPIB for the BCCI Group and the Gokal/Gulf Group.

The action was dismissed pursuant to a settlement with BOA during the first quarter of 2004 (see Section 6.14 above).

6.16 Bank of India

On 2 July 1997, the English Liquidators and others applied to the High Court in England for an order that Bank of India contribute to the assets of BCCI SA and/or BCCI Overseas, on account of Bank of India's alleged fraudulent trading under section 213 of the English Insolvency Act 1986.

The case came to trial in November 2003, and on 19 March 2004 judgment was given in favour of the English Liquidators, with an award of approximately US\$86 million including interest. Bank of India obtained permission from the Court of Appeal to appeal this judgment. The appeal was heard in January 2005 and was unsuccessful. Bank of India has paid the judgment in full.

6.17 Bank of England

The Liquidators, for the benefit of creditors generally, pursued a legal action against the Bank of England in the names of approximately 6,000 depositors of the English Branches of BCCI SA (the claimants) who had assigned their claims.

A trial of certain preliminary legal issues first took place between November 1995 and January 1996 in relation to the ingredients of the tort of misfeasance in public office and the extent to which the 1977 European First Banking Directive conferred rights on depositors. There were several further hearings during 1996 and 1997 after which the claims were struck out by the Court. In December 1998, the majority of the Court of Appeal dismissed the Liquidators' appeal but the Liquidators then appealed to the House of Lords.

The first hearing by the House of Lords took place at the end of January 2000. In May 2000, the House of Lords:

- upheld the decision of the lower courts that the European law claim should be struck out; and
- set out the legal test for the tort of misfeasance in public office.

A further hearing was fixed for January 2001 to consider if the Liquidators' claim should be struck out.

The judgments of the House of Lords were handed down on 22 March 2001. The majority of the House of Lords upheld the Liquidators' appeal and agreed that the action should proceed to trial on the basis of the draft particulars of claim, which were served as revised particulars of claim on the same date. The Bank of England served its defence on 16 July 2001.

At a case management conference in November 2001, the judge directed that the trial of issues of liability should begin after Easter 2003, with quantum to be left for a further hearing depending on the outcome of the trial on liability.

During 2002 both the Liquidators and the Bank of England began to make disclosure in the action. In addition, the Liquidators were successful in an application for disclosure of part of the archive of documents underlying Lord Bingham's report. Disclosure continued throughout 2003 albeit at a reduced volume.

Due to delays in disclosure and the time required by the Bank of England to prepare its defence and witness statements, the trial on liability was deferred by six months, with a revised start date of October 2003. This was deferred again on the application of the Bank of England to January 2004.

The trial, on the question of liability, began in January 2004. The presentation of the Liquidators' evidence by Gordon Pollock QC was completed in July 2004. The Bank of England then made its opening submissions, which continued until June 2005.

Following completion of their opening submissions, the Bank of England announced that it would call two witnesses, Brian Quinn and Peter Cooke. Both Mr Quinn and Mr Cooke had served as Head of Banking Supervision Division at the Bank of England during the relevant periods.

The Liquidators' cross-examination of Mr Quinn commenced in June 2005 and was completed by the end of July 2005. The cross-examination of Mr Cooke began at the end of September 2005.

Following consultation between the Liquidators, their legal advisers and certain creditors, private hearings were held before the Chancellor in October 2005. At the completion of those hearings, the Vice Chancellor ordered the discontinuance of the litigation. This took place at the start of November 2005.

In accordance with the directions given at the private hearing, the Liquidators agreed to pay the Bank's costs on an indemnity basis together with interest in order to save the substantial costs of contesting the basis (standard or indemnity) on which the costs were to be assessed. The Bank of England's total costs were £84.1 million (including VAT of £11million and interest of £9 million). In November 2005 the Liquidators paid the Bank of England £73.6 million on an interim basis pending the formal assessment of the Bank of England's legal costs. The Liquidators subsequently took a practical approach to agreeing the actual level of the Bank of England's recoverable costs so as to avoid a protracted and costly assessment process. In the event, in June 2006 the Bank of England agreed to accept the interim payment of £73.6 million (and accrued interest of £1.7 million) in full and final settlement of its costs covering all aspects of the litigation from 1993 through to 2006. The Liquidators' own legal costs ran at approximately half the level of the Bank of England's costs.

Notwithstanding that the Liquidators had agreed to pay costs and interest without the need for a court hearing before the trial judge, the Bank proceeded with a further hearing in order to seek a judgment. The Liquidators did not attend the hearing as they did not have sanction to do so. They believed that it served no purpose and it would not be a proper use of creditors' funds. In April 2006 the trial judge handed down a judgment that was critical of the conduct of the case on behalf of the Liquidators. Whilst the Liquidators were disappointed with the outcome of the case, they reiterate that they undertook this litigation in absolute good faith, in the interests of the creditors of the BCCI Group, on the basis of legal advice, and with the sanction of the Court. They were very disappointed by the way in which the judge characterised the conduct of the case. They do not accept that the criticism was justified.

6.18 Litigation Agreements

The Liquidators have to date made a payment of US\$0.6 million to the liquidators of the Principal ICIC Companies so as to allow the English Liquidators to take over a legal action that the ICIC Liquidators were unable to pursue. This resulted in recoveries of US\$1.2 million.

Additionally, the English Liquidators have to date paid US\$5.6 million to the Majority Shareholders' legal representatives as their share of a global payment of US\$11.2 million to reimburse costs paid by the Majority Shareholders in connection with the audit negligence action.

6.19 Paying Agent Funding

The Principal Companies entered into a Paying Agency Agreement to administer costs arising from the Global Cost and Recovery Sharing Agreement (Section 6.2, Appendix I). Under the Paying Agency Agreement, the English Liquidators act in a separate capacity as Paying Agent for the majority of costs incurred on Global Projects, by paying or funding such costs in the first instance and then recharging the agreed share of costs to the other jurisdictions.

The net funding of the Paying Agent by the English Liquidation was US\$6.5 million. Most of this which is due by the other Principal Companies remains outstanding.

6.20 Payment to or for other estates

The English estate has paid the other estates share of costs relating to:

- Bank of England litigation of US\$66.9 million;
- Recoveries transferred to Luxembourg of US\$5.4 million;
- Payment for assignment of rights against Khans of US\$3.3 million; and
- Luxembourg funding of US\$18.0 million

7. English Branch Loan Recoveries

An important part of the English Liquidators' activity has been concentrated on the management and realisation of the assets of BCCI SA.

Assets to be recovered included the loans outstanding on the books of the English Branches of BCCI SA. The loan book was the most valuable asset recorded in the books of BCCI SA at the date of the English Provisional Liquidation on 5 July 1991. The gross book value of the loans, before set-off, at that date was US\$1,724.5 million. Many of these loans were made to individuals and companies outside the UK.

Collection of the loan book of the English Branches of BCCI SA has given rise to a number of legal actions. Two cases have been taken to the Court of Appeal on the issues of the power of the English Liquidators to charge interest and the rate at which interest could be charged.

Neither case proceeded to a definitive conclusion as the borrowers failed to comply with Court directions to pay their outstanding principal into court.

Total recoveries to 15 January 2009 are US\$822 million including amounts received in respect of the ESI (see Section 6.4 above).

8. Other Domestic Asset Recoveries

These recoveries consist of the following:

	Book Value of Assets at 5 July 1991	Total to 15 January 2009
	US\$ million	US\$ million
Cash at Branches	5.4	5.3
Certificates of Deposit	141.6	142.4
Investments	19.0	18.5
Due from Banks	447.8	198.0
Due from other BCCI branches	623.3	3.7
Property & Equipment	80.7	42.2
Trade Finance	53.5	15.4
Other Assets	10.7	9.0
	1,382.0	434.5
Bank of India – Proceeds of Litigation		85.6
Litigation and Pension Claim Settlements		15.3
		535.4

A number of recoveries in previous years have been re-allocated from “Other Receipts” as follows:

- Due from Banks has increased by US\$3.0 million;
- Property and Equipment has increased by US\$3.0 million;
- Trade Finance has increased by US\$0.9 million;
- Bank of India litigation proceeds of US\$85.6 million have been shown separately; and
- Proceeds of various litigation and pension claim settlements have been grouped and shown separately.

9. Creditors’ Claims

9.1 Claims’ Admission

Each creditor must submit a Proof of Debt form with the Liquidators. The information provided by the creditor is checked against the Bank's records and any discrepancies are resolved with the creditor. The Liquidators work with a range of international agencies with a view to identifying anyone connected with certain illegal activities.

Each claim filed with the English Liquidators is checked to ensure that a duplicate has not been lodged in another estate and that the creditor is not also a debtor of the BCCI Group. Once all the checks have been completed the claim is put forward for

admission in the Luxembourg Court unless English set-off arises, in which case, the claim is admitted for payment of dividends from the English Liquidation.

Before each dividend is paid, all creditors entitled to a payment are asked to confirm the address to which the payment should be sent. **Dividend payments are not processed until this confirmation is received.**

In addition to this, in order to comply with Luxembourg anti-money laundering requirements introduced in 2003, any creditor whose claim is admitted in Luxembourg is required to complete a Declaration of Beneficial Ownership Form. **No dividend payment will be processed until the Luxembourg Liquidators are in receipt of the completed Declaration Form and are satisfied with the information provided.**

In total, nearly 23,500 eligible claims have not been paid due to outstanding or incomplete compliance documentation. Within this population, creditors with approximately 6,150 claims are no longer contactable given mail sent to them by the English Liquidators regarding their claims has been returned by the postal services marked "Return to Sender".

The majority of dividend payments are made by cheques in US Dollars. Creditors with dividend payments in excess of US\$25,000 are given the opportunity to receive their funds by telegraphic transfer. Details of this service and the associated cost can be obtained from the UK office of BCCI SA. Dividends are accumulated until the payment is over US\$100, recognising the bank charges associated with cashing low value cheques. Creditors who have already received compensation, for example from the FSCS or DCS, will have their dividends diverted to reimburse the compensation paid by those two bodies. Once the FSCS or DCS has been fully repaid, creditors should receive future dividends.

9.2 Payment of Dividends

The majority of claims processed in England have dividends paid through the principal liquidation of BCCI SA in Luxembourg although the English Liquidators process the paperwork and deal with queries regarding these dividend payments. However, the English Court directed that:

- the English Liquidators should pay the first and subsequent dividends due on specific categories of claims that would have been adversely affected by differences between the laws of England and Luxembourg had those claims been admitted in Luxembourg (to date only claims affected by English set off rules fall into this category);
- the creditors of the branches of BCCI SA in Scotland and the Isle of Man should receive the same treatment as those creditors proving in England;
- the English Liquidators should pay the claims which are preferential under English law; and
- the first and subsequent dividends due to the FSCS should be paid by the English Liquidators.

The English Liquidators must ensure that they have access to sufficient funds to make direct payments as necessary.

9.3 Claims

Claims may still be lodged in the liquidation of BCCI SA on a Proof of Debt form issued by the English Liquidators or the Luxembourg Liquidators. Claims will be subject to the standard verification procedures and compliance with the applicable statutory provisions. Creditors wishing to make a claim in England should write to:

The Liquidators of BCCI SA UK
Athene Place, 5th Floor
66 Shoe Lane
London
EC4A 3BQ, UK

Creditors advice line: 020 7007 0800
(available Monday to Friday 9am to 5.30pm London time)
Fax: 020 7007 0799
Email : ukbcci@deloitte.co.uk
Web: www.bcci.info

10. ONGOING LITIGATION

10.1 Employees

The case management process was terminated in October 2007. The English Liquidators are continuing to deal with two remaining claims. These claims will be formally rejected if they cannot be resolved by agreement.

10.2 Gulf Group

The Gulf Group, an international conglomerate controlled by the Gokal family, was a major borrower from the BCCI Group. Much of the debt of the Gulf Group was personally guaranteed by the three Gokal brothers. Judgment was obtained against Abbas Gokal in July 1994 for US\$480 million. Summary judgment was obtained on the same guarantees against Mustafa and Murtaza Gokal on 21 December 1999 for US\$750 million including interest.

To date total realisations attributable to the English Liquidation have been US\$18.5 million.

In April 1997, Abbas Gokal was found guilty on charges of false accounting and conspiracy to defraud the creditors of the BCCI Group. The case brought by the Serious Fraud Office was that the massive loans to the Gokals and the fraudulent nature of the relationship with officers of the BCCI Group, was one of the primary reasons for the collapse of the Bank.

Abbas Gokal was sentenced to serve 14 years in prison. Confiscation and compensation orders were also made against him by the Court in May 1997, under which he was to serve an additional 3 years in prison if he did not pay a sum of approximately £3 million to the Liquidators.

Gokal appealed his conviction, sentence and the confiscation and compensation orders. The appeal was dismissed in March 1999. He then made a separate application to the High Court to overturn the confiscation order on a number of grounds. That application was dismissed in April 2000 as an abuse of process.

Gokal then appealed this High Court decision. The appeal was heard in March 2001 and was dismissed. The Liquidators understand that Gokal has now been released from prison and is on parole.

The confiscation and compensation orders remain unpaid. The Liquidators continue to pursue a criminal complaint against certain members of the Gokal family in Pakistan and are also attempting to register the UK judgments there.

10.3 Khalil

In July 1995, the Liquidators filed an action in the United States against, amongst others, Abdul Raouf Khalil, a former customer of the BCCI Group and a shareholder of the First American Banking Group, alleging that he conspired with former BCCI Group officers to cause more than US\$100 million in damage to the BCCI Group. The Liquidators' action included a count under RICO, which permits recovery of treble damages for certain kinds of fraud.

The trial took place in Washington D.C. commencing on 25 January 1999 and closing arguments were heard on 11 February 1999. The District Court issued its opinion in June 1999, finding in favour of the Liquidators and against Khalil on six of the seven counts of the complaint.

The Court determined that Khalil knowingly participated with BCCI Group officers in a fraud that cost the BCCI Group more than US\$380 million and that Khalil received direct payments and special treatment in exchange for his services as an all-purpose nominee.

On 15 July 1999, the Court awarded common law damages against Khalil (for fraud, conversion and unjust enrichment) in the amount of US\$388.4 million and treble damages under RICO in the aggregate amount of US\$1.165 billion. In addition, the Court issued default judgments against three defendants who elected not to enter a defence to the Liquidators' allegations; Khalil's co-conspirator and former BCCI Group employee, S.Z.A. Akbar, was held liable to the Liquidators for damages in the amount of US\$1.165 billion under RICO and US\$423 million for common law violations; Khalil and Akbar's brokerage company, Capcom Financial Services Limited, was held liable to the Liquidators for US\$283.6 million in common law damages and its subsidiary, Capcom Futures Inc., was held liable to the Liquidators for US\$15 million on common law causes of action.

Khalil appealed the judgment of the District Court to the United States Court of Appeal. Subject to reversing an award of US\$62.0 million relating to metals trading, the Court of Appeal unanimously affirmed the bulk of the District Court's order. Following the Court of Appeal's decision, the judgment against Khalil was handed back to the District Court for recalculation. Consequently, on 3 November 2000 the final judgment against Khalil for US\$979 (RICO) and US\$326.4 (common law) was issued.

The Trustee in Bankruptcy of SZA Akbar has paid an interim and final dividend totalling £1.2 million which has been received by the Liquidators. The Liquidators are seeking enforcement of the judgment in a jurisdiction where Khalil and related parties are believed to have assets. In Saudi Arabia, an application was made to the Board of Grievances requesting its assistance in enforcing the US common law judgment of US \$326.4 million (Appendix 1, 10.3 refers). The Board of Grievances issued a judgment during 2005 turning down the request. An appeal against this judgment was lodged in 2005.

The Appeal Court found in favour of the Liquidators and the matter was referred back to the Board of Grievances for reconsideration. The Board of Grievances subsequently issued a judgment in favour of the Liquidators but Khalil appealed the judgement. In 2008 the Appeal Court again found in favour of the Liquidators.

Accordingly, as of June 2008 the Liquidators have had an unappealable judgment in Saudi Arabia recognising the US common law judgment of US\$326.4 million for the purposes of enforcement within Saudi Arabia. Since that date the Liquidators have continued and are continuing to pursue enforcement of the judgment in Saudi Arabia. Khalil died in March 2009. The Liquidators are advised that they can continue to pursue enforcement against Khalil's estate and his heirs.

11. Creditor Representation

At a meeting of creditors of BCCI SA pursuant to section 141 of the Insolvency Act 1986 convened and held at Wembley Arena on 27 May 1993 the following were elected to act as members of the English Liquidation Committee:

- Abu Dhabi Investment Authority
- Bury Metropolitan District Council
- Dr A R Elias
- Film and Photo Pension Fund
- VISA International Services Association

In addition, the FSCS has statutory membership of the English Liquidation Committee.

The Committee has access to legal advice from Lovells LLP, the solicitors to the Liquidators. Certain members requested their own legal advice on specific matters. As a result Mr Bernard Clarke, solicitor, now of Bernard Clarke & Co, was appointed in 1995 to advise the Committee. His advice is provided to the Committee, at the expense of the English Liquidation.

12. Liquidators' Remuneration

The English Liquidators are licensed Insolvency Practitioners and partners in, or consultants to, Deloitte LLP (formerly Touche Ross & Co., Deloitte & Touche and Deloitte & Touche LLP). They have the ultimate responsibility for the conduct of the liquidation of BCCI SA in England.

The Court approved the English Liquidators' remuneration for the period from 5 July 1991 to 15 April 1993. The English Liquidation Committee, who were elected

at a meeting of creditors held on 27 May 1993, have had responsibility for approving the remuneration of the English Liquidators for periods from 16 April 1993.

In order to assist the English Liquidation Committee in this function detailed budgets and/or provision schedules have been presented for all of the activities undertaken by the English Liquidators and their staff for the forthcoming year. Thereafter the members of the Committee receive quarterly reports. Actual costs incurred are compared to budget and the Committee is provided with explanations for any significant variances.

In addition, the English Liquidation Committee receives information on the litigation undertaken by the English Liquidators and ad hoc reports on key liquidation topics and issues raised.

The English Liquidation Committee has approved the costs of the English Liquidators for their time and that of their staff, for periods up to 31 December 2008. This includes their time spent on both domestic activities and time spent on global activities which is covered under the Global Cost and Recovery Sharing Agreement. Payments on account are drawn on this basis. Until April 2008 contributions to these costs were received from other estates under the Global Cost and Recovery Sharing Agreement, and then credited to the English Liquidation when received. In April 2008 these cost sharing arrangements were terminated.

The Committee has, at various stages, had the assistance of independent experts and its solicitor when reviewing billing rates, staffing levels, organisational structure and budgets. These include Ian Scott (Chartered Accountant experienced in auditing liquidation fees for the Court of Session in Scotland), PriceWaterhouseCoopers and Bernard Clarke.

A number of major projects were termed as “Global Projects” which, by their nature and size, affected all Principal BCCI Companies. Given the nature of the BCCI Group business at closure, the English Liquidators came to arrangements with other BCCI estates for sharing the costs and expenses of these Global Projects which are of benefit to all estates. An agreement was reached with the Luxembourg estates to resolve issues regarding the recovery of their contribution to certain remuneration and disbursements. This was implemented in October 2003 and had retrospective effect to the start of the liquidation. Considerable sums remain outstanding as due to the English Liquidation by the other Principal BCCI Companies for their contribution to costs and expenses of Global Projects.

13. VAT

BCCI SA is partially exempt and therefore is unable to recover all of the VAT incurred. The rate of recovery of VAT incurred was agreed with Customs & Excise at the beginning of the English Liquidation. Since then the rate has marginally increased and now stands at 44.11% for VAT charged on domestic activities and 72.75% for VAT charged on global activities.

14. GENERAL

The English Liquidators continue to meet regularly with the liquidators of the other Principal BCCI Companies including the liquidators of the UAE branches of BCCI

SA, sometimes in full session as a Board of Liquidators and for some matters in sub-groups of the Board, in order to agree strategies, monitor costs and to negotiate with third parties. There are bi-lateral meetings with the Luxembourg Liquidators to address common issues, in particular those arising out of differing, or conflicting, laws and practice between the jurisdictions.

Following the cessation of the Bank of England litigation, the main focus has been on planning the completion of the remaining activities and the closure of the liquidation in the shortest possible timeframe as long as this does not prejudice the maximisation of asset recoveries. The closure is complicated by the need to co-ordinate estates with different statutory requirements.

The day-to-day activities of many aspects of the English Liquidation have been delegated by the English Liquidators, where possible, to minimise costs, but supervisory, strategic and policy input by the English Liquidators is provided on a full-time basis.

The English Liquidators meet regularly with the English Liquidation Committee to keep creditors' representatives fully informed of significant events, to seek their views on major strategies and to seek their approval for fees and for certain courses of action.