

Registered mail

To bank the bank clients and creditors of
Bank Hottinger & Cie AG in liquidation proceedings

Küsnacht November 2019

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Bank Hottinger & Cie AG in liquidation proceedings; Circular No. 10

Dear Sir or Madam,

We are pleased to provide you with updated information on the current status of Bank Hottinger & Cie AG in liquidation proceedings ("**Bank Hottinger**"), and in particular on publication of Addendum No. 1 to the Schedule of Claims and the sale of the stake in Hottinger & Co. AG, Basel.

I. SETTLEMENT STATUS OF SCHEDULE OF CLAIMS

1. ADDENDUM NO. 1 TO THE SCHEDULE OF CLAIMS

1.1 *Publication*

Since the publication of the schedule of claims in 2017, three claims had to be subsequently assessed and accepted. Addendum No. 1 to the schedule of claims is therefore published.

Addendum No. 1 to the schedule of claims is available for inspection by the creditors from 26 November 2019 to 16 December 2019 at the offices of the liquidators Brigitte Umbach-Spahn and Karl Wüthrich at Wenger Plattner,

attorneys at law, Seestrasse 39, Goldbach-Center, 8700 Küsnacht. For inspection, please call the hotline on +41 43 222 38 50.

Any actions contesting the schedule of claims must be brought before the Bezirksgericht Zürich (Zurich District Court), Wengistrasse 30, P.O. Box, 8036 Zurich within 20 days of publication of the notice of the publication of the schedule of claims in the Swiss Official Gazette of Commerce on 26 November 2019, i.e. by 16 December 2019 (date of postmark made by the Swiss postal service). If no such action is brought, the schedule of claims will become final and non-appealable.

1.2 *Claims of Caisse Alfa Banques*

Caisse Alfa Banques was Bank Hottinger's family compensation fund for the staff employed in Geneva. According to the order issued by Caisse Alfa Banques on 30 April 2019, contributions of CHF 7,130.10 are owed on the wages paid with the first advance payment to former employees in Geneva. The claim was accepted in the 2nd class of the schedule of claims.

1.3 *Claim of the Geneva Tax Office for Withholding Tax*

On 20 October 2015, i.e. before the opening of liquidation proceedings, Bank Hottinger declared to the Geneva Withholding Tax Office withholding taxes deducted from wages for the month of October in the amount of CHF 9,391.45. In the meantime, this self-declaration has become legally binding. In April 2019, the Geneva Tax Office for Withholding Tax issued a notice stating that this withholding tax should be paid. This reminder was qualified by us as a claim. The legally binding claim of CHF 9,391.45 for withholding tax of the Geneva Withholding Tax Office is accepted in 3rd class in Addendum No. 1.

1.4 *State and Municipal taxes Canton of Zurich and City of Zurich*

On 8 December 2015, the Tax Office of the City of Zurich notified the state and municipal taxes for the years 2014 and 2015 in the total amount of CHF 87,426.90. At time when the schedule of claims was published in March 2017, the decision on these claims was suspended. In the meantime, the tax claims have been settled with the Tax Office of the City of Zurich. Finally, a tax claim of CHF 35,395 was assessed for 2014. This assessment has become final and binding. For the year 2015 there are no more state and municipal taxes owed. The legally binding claim of CHF 35,395 for state and municipal taxes of

the Canton of Zurich and the City of Zurich is accepted in 3rd class in Addendum No. 1.

1.5 *No possibility of contesting the claims scheduled in Addendum No. 1*

The three claims accepted in Addendum No. 1 (see sections 1.2 to 1.4 above) are claims under public law. They have been legally recognised by the competent authorities. Accordingly, the approval of these claims can no longer be contested by the creditors in terms of amount. The claim of Caisse Alfa Banque (see section 1.2 above) is admitted in 2nd class in accordance with Article 219 para. 4, 2nd class lit. b Swiss federal law on debt collection and bankruptcy. The granting of this privilege can be contested by the creditors with action to contest the schedule of claims.

2. STATUS OF THE SCHEDULE OF CLAIMS

Two actions to contest the schedule of claims initiated by creditors for a total amount of approximately CHF 16 million are still pending. For your information, you will receive a current overview of the status of the schedule of claims procedure as an annex.

II. LIQUIDATION STATUS AS AT 30 JUNE 2019

We have updated the liquidation status effective 30 June 2019. Compared to the liquidation status as at 30 June 2018, which we reported to you in Circular no. 9, there have only been few changes.

The credit balances with banks dropped from around CHF 91.2 million to around CHF 76.2 million. The reduction is due to the execution of payments to creditors under the first and second interim payment, the disbursement of credit balances to bank clients arising after the commencement of the insolvency proceedings and the payment of invoices for costs incurred.

The provisions for the O. Ltd. case were reduced in the amount of the second interim payment and adjusted to the changed exchange rate for US dollars from around CHF 62.75 million to around CHF 54.36 million.

III. REALISATION OF ASSETS

1. SALE OF HOTTINGER & CO. AG, BASEL

1.1 *Object of purchase and state of the object of purchase*

Bank Hottinger is the owner of 1,020 bearer shares of Hottinger & Co. AG, Basel. The remaining 980 bearer shares of Hottinger & Co. AG are held by Ulrich Haller and Heiner Gfeller. The Hottinger & Co. AG was an external asset manager of Bank Hottinger. The clients were looked after by Ulrich Haller and Heiner Gfeller. Following the opening of liquidation proceedings against Bank Hottinger, the assets held by Hottinger & Co. AG were transferred to Banque Heritage S.A. Bank Hottinger received compensation from Banque Heritage S.A. for this transfer.

Since 2016, Hottinger & Co. AG has been losing clients on an ongoing basis due to the difficult market environment. From the 2017 financial year, Hottinger & Co. AG reported losses. There is a risk that the Hottinger & Co. AG could become overindebted in the short term.

Ulrich Haller and Heiner Gfeller decided in 2019 to reduce their business activities for reasons of age.

1.2 *Contract negotiations and key figures Purchase contract*

On basis of this initial situation, negotiations have been conducted with Ulrich Haller and Heiner Gfeller for the sale of the 1,020 bearer shares in Hottinger & Co. AG. These negotiations culminated in October 2019 with the conclusion of a purchase agreement with the following key figures:

- Bank Hottinger sells the 1,020 bearer shares of Hottinger & Co. AG to Ulrich Haller and Heiner Gfeller.
- The purchase price for the 1,020 bearer shares of Hottinger & Co. AG amounts to CHF 102,000.

1.3 *Realisation plan*

As stated above, a share purchase agreement was concluded between the parties on 16/29 October 2019. The validity of the share purchase agreement is under the condition precedent of the establishment of a realisation plan according

to Article 34 para. 4 BIV FINMA. Based on the considerations hereinbefore the liquidators intend to sell the shares of Hottinger & Co. AG, Basel, pursuant to the key figures described under cl.1.2.

2. PROCEEDINGS

Creditors of Bank Hottinger who do not agree with the intended liquidation activities described in III.1 above may request a contestable ruling from FINMA (Federal Financial Market Supervisory Authority FINMA, Laupenstrasse 27, 3003 Berne) until 16 December 2019 (date of postmark of a Swiss post office) (Art. 34(4) BIV-FINMA). A fee is payable for a contestable ruling. Creditors resident abroad must provide a postal address within Switzerland where official communication may be sent, otherwise communications will be announced by publication in the Swiss Federal Gazette.

We will continue to keep you updated on the progress of the liquidation proceedings.

Yours sincerely,

Bank Hottinger & Cie AG in liquidation proceedings

The Liquidators:

Brigitte Umbach-Spahn

Karl Wüthrich

Annex: Liquidation status of Bank Hottinger as at 30 June 2019 (in German only)

Bank Hottinger & Cie AG in Konkursliquidation

Status per 30. Juni 2019

	30. Juni 2019		Bemerkungen
	CHF		
AKTIVEN			
Barschaft		-	
Kasse Zürich	-		Kasse aufgelöst
Guthaben gegenüber Banken		76'193'561	
Postfinance	56'348		
UBS AG	17'416		
Zürcher Kantonalbank (Konkursmasse)	17'748'404		
Lombard Odier	58'364'843		
Euroclear	6'550		
Wertschriften und Beteiligungen		102'000	
Forderungen gegenüber Bankkunden		3'452'218	
Übrige Forderungen		85'968	
Rückerstattung Mehrwertsteuern	85'968		
Verrechnungsteuer	-		
Diverse Forderungen	-		
Anfechtungsansprüche	-		Verzicht
Verantwortlichkeitsansprüche	p.m.		
Grundstücke		-	
Bewegliche Sachen		-	
Mobiliar Genf	-		Verkauft
Mobiliar Zürich	-		Verkauft
Mobiliar Archiv Zürich	-		Verkauft
Fahrzeug Mercedes	-		Verkauft
TOTAL AKTIVEN		79'833'747	
PASSIVEN			
Massenschulden			
Massekreditoren (Passive Abgrenzungen)		907	
Forderungen Bankkunden (nach Konkurseröffnung)		4'184'989	
Rückstellung für Forderungen gegenüber Bankkunden (Kreditrisiken)		2'570'000	
Rückstellung Forderung O. Ltd. (USD 55'160'396)		54'363'659	
Rückstellung für 1. Abschlagszahlung		6'156'601	
Rückstellung für 2. Abschlagszahlung		1'910'955	
Rückstellung Negativzinsen		1'000'000	
Rückstellung Honorar Liquidatoren		1'000'000	
Rückstellung übrige Liquidationskosten		1'150'000	
Total Massenschulden		72'337'111	
TOTAL AKTIVEN VERFÜGBAR		7'496'636	

Bank Hottinger & Cie AG in Konkursliquidation

Übersicht über den Stand des Kollokationsverfahrens per 30. Juni 2019

Kategorie	angemeldet	Im Kollokationsverfahren					Konkursdividende in %				
		zugelassen	als bedingte Forderungen zugelassen	Kollokationsklage hängig	ausgesetzt resp. p.m.	abgewiesen	Ab-schlags-zahlungen	zukünftige Dividende		Total	
								minimal ^{1) 3)}	maximal ^{2) 3)}	minimal ^{1) 3)}	maximal ^{2) 3)}
Pfandgesicherte (Outsourcing Lombard Odier)	8'455'446	3'558'229				4'897'217	100%	-	-	100%	100%
Pfandgesicherte (Schadenersatzforderungen)	36'464'785	4'870'000		16'003'431		15'591'354	38%				
1. Klasse	2'484'777	1'048'560				1'436'217	100%	-	-	100%	100%
2. Klasse	373'049	145'207				227'842	100%	-	-	100%	100%
2. Klasse (Bankkunden aus den Büchern)	37'879'023	37'979'023	100'000			-200'000	100%	-	-	100%	100%
3. Klasse	156'751'782	4'672'022	200'000		241'711	151'638'049	38%	16.64%	46.30%	54.64%	84.30%
3. Klasse (Bankkunden aus den Büchern)	49'692'269	49'544'562				147'707	38%	16.64%	46.30%	54.64%	84.30%
3. Klasse (O. Ltd.)	87'655'978		87'655'978			-	38%	62.00%	46.30%	100.00%	84.30%
Total Nachlassforderungen	379'757'109	101'817'603	87'955'978	16'003'431	241'711	173'738'386					

Bemerkungen

¹⁾ Minimaldividende: Die noch hängigen Kollokationsklagen für Schadenersatzforderungen aus dem Lugano-Fall müssen zu 60 % anerkannt werden und sie werden nur zu 30 % durch Versicherungsleistungen gedeckt; im Übrigen werden keine Versicherungsleistungen bezahlt; die Forderung der O. Ltd. wird als Masseforderung qualifiziert; die übrigen in der 3. Klasse ausgesetzten oder pro memoria kollozierten Forderungen müssen anerkannt werden.

²⁾ Maximaldividende: Alle noch hängigen Kollokationsklagen werden abgewiesen; die Forderung der O. Ltd. wird nicht als Masseforderung qualifiziert; die ausgesetzten oder pro memoria kollozierten Forderungen werden nicht anerkannt; auf den anerkannten pfandgesicherten Schadenersatzforderungen werden keine Versicherungsbeträge geleistet.

³⁾ Eine allfällige Busse und Kosten aus dem Strafverfahren i.S. Lugano sind bei der Berechnung der Dividenden nicht berücksichtigt.

www.liquidation-bankhottinger.ch

Hotline Bank Hottinger & Cie AG in bankruptcy liquidation

Deutsch: +41-43-222-38-30

Français: +41-43-222-38-40

English: +41-43-222-38-50