

Carrard Consulting SA

To the creditors of Banque Privée
Espírito Santo SA under liquidation

In Lausanne, March 2019

Banque Privée Espírito Santo SA under liquidation (BPES): Circular No. 16 for the creditors of BPES – statement of liquidation operations as of end-2018

Dear Sir, Madam,

The purpose of this circular is to provide BPES' creditors with a summary progress report on the liquidation operations as of end-2018. It provides information to the creditors concerning the major steps taken by the liquidator and the main liquidation operations, ongoing and future. The content is not exhaustive but essentially informs creditors on the situation to date as well as possible, in the interest of transparency. The liquidator cannot guarantee the content of the information, the accuracy and truthfulness of which do not depend exclusively on the liquidator.

This circular is accompanied by (i) the liquidator's Circular No. 17 relating to the assignment of the estate's claims against Anamika Nordic AS; (ii) the liquidator's Circular No. 18 relating to the assignment of the revocatory claims against certain BPES officers; (iii) the liquidator's Circular No. 19 relating to the assignment of the revocatory claims against certain former customers of BPES; and (iv) Circular No. 20 relating to a plan to realize the assets.

This circular is only sent, along with the aforementioned circulars, by registered mail to creditors (i) who are third-ranked in the order of priority filed in April 2017, or (ii) the rejection of whose claims has been contested in a legal action against the order of priority of creditors that has not been decided definitively against the creditor, or (iii) the processing of whose claim was suspended in the order of priority filed in April 2017, or (iv) whose claim was filed late and has not yet been processed by the liquidator. It is also published on the liquidator's website.

1. Conduct of the liquidation operations and staff situation

The liquidation activities are conducted in the Lausanne offices of Carrard Consulting SA (now at Place St-François 7, PO Box 5671, 1002 Lausanne). No bank employees have been paid out of the estate in bankruptcy since June 30, 2016.

2. Continuing banking activities and computer systems

A person employed by the liquidator is still carrying out the securities transactions and asset audits of BPES and the custodians, including for the cash assets of former customers. This person also regularly checks the cash assets available to the estate in bankruptcy.

3. Electronic data archiving

The electronic data archiving system was tested in 2018, and proved to be functional and reliable, despite its very limited document retrieval and processing capabilities compared to an operational banking system.

4. Key liquidation figures

The key figures of the liquidation can be summarized as follows (as of December 31, 2018):

- Available cash of the estate in bankruptcy:	CHF 66.5 million	
- Segregated cash (customer assets):	CHF 31.1 million	
- Number of equity positions held by customers with BPES:	250	
- Distribution of money to creditors:	<i>Paid as of 31/12/18 (in CHF)</i>	<i>Still due as of 31/12/18 (in CHF)</i>
• 1st ranking creditors ¹ :	838,053	2,469
• 2nd ranking creditors (excluding preferential deposits):	512,994	-
• 2nd ranking creditors (preferential deposits only):	17,380,049	2,301,425
• 3rd ranking creditors (first provisional distribution):	11,147,631	8,205,604

¹ This item does not include the unpaid social contributions to pension funds related to the wage claims accepted on the order of priority or the benefits paid under the social emergency plan.

Segregated cash of around CHF 31 million consists of customer assets still deposited with BPES due to uncertainties as to their legal status, sequestration for civil or criminal reasons, disputes between several declared owners, or because they have not been claimed to date.

The first provisional distribution of BPES' liquidation dividend of 2.8% (after deduction of a 30% withholding for claims for damages related to investments in Espírito Santo group securities) made it possible to pay over CHF 11 million to third-ranking creditors. Many creditors have not yet validly declared themselves to date. No new provisional distribution of funds is planned for 2019.

5. Filing of claims in the Espírito Santo group companies

No decision has been taken to date by the trustees of Luxembourg Espírito Santo International SA ("ESI"), Rio Forte Investments SA ("Rio Forte"), ESFIL – Espírito Santo Financière SA ("ESFIL") and Espírito Santo Financial Group SA ("ESFG") on the claims filed by the liquidator on behalf of BPES and BPES' former customers.

Information on the status of each of these entities is available on the website of the Luxembourg trustees: <http://www.espiritosantoinsolvencies.lu/>.

No decision has yet been taken by the Bankruptcy Office of the Eastern District of Vaud on the claims filed by the liquidator in the ancillary bankruptcies of ESI and Rio Forte instituted in Switzerland following the recognition of the bankruptcy judgments pronounced in Luxembourg against these entities.

6. Inventory and realization of assets

a) General

The inventory of assets is available to creditors. In summary, the following items may be conveyed to creditors in relation to the year 2018:

- Several works of art were sold in 2018 for a total of approximately CHF 19,000;
- The last tranche of the settlement agreed upon with ES Bankers (Dubai) Limited in the amount of USD 100,000 was paid on July 17, 2018, so that transaction has now been finalized by the parties. BPES' estate in bankruptcy collected a total of USD 13 million under this settlement based on its revocatory claims;
- A settlement has been concluded with the members of a family who were customers of BPES as a result of the estate's revocatory claims against it. The estate collected CHF 650,000 under this settlement;

- Unsecured loans and loans coupled with group or non-group securities amounted to CHF 122 million at the start of the bankruptcy. Approximately CHF 21 million have been recovered or repaid to date, including over CHF 5 million in 2018, notably through settlements with two of BPES' major debtors who had challenged the recovery in court. As of December 31, 2018, the estate had recovered CHF 137,884.30 via the contract concluded in 2017 with the international collection company Intrum Justitia (net amounts after deduction of the fees due to Intrum Justitia for its work).

BPES' estate in bankruptcy collected around CHF 6 million overall in 2018 thanks to the liquidator's work.

b) HSZH Verwaltungs AG (formerly Hyposwiss Privatbank AG)

As indicated in the previous reports, BPES' liquidator had been authorized by BPES' Supervisory Board and FINMA to institute legal proceedings asserting the estate's revocatory claims against HSZH Verwaltungs AG ("Hyposwiss"). These claims followed the payment of a settlement for an unmatured debt of Hyposwiss a few days before BPES' bankruptcy.

On December 8, 2016, a request for conciliation was lodged with the competent legal authorities in Zurich for CHF 1.2 million. In the absence of conciliation, BPES filed a suit on May 5, 2017. Hyposwiss declared its position in a response filed on August 28, 2017. BPES filed a reply on June 18, 2017. Hyposwiss filed a rejoinder on September 27, 2018.

These proceedings are still pending and no judicial decision has been issued to date.

c) Assignment of the liability claims against the bodies

In its Circular No. 11, the liquidator had offered to assign to the creditors the liability claims against the corporate bodies of BPES and the other companies of the Espírito Santo group, including the corporate bodies of ESI and Rio Forte, and the contractual claims based on various insurance policies.

As of now, 95 BPES creditors are still assignees of these rights. At their request, the deadline for instituting legal proceedings has been extended one last time to June 30, 2019.

7. Order of priority

On a proposal from the liquidator, the Supervisory Board (at its meeting of December 13, 2017) and FINMA (in a letter dated the same day) approved a provisional distribution of the dividend described under number 4.

Creditors who have not yet sent the information and documents required for payment are invited to do so as soon as possible. All the information is available on the liquidator's website (see number 14 below).

8. Pending legal proceedings

As of December 31, 2018, 18 legal proceedings involving BPES were pending before the Swiss courts. This does not include the proceedings initiated in the United States and the British Virgin Islands by the liquidators of the Madoff and Fairfield funds.

These are mainly proceedings challenging the decisions on order of priority, rendered in April 2017 by the liquidator.

18 proceedings have been struck off the list due to final court decisions, the withdrawal of applications by the creditors concerned, or settlements entered into by the estate in bankruptcy.

9. Automatic exchange of information (AEOI) in tax matters at international level

The liquidator's request that BPES should no longer be deemed a reporting Swiss institution subject to the Federal Act on the International Automatic Exchange of Information in Tax Matters (AEOIA) has been granted as of 2018. As a reminder, the AEOI requires Swiss financial institutions to identify the accounts subject to reporting and report them to the Federal Tax Administration (FTA).

10. QI reporting and FATCA

The liquidator performed the QI (Qualified Intermediary) reporting within the extended deadline of April 15, 2018.

BPES also fulfilled its FATCA certification obligations for the last three years in 2018 in compliance with its obligations under both the contract and FATCA.

11. BPES' Supervisory Board

BPES' Supervisory Board, created by a FINMA decision on May 19, 2016, met four times in 2018. The Board deliberated on the following topics:

- Provisional distribution of dividends to creditors;
- The plan for the realization of certain assets;
- The criminal investigation conducted by the Prosecutor for the Confederation;
- The transaction with Anamika Nordic AS;
- The ancillary bankruptcies of ESI and Rio Forte;
- Intra-group claims;

- The settlement with a former director in the context of proceedings contesting the order of priority;
- The handling of the Espírito Santo group's securities and the non-transferable securities;
- The claims of exemption against certain officers;
- Validation of the liquidator's fees (see number 12 below).

12. Expenses of the estate in bankruptcy

A detailed statement of the estate's expenses is provided monthly to FINMA. In accordance with Article 36 paragraph 2 OIB-FINMA, the final account is subject to FINMA's approval.

As of December 31, 2018, the expenses of the estate in bankruptcy since the time the bankruptcy proceedings were initiated amounted to approximately CHF 35.3 million (excluding the liquidation proceeds collected since September 19, 2014).

The estate incurred expenses for the liquidation operations themselves but also, to a very large extent (which the liquidator estimates at more than 50% of the total costs), for the purpose of retaining the human, technical and IT resources required to appropriate the segregated assets for the former customers of BPES, which exceeded CHF 5.5 billion at the time of the bankruptcy, and the activities related to holding these assets (such as communicating and reporting to Swiss and foreign criminal, civil and administrative authorities).

The estate's expenses for 2018 are distributed as follows:

- Payroll and personnel costs:	<i>pm</i>
- Information/communication/technology:	CHF 230,000
- Premises/facilities/general expenses:	CHF 45,000
- Compensation paid following the conclusion of settlement agreements:	<i>pm</i>
- Carrard Consulting SA fees:	CHF 1,400,000
- External agents:	CHF 500,000
- Supervisory Board fees:	CHF 75,000
- Custody and negative interest fees ²	CHF 820,000
Total (rounded) :	CHF 3,070,000

Appendix 1 details the estate's expenses since September 19, 2014.

The liquidator's fees for the period from September 19, 2014 to October 31, 2018 were analyzed by the Supervisory Board, which raised no objection to the fees the liquidator submitted to it.

13. Next steps for the liquidation

The next steps for the liquidation are described below. However, they will only be achieved subject to any difficulties that the liquidator may encounter in carrying out its duties.

2019 will be dedicated to processing late claims and filing a supplementary order of priority. The liquidator will also exchange and/or negotiate with the trustees of the Espírito Santo group companies on how intragroup claims are to be handled. An interim final account is also being prepared. The liquidators of the Madoff and Fairfield funds have begun discussions with certain customers involved in proceedings against BPES, with the aim of relieving the estate of the future costs of defense in these lawsuits.

The other legal proceedings will be continued in 2019, and the provisional dividend will be paid to the creditors who have not yet received it. The liquidator will also likely be required to provide information and intelligence to the assignee creditors for the liability claims against the corporate bodies.

² This amount is net of custody and negative interest fees charged to customers.

For the rest, the liquidator will carry on with the usual operations of liquidating a bank via bankruptcy.

14. Invitation to consult the website

The liquidator publishes information on the BPES website, the address of which is: www.liquidator-bpes.ch. We invite you to visit the site frequently for updates.

The liquidator will be at your disposal for any questions arising from this document.

Yours faithfully,

The Liquidator, Carrard Consulting SA

Appendix 1 – Expenses of the estate

Statement and projection of the expenses & income of the estate in bankruptcy for 2018

Expenses	Carry forward Aggregate 2014-2017	January	February	March	April	May	June	July	August	September	October	November	December	2018 aggregate	2018 aggregate with carry over 2014-2017
⁰⁾ Payroll and staff costs	9'767'845	0	-694	-486	0	0	0	0	0	0	0	0	0	-1'180	9'766'664
Information - Communication - Technology	5'820'300	185'025	0	41'760	0	0	0	0	0	0	5'099	0	0	231'884	6'052'184
¹⁾ Carrard Consulting SA fees	11'308'149	105'193	121'413	131'094	106'411	118'651	107'216	118'163	125'929	120'775	137'046	118'748	102'302	1'412'940	12'721'088
¹⁾ Kellerhals Carrard fees	1'101'295	20'038	19'426	29'921	15'736	24'114	11'568	4'433	13'261	6'836	14'640	28'359	10'721	199'052	1'300'347
Supervisory Board fees	364'888	0	0	21'877	0	25'612	0	0	10'778	0	0	0	16'508	74'775	439'663
⁴⁾ Other external lawyers/representatives	1'411'227	17'842	17'381	23'039	39'918	14'292	18'089	60'377	10'895	17'661	33'159	15'789	26'948	295'388	1'706'616
⁵⁾ Premises/facilities expenses	2'014'468	0	0	0	0	1'206	0	0	0	0	0	0	0	1'206	2'015'674
Overhead	132'166	14'536	993	5'500	9'418	0	1'200	0	835	0	0	9'500	680	42'662	174'828
Settlement Agreement II with ESBD	750'000	0	0	0	0	0	0	0	0	0	0	0	0	0	750'000
Settlement Agreement with Large Knot	392'323	0	0	0	0	0	0	0	0	0	0	0	0	0	392'323
Settlement agreements with creditors	10'000	0	0	0	0	0	0	0	0	0	0	0	4'000	4'000	14'000
TOTAL EXPENSES	33'072'660	342'633	158'519	252'704	171'484	183'875	138'072	182'973	161'698	145'271	189'944	172'396	161'158	2'260'726	35'333'386

Income	Carry forward Aggregate 2014-2017	January	February	March	April	May	June	July	August	September	October	November	December	2018 aggregate	2018 aggregate with carry over 2014-2017
⁹⁾ Net commissions on sales/transfers of securities	-828'284	-76'248	-7'118	-120'373	-72'998	-67'871	-54'618	-83'702	-49'773	-76'225	-72'382	-68'918	-69'410	-819'639	-1'647'923
Fees for CBH services	404'500	0	0	0	0	0	0	0	0	0	0	0	0	0	404'500
Fees for ESBD services	400'000	0	0	0	0	0	0	0	0	0	0	0	0	0	400'000
Fees for BPES Lisbon services	538'060	0	0	0	0	0	0	0	0	0	0	0	0	0	538'060
²⁾ Miscellaneous/extraordinary income	673'661	108	4'412	295	1'044	2'394	1'978	1'671	446	705	118	1'688	6'966	21'825	695'486
Documentation for production in Luxembourg	24'456	0	0	0	0	400	0	0	0	0	200	200	0	800	25'256
⁷⁾ Rights transfer request	24'759	-5'185	-395	0	0	0	0	0	0	0	0	0	0	-5'580	19'179
⁶⁾ Rebilling of archiving costs	125'282	0	0	0	0	0	0	0	0	0	0	0	0	0	125'282
TOTAL INCOME	1'362'434	-81'325	-3'102	-120'079	-71'955	-65'077	-52'640	-82'031	-49'328	-75'521	-72'064	-67'031	-62'444	-802'594	559'840
NET COSTS OF THE ESTATE	31'710'226	423'958	161'621	372'782	243'439	248'952	190'712	265'003	211'025	220'792	262'008	239'426	223'602	3'063'320	34'773'546

¹⁾ The fee notes posted in 2014/2015 included tax. For the following years, the amounts posted will exclude tax. They do not include the rebilling of wages for accounting and back-office activities: see Note 4 below.

²⁾ February 2016: Amount reimbursed by Schellenberg for the mandate assigned to them in 2014.

March 2016: Surplus received from Mobilier (LAA + APG) for 2012-2014 and 2015.

³⁾ March 2017: Recovery of the input tax.

⁴⁾ Includes the rebilling (at real cost) of wages for accounting and back-office activities.

⁵⁾ July 2017: Payment to Intercity of the guarantee for the Zurich branch premises.

⁶⁾ September 2017: Amount received on September 6, 2017 from the Prosecutor for the Confederation – rebilling of archiving costs for the data of the group entities stored on the BPES servers.

⁷⁾ January 2018: Refund of emoluments to the creditors whose assignment was rejected.

⁸⁾ February 2018: Refund of contributions by Trianon.

⁹⁾ June 2018: This line also includes the custodian fees paid to the custodians and the negative interest deducted from the income related to the sale and transfer of securities.