

Carrard Consulting SA

To the creditors of Banque Privée
Espírito Santo SA in liquidation

Lausanne, March 1, 2017

Banque Privée Espírito Santo SA in liquidation (BPES): Circular for the attention of the BPES creditors - status of liquidation operations at the end of 2016

Dear Madam/Sir,

This circular serves to present a summary, for the BPES creditors, of the status of the liquidation operations at the end of 2016. It informs the creditors on the important steps that have been undertaken by the liquidator and on the main ongoing and future liquidation operations. Its contents may not be exhaustive but, in the interests of transparency, seeks to provide comprehensive information to the creditors on the status to date. The liquidator makes no warranty as to the content of the information, the liquidator not being solely responsible for accuracy and truthfulness thereof.

This circular is sent by post to the creditors whose names and addresses are known to the liquidator. It is also published on the liquidator's website.

1. Conduct of the liquidation operations and staff situation

As announced in the circular relating to the 2015 operations, the liquidation activities are now only conducted on the premises of Carrard Consulting SA in Lausanne.

BPES paid the salaries of 133 employees before the bankruptcy. Not all employees were taken over by the estate in bankruptcy; only 83 employees were still being paid by the estate in bankruptcy as of 25 October 2014, then being gradually made redundant. Since 30 June 2016 the estate in bankruptcy no longer pays any employees.

2. Continued banking activities and computer systems

In order to reduce the costs of the liquidation and considering the reduction of old customers' assets still deposited with BPES, the liquidator has decided not to maintain the existing infrastructure (including computer systems) necessary for monitoring and accounting for customer assets, especially the Avaloq banking software. This costly infrastructure has been replaced by a simplified accounting (Excel database), which has been operational since 30 June 2016, with reduced functionality to satisfy the basic needs of the liquidation. The replacement by a simplified accounting system resulted in hundreds thousand Swiss Francs economy for the bankruptcy estate.

This move from a complex banking software to a simplified infrastructure was extensively and thoroughly prepared by the liquidator and external service providers. The first months of operation show that this solution works without harming existing customers whose assets are still deposited with BPES for the reasons discussed below (see point 5).

The outsourcing contract for back-office resources with SR Opérations SA was thus able to be terminated as of 31 August 2016.

To date, the estate in bankruptcy still appoints one person, for around 4 days a month, to carry out securities transactions and holdings reconciliations with BPES custodians.

3. Electronic data archiving

The legally required electronic archiving of data is ongoing. Recall, data archiving has been entrusted to the SR Opérations SA in Gland, Switzerland, following an assessment by the liquidator of a comparison of several offers during 2015.

Nearly 90% of electronic information have now been extracted from the software used by the bank in its operations and over 70% of this data has already been entered into the archiving software, which should be available to the liquidator before the end of the first quarter of 2017. The archiving process, originally scheduled to be completed in late 2016, has been delayed by the need to extract data in response to requests from authorities, primarily criminal, as well as from providing to certain entities of the Espírito Santo Group access to their data.

4. Payment of privileged deposits

The payment of privileged deposits is a priority task of the liquidator under the law.

The amount of privileged deposits due as of 19 September 2014 was approximately CHF 19.7 million.

At the end of 2016, CHF 17.1 million was transferred to the beneficiaries of privileged deposits, the outstanding balance being explained mainly by the lack of payment instructions of the beneficiaries or freezing orders imposed by criminal authorities.

5. Transfer of segregated assets

On the day of opening the bankruptcy, the total amount of securities deposited with BPES (AuM) amounted to over CHF 5.5 billion. Segregated assets should be distinguished for entities of the Espírito Santo Group (especially fiduciary investments with these entities as well as bonds and notes that are issued by them) from financial instruments and securities of other issuers (called "non-GES" assets). At 19 September 2014, the latter accounted for a total of more than 13,000 positions¹, valued at CHF 2.2 billion and deposited with more than 60 custodians in Switzerland and abroad.

The law requires the liquidator to transfer segregated assets free of claims or third party rights and pursue their recognition. Recall, in order to reduce the significant costs associated with the pursuit of the banking activity, securities for which no transfer instruction had been received were sold (to the extent of their feasibility) in 2015 after a final notice from the liquidator.

As of 28 December 2016, there are only (approximately) 500 positions on non-GES securities deposited with BPES, which can be divided into three broad categories:

- Positions held by former clients of BPES: these securities positions are still deposited with BPES because of legal constraints (mainly to cover the claims of the estate in bankruptcy or because of freezing orders given by the criminal authorities) or the difficulty of transferring them;
- The positions held by ES Bankers (Dubai) Limited: their transfer is part of the Settlement Agreement dated 17 June 2015 (see Circular No. 5 of sent by the liquidator to the BPES creditors);
- The positions held in BPES' *nostro* portfolio.

For the securities of Espírito Santo Group companies, the liquidator's activities were focused on the modalities for their holders to enforce their claims with the now insolvent issuing companies (see point 6 below).

6. Lodging of claims in the Espírito Santo Group companies

Since the declaration of bankruptcy of Espírito Santo International S.A. ("ESI"), Rio Forte Investments SA ("Rio Forte"), ESFIL - Espírito Santo Financière S.A. ("ESFIL") and Espírito Santo Financial Group S.A. ("ESFG"), the Liquidator conducted complex analyses and thorough investigations in order to determine the legal fate of the

¹ Namely a class of securities (e.g. securities bearing the ISIN [...]) for a client.

claims resulting from investments made by BPES on behalf of former clients of the bank in the Espírito Santo Group companies.

After lengthy discussion, the receivers of these companies and the BPES liquidator reached an agreement, which is described in Circular No. 8 sent by the liquidator to the attention of the BPES creditors and whose content can be summarised as follows:

- The deadline for lodging claims in the ESI and Rio Forte companies was postponed to 31 May 2017 (to the liquidator's knowledge, the deadline in ESFIL and ESFG has not yet been set);
- BPES will directly pursue, in the bankruptcies of Rio Forte, ESFIL and ESFG, the claims arising from the notes and bonds issued by these companies and placed in the portfolios of existing BPES clients;
- However, former clients of BPES will be responsible for directly and personally pursuing the bankruptcies of these companies, those claims arising from fiduciary investments made by BPES with ESI and RFI, in their name, but on behalf of former clients of BPES. No prior deed of assignment is required, the assignment being carried out by law because of the bankruptcy filed by BPES.

For further details, creditors are referred to the aforementioned Circular No. 8.

7. Asset inventory and production

a) General

The inventory of assets will be available to creditors after filing the claims register (see point 8).

In summary, the following may be disclosed to creditors:

- At 31 December 2016, the cash available to the estate in bankruptcy amounted to CHF 69 million;
- A Pauliana claim by BPES was the subject of a settlement reached with the company ES Bankers (Dubai) Limited ("ESBD") for an amount of USD 13 million, of which USD 5 million had already been received by the BPES estate in bankruptcy in 2015. An additional amount of USD 7.4 million was received during 2016, payment of the balance (\$600,000) is guaranteed if the conditions stipulated in the settlement, related to the transfer of ESBD securities, are met;
- Credits, unsecured or guaranteed consisting of securities of the group or otherwise amounted to CHF 122 million. An amount of approximately CHF 15 million has been recovered or repaid to date; the remaining funds will be recovered by the estate, or offered for sale to the creditors;

- Works of art and *nostro* securities were sold for an amount of around CHF 600,000 during 2016.

In addition, the liquidator was also able to cash proceeds from the liquidation, including an amount of CHF 400,000 from ESD as sharing in the cost of the banking operating system for the year 2016 (including the costs of the Avaloq licence).

b) HSZH Verwaltungs AG (formerly Hyposwiss Privatbank AG)

The BPES liquidator was authorised by the BPES Creditors Committee and by FINMA to initiate legal action to pursue the Pauliana claims of the estate against HSZH Verwaltungs AG ("Hyposwiss").

A request for conciliation has been filed as of 8 December 2016 before the competent authorities in Zurich for an amount of CHF 1.2 million. These claims are following the payment by BPES of a settlement amount relating to an unmatured debt to Hyposwiss made a few days before the BPES bankruptcy.

8. Claims Register

The filing of the claims register in the first half of 2017 is one of the priority objectives of the liquidator.

Claims are being verified by the liquidator in order to meet the targets set on time.

9. BPES Creditors Committee

The BPES Creditors Committee, established by a FINMA decision on 19 May 2016, has met six times since that date. The Creditors Committee deliberated on the following topics:

- Treatment of claims for damages in the claims register;
- Validation of the schedule and budget for the next steps of the liquidation;
- Position of the estate in bankruptcy in the framework of the legal proceedings opened against it by third parties;
- Position of the estate in bankruptcy in the context of amicable settlements in connection with third party claims or claims of the estate in bankruptcy against third parties;
- Validation of the opening of legal proceedings by the estate in bankruptcy against HSZH Verwaltungs AG (formerly Hyposwiss Privatbank AG - see point 7);
- Position of the estate in bankruptcy in the context of requests from the *US Department of Justice* (US program);

- Approval of past liquidator fees (see point 10 below).

10. Estate in bankruptcy expenses

A detailed statement of expenses of the estate is submitted to FINMA on a monthly basis. Pursuant to Article 36 (2) of the OIB-FINMA, the final account is subject to the approval of FINMA at the end of the liquidation.

As of 31 December 2016, the expenses of the estate in bankruptcy after the opening of bankruptcy amounted to approximately CHF 29 million (without consideration of the liquidation proceeds received as of 19 September 2014).

The expenses of the estate were incurred in order to carry out the operations of the liquidation itself but also, to a very large extent (the liquidator estimated that over 50% of total costs), in order to preserve the human, technical and computer resources required to proceed with the payment of segregated assets in favour of former BPES clients, whose amount on the day of the bankruptcy exceeded CHF 5.5 billion, as well as activities related to the detention of these assets (including relationships with and reporting to the criminal, civil and administrative authorities in Switzerland and abroad).

The estate in bankruptcy expenses are as follows:

- Salaries and personnel costs:	CHF 9.75 million
- Information/communication/technology:	CHF 5.25 million
- Costs of premises and facilities:	CHF 2 million
- Fees of Carrard Consulting SA:	CHF 9.1 million
- External agents:	CHF 2 million
- Fees of the Creditors Committee:	CHF 135,000
- Settlement Agreement with an affiliated company (see point 11 below):	CHF 750,000
- Overhead costs:	<i>pm</i>
Total:	CHF 29 million

Appendix 1 provides a breakdown of the expenses of the estate in bankruptcy as of 19 September 2014.

The liquidator's fees were reviewed by the Creditors Committee for the period from 19 September 2014 to 31 December 2016 and the Creditors Committee did not raise any objection.

11. ESBD claims

The liquidators of ESBD have pursued claims against the BPES estate in bankruptcy in the amount of approximately CHF 5.8 million based on the execution of subscription orders for units of a UBS (LUX) Money Market Fund made some before the bankruptcy. These orders were unsuccessful and deprived ESBD of the relevant funds.

After negotiation and the delivery of several legal opinions, the liquidators for ESBD and the liquidator for BPES agreed to reach a compromise on the dispute for a final amount of CHF 750,000 in favour of the ESBD estate in bankruptcy (this amount has already been paid by the BPES estate in bankruptcy and is therefore not included in the available liquidity of the estate contained in point 7).

This settlement was approved by the BPES Creditors Committee.

12. Next steps in the liquidation

The next steps of the liquidation are described below, subject to any difficulties that the liquidator may encounter in accomplishing its tasks. Among the latter are part of requirements that may result for the estate under the regulations or ad hoc requests from US authorities (FATCA, qualified intermediaries, providing information to the US Department of Justice) as well as new standards with regard to automatic exchange of information.

The first months of 2017 will be devoted to the finalisation and filing of the claims register and the lodging of claims in the bankruptcies of the Luxembourg companies (see point 6 above).

The filing of the claims register will then allow the liquidator to carry out the assignment to creditors of claims that the estate does not intend to pursue. The other implementation operations will be carried out by the estate during 2017.

The decommissioning and electronic data archiving operations should be completed during the first half of 2017.

13. Invitation to consult the website

The liquidator shall publish information on the BPES website, whose web address is: www.liquidator-bpes.ch. We invite you to visit the site regularly in order to be aware of this information.

Kind regards.

The Liquidator, Carrard Consulting SA

Appendix 1 - Estate expenses

Expenses	2014/2015 carried forward	January	February	March	April	May	June	July	August	September	October	November	December	Total 2016	Total 2014 / 2016
Wages and personal costs	8'929'854	174'340	94'479	105'546	132'954	98'177	84'006	57'825	39'797	0	15'750	0	2'823	805'698	9'735'552
Information - Communication - Technology	2'772'580	189'930	129'285	260'444	252'244	387'789	459'149	25'564	224'080	12'127	26'884	392'712	100'634	2'460'841	5'233'421
1) Carrard Consulting SA	6'005'527	298'067	293'584	259'229	277'667	235'714	281'815	202'535	202'947	230'990	270'591	260'134	275'970	3'089'243	9'094'770
1) Kellerhals Carrard	928'143	11'284	5'771	2'261	2'660	3'631	9'098	4'813	5'124	2'121	7'270	15'537	7'822	77'391	1'005'534
Creditors Committee	0	0	0	0	0	0	0	0	0	57'967	0	0	76'086	134'054	134'054
External Agents	752'942	34'269	27'041	7'757	6'449	13'757	8'391	17'721	4'341	4'317	6'423	16'398	139'624	286'489	1'039'431
Premises and facilities costs	1'925'743	21'528	10'839	3'308	0	4'920	0	0	0	0	0	102	0	40'696	1'966'439
Overheads	68'877	3'356	18	150	712	705	235	125	354	249	0	215	514	6'634	75'511
Settlement Agreement II with ESBD	0	0	0	0	0	0	0	0	0	0	0	0	750'000	750'000	750'000
TOTAL EXPENSES	21'383'666	732'774	561'017	638'694	672'686	744'693	842'694	308'583	476'643	307'772	326'918	685'097	1'353'474	7'651'044	29'034'710

Incomes	2014/2015 carried forward	January	February	March	April	May	June	July	August	September	October	November	December	Total 2016	Total 2014 / 2016
Net sales commission / securities transfer fees	146'066	-24'361	-1'542	54'685	12'164	5'504	7'519	-103'538	-59'298	-67'238	-52'454	-35'550	-56'242	-320'351	-174'285
CBH service fees	404'500	0	0	0	0	0	0	0	0	0	0	0	0	0	404'500
ESBD service fees	0	0	0	0	0	0	400'000	0	0	0	0	0	0	400'000	400'000
BPES Lisbon service fees	538'060	0	0	0	0	0	0	0	0	0	0	0	0	0	538'060
Other incomes	51'235	122	312'848	127'507	234	31'494	4'857	0	3'778	0	2'445	0	24'218	507'503	558'738
TOTAL INCOMES	1'139'861	-24'239	311'307	182'192	12'398	36'998	412'376	-103'538	-55'520	-67'238	-50'009	-35'550	-32'025	587'152	1'727'013
Net expenses of the bankruptcy estate	20'243'805	757'013	249'710	456'501	660'288	707'695	430'318	412'122	532'163	375'010	376'927	720'646	1'385'498	7'063'892	27'307'697

1) In 2014/2015, the fee notes indicated were inclusive of VAT. For the year 2016, the amounts indicated are exclusive of VAT.

2) February: Amount reimbursed by Schellenberg for the mandate that had been granted to it in 2014. March: Surplus received from Mobilier (LAA + APG) for 2012-2014 and 2015.