



26 June 2019

Creditors

**Loyal Bank Limited (In Liquidation)**

Dear Creditors,

**Re: Loyal Bank Limited (In Liquidation) – Status Update**

**1. Introduction**

This letter serves as an update to the creditors of Loyal Bank Limited (In Liquidation) ("**the Bank**" or "**LBL**") on the Bank's winding up proceedings, for the period 24 August 2018 to 31 May 2019. This update should be read in conjunction with the Liquidators' Frequently Asked Questions ("FAQ") posted to the LBL website, by the Joint Liquidators ("**the Liquidators**").

As at the date of this letter, we have issued two (2) reports to the High Court of Justice of Saint Vincent and the Grenadines ("**the Court**"). The first report covered the period 24 August 2018 to 20 September 2019 and the second report covered the period 21 September 2018 to 28 February 2019 ("**the Reports**"). The Reports provided details of the liquidation activities since our appointment on 24 August 2018 ("**the Liquidation Date**"). However, due to current legal proceedings and the inclusion of other commercially sensitive information, an order was obtained from the Court to seal the Reports. Accordingly, we are unable to provide creditors with copies of the Reports at this time. The Liquidators instead provide this Status Update to inform creditors of the progress made in winding up the Bank's affairs and of the key issues that are being addressed.

The Bank is a standalone financial entity, but also acts as the parent company for five (5) other financial subsidiaries, with holdings in multiple jurisdictions.

**Loyal Bank Limited – In Liquidation**

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As Liquidators, we continue to collect the Bank's assets and to review and investigate the Bank's complex operations and financial arrangements. We have also initiated or continued certain legal proceedings, to progress the realization of certain of the Bank's assets.

## **2. Challenges**

In the execution of our duties, we encountered a number of issues, including those listed below, which have impeded the progress of the liquidation activities.

- a) The Bank, along with certain former employees (together "**the Related Parties**"), were named in an United States of America ("**USA**") criminal indictment ("**the Indictment**"), filed by the United States Department of Justice of New York in 2018 prior to the appointment of the Liquidators. The Indictment alleged that the Related Parties devised and engaged in a scheme to launder money by facilitating financial transactions to and from the USA. The transactions involved securities fraud proceeds and property represented to be proceeds of fraud in the sale of securities. The Indictment further alleged that the Related Parties devised and engaged in a scheme to defraud the USA by facilitating clients' efforts to impede, impair, obstruct and defeat the lawful governmental functions of the USA Internal Revenue Service in the ascertainment, computation, assessment and collection of revenue, specifically, failing to comply with the Foreign Account Tax Compliance Act ("**FATCA**"). The Liquidators will continue to devote significant and ongoing attention to matters related to the Indictment.
- b) Counterparties have frozen certain of the Bank's assets. In addition, certain counterparties, that hold assets of the Bank, invoked penalty clauses and terminated service contracts, as a result of the Indictment.
- c) There have been numerous challenges to the authority of the Liquidators by financial institutions and other third parties holding LBL's assets. This has necessitated, in some instances, commencing legal proceedings as well as regular and ongoing contact with certain financial institutions and other entities.



- d) Issues in various foreign jurisdictions with regard to the recognition of the Court order placing the Bank into liquidation. This has led to lengthy processes of seeking to have documents notarized and consularized, in accordance with specific foreign jurisdiction requirements, in order to be recognized. This has caused delays in the Liquidators' ability to take steps to remit the funds into the liquidation accounts ("**Liquidation Account**").
- e) Challenges relating to the remittance of funds to the Liquidation Account. The Liquidation Account was established with the Bank of Saint Vincent and the Grenadines ("**BOSVG**"), in compliance with the directives of the Banks' regulator and the Court. Challenges arose relating to the inability to consistently send or receive funds via the intermediary bank for BOSVG, due to LBL being flagged as 'suspicious' on certain of the intermediary bank's internal systems. The Liquidators have now opened another liquidation account, with specific sanction of the Court, with another financial institution. It is expected that the issues related to the remittance of funds will be resolved as a result of opening the second liquidation account.
- f) Inability to access all of the Bank's electronic data and difficulty in obtaining complete books and records, due to matters outside of our control.
- g) A wholly underprovided and entirely non-performing loan book, and consequential difficult loan recovery actions and related litigation in courts in the USA. Additionally, it appears that certain of the Bank's loans appear to be associated with related parties of the Bank. The circumstances that led to these and other loan book issues require investigation, in order to effectively execute recovery steps. Investigations and collection actions are ongoing.



### **3. Financial Position**

The Bank's financial information ("**Records**") has not been subject to an audit as at the Liquidation Date. We have sought to confirm the Records directly with third parties and other sources, as part of our verification and recovery processes.

As at the Liquidation Date, the Bank's Records reflect total assets of USD 92,600,000, total liabilities of USD 87,900,000 and net assets of USD 4,700,000. As noted above, there are challenges in collecting in the recorded assets of the Bank. For instance and as noted above, the Bank's loan book is materially under-provided for and is in fact essentially entirely non-performing. Certain investments and cash accounts are frozen or subject to penalty terms. Other investments in subsidiaries are illiquid and the associated realizable values are uncertain at this time. Accordingly, while the Bank's former management recorded that the Bank was in a net asset position and was solvent, the Liquidators have formed the view that the Bank was in a net liability position and is insolvent. Consequently, depositors and creditors will receive significantly less than 100% of their claims in the liquidation.

The Bank's material assets consist of cash, direct investments, investments in subsidiaries including interests in investment funds, and a loan book. Recovery efforts are focused on these asset categories. Total liabilities of USD 87,900,000 are comprised as listed below.

- i. As per the Records, there are approximately 11,000 depositor accounts ("**Depositor Accounts**") for a total depositor balance of approximately USD 77,800,000. The Depositor Accounts:
  - a. represent approximately 93% of claims to date; and
  - b. consist of approximately 8,500 customers, residing in 138 countries, with balances recorded by former management in six (6) different currencies.
- ii. The remaining USD 10,100,000 of liabilities relates to a subordinate debt, other liabilities and an unreconciled difference.



#### **4. Estimated Distribution**

Based on our investigations and recovery efforts to date, the best current estimate of gross realizable assets of LBL is significantly less than the total recorded assets as at the Liquidation Date. This estimate is subject to change and such change may be material. As at 30 April 2019, USD 14,327,535.17, of LBL's assets have been collected into the liquidation bank accounts. Of the aforementioned amount, disbursements of USD 1,873,495.49 have been paid to date, consisting of operation expenses, legal costs, liquidation fees and other disbursements.

In light of the above, and subject to the assumptions and limitations identified to date, the estimated distribution to priority claimants totalling USD 85,393 is 100 cents on the dollar and approximately 35 to 40 cents on the dollar to unsecured claimants, which includes depositors. As Liquidators, we will amend and update the estimate of distributions to creditors as better information regarding the ultimate realizable values for certain assets is developed and/or, should the underlying data or records we rely upon prove to be inaccurate, or if circumstances materially change after the date of this letter.

#### **5. Next Steps**

The Liquidators will continue to work to collect the assets of the Bank and to verify and adjudicate claims in the liquidation. Once we determine that a sufficient amount of assets have been collected, we will make an application to the Court (on notice to creditors) to recommend and seek directions for the payment of a first interim dividend to all creditors. The date for such application is contingent upon a number of matters being completed and we will continue to communicate with all creditors in this regard.

In addition, certain verification procedures are in the process of being completed to enable the Liquidators to notify depositors of their account balances as at the Liquidation Date. As Liquidators, we are actively liaising with the appropriate parties to address this matter. Accordingly, depositors with a claim in the liquidation will be contacted as soon as is possible, to confirm their account balance(s) at the Liquidation Date.



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The liquidators will also require creditors to submit appropriate "know your customer", FATCA and CRS information, in order for interim dividends to be processed. The Liquidators' agents will be in touch with depositors and creditors in this regard to collect the necessary information in due course.

We are committed to providing all creditors with periodic updates. Please do not hesitate to contact the below named persons who are authorised to represent the Bank or conduct business on the Bank's behalf:

Ikins D. Clarke – Court Appointed Liquidator;  
Raymond Haynes – Agent of the Liquidators; and  
Tiphany Russell – Agent of the Liquidators.

Information regarding the Bank's liquidation may be obtained from the Bank's website [www.loyalbank.com](http://www.loyalbank.com) and parties with an interest in the liquidation may contact us at [loyalbankliquidation@deloitte.com](mailto:loyalbankliquidation@deloitte.com).

Yours sincerely,

A handwritten signature in black ink, appearing to be "Ikins D. Clarke", written over a horizontal line.

Ikins D. Clarke  
Joint Liquidator  
For and on behalf of  
Loyal Bank Limited (in Liquidation)