

**IN THE HIGH COURT OF JUSTICE OF THE ISLE OF MAN**

**CHANCERY DIVISION**

**IN THE MATTER** of the Companies  
Act 1931

and

**IN THE MATTER** of Kaupthing Singer  
& Friedlander (Isle of Man) Limited

and

**IN THE MATTER** of the Joint Petition  
of Kaupthing Singer & Friedlander (Isle  
of Man) Limited and the Financial  
Supervision Commission dated the 9<sup>th</sup>  
day of October 2008

and

**IN THE MATTER** of the Humble  
Petition of Michael Simpson as  
Liquidator provisionally of Kaupthing  
Singer & Friedlander (Isle of Man)  
Limited dated the 12<sup>th</sup> day of November  
2008

and

**IN THE MATTER** of the Court Orders  
dated the 27<sup>th</sup> November 2008

**SECOND AFFIDAVIT OF ALLAN ROBERT BELL**

I, ALLAN ROBERT BELL, of Ballabeg, Bride, being sworn make oath and say as follows:-

1. I am the same Allan Robert Bell who has previously sworn an affidavit in this matter.

2. Where they refer to factual matters directly within my knowledge the contents of this Affidavit are true. The other matters to which I depose in this Affidavit I verily believe to be true to the best of my knowledge, information and belief.
3. I swear this Affidavit to supplement my First Affidavit sworn herein on 15 January 2009.
4. I refer to the three affidavits sworn herein by David C Lovett of AlixPartners Limited (“AlixPartners”), a business advisory firm which has been retained by Treasury to provide advice in relation to KSFIOM. To the extent that Mr Lovett uses defined terms in his affidavits, I shall adopt such terms herein.
5. Mr Lovett’s Third Affidavit supplements his Second Affidavit sworn herein and provides further details of a potential Scheme of Arrangement between KSFIOM and its creditors in accordance pursuant to section 152 of the Companies Act 1931.
6. Together with senior members of the Government of the Isle of Man (“the Government”), I have considered the proposal for a Scheme of Arrangement as set out in Mr Lovett’s Affidavits. I can confirm that, in principle and subject to the agreement of Tynwald, the Treasury is prepared to support the proposal of such a Scheme of Arrangement, which it considers to be in the best interests of the creditors of KSFIOM.
7. In particular, the Treasury notes that the three assured lump sum payments to Depositors under the proposed Scheme of Arrangement would ensure that (i) 54% of all Depositors would be paid their claims against KSFIOM in full within 3 months of the Scheme of Arrangement taking effect; (ii) 65% of all Depositors would be paid their claims against KSFIOM in full within 12 months of the Scheme of Arrangement taking effect; and (iii) within 2 years, all claims that would otherwise fall upon the DCS would be satisfied and 71% of all creditors would be paid their claims against KSFIOM in full. Because likely timing and quantum of realisations from KSFIOM’s estate cannot be predicted with any certainty, the ability to meet these assured lump

sum payments would be provided by Top Up Funding from the Treasury (see paragraph 18(d) of Mr Lovett's affidavit).

8. The Government is especially conscious of the impact of the provisional liquidation of KSFION upon Depositors with deposits not exceeding £10,000. The Government believes that the proposed Scheme of Arrangement will ensure that such Depositors are paid in full, quicker than would be the case were KSFION placed into liquidation and the DCS triggered. The Treasury notes that, per the illustrative timetable exhibited to Mr Lovett's Third Affidavit, it is unlikely that any payments would be made under the Scheme of Arrangement (if approved by creditors) before July/August 2009. In the circumstances, together with supporting and providing the Top Up Funding to the proposed Scheme of Arrangement, the Treasury proposes to recommend to Tynwald in February an increase in the sums available under the Early Payment Scheme ("EPS") from up to £1,000 per claimant to up to £10,000 per claimant, to ensure that money is paid to Depositors at the earliest opportunity, whilst reserving to Treasury the same subrogation rights as currently apply to the EPS.
9. Likewise, the Government is acutely aware of the importance to the Isle of Man of its financial services industry and, in particular, in the present case, the impact of KSFION's provisional liquidation upon larger creditors, in particular, insurance companies. Whilst insurance policyholders would not benefit from the DCS, under the proposed Scheme of Arrangement, insurance companies and larger creditors, amongst others, would benefit from the deferment of the recovery of the Top Up Funding, as described in paragraph 21(b) of Mr Lovett's Third Affidavit.
10. As stated above, the Treasury's decision to support the proposed Scheme of Arrangement is subject to the approval of Tynwald and all remaining legal and/or practical issues being swiftly resolved. In the event that it becomes apparent, at any stage, that the proposed Scheme of Arrangement is no longer practicable within the illustrative timetable provided by Mr Lovett, the Treasury's advocates will ensure that the Court is notified immediately, so that, if necessary, the winding up Petition may be brought back before the Court.

Taken and sworn at Douglas

this 26<sup>th</sup> day of January 2009 :



Before me: *KM Mansell* :

A Commissioner for Oaths :

**KAREN MARGARET MANSELL  
COMMISSIONER FOR OATHS**

Dated

2009

**Serial No. CP 2008/94**

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ROBERT BELL**

HM Attorney General  
Douglas