

**A Brief History of the United States Liquidation of
Bank of Credit and Commerce International (“BCCI”)
July 5, 1991 through July 31, 2012**

Background - BCCI (1972-1991)

Bank of Credit and Commerce International (“BCCI”) was originally organized in Abu Dhabi, UAE in early 1972 and incorporated in Luxembourg in September of that year. Originally it had a 30% ownership by Bank of America and a number of its senior officers came from that institution. Most of the top management was close associates of its Chairman, Pakistani banker Agha Hasan Abedi. A key backer was Kamal Adham, head of Saudi Arabian intelligence and brother-in-law of King Faisal.

During the 1980’s and early 1990’s, BCCI established itself as an international bank providing retail and commercial banking services across the globe through a group structure which operated at one point through 417 offices in 73 countries with total assets of about \$23.5 billion. When the group collapsed in July 1991, it was the largest international bank failure, to date, presenting unprecedented challenges and complexities to those then tasked with resolving its affairs.

International Credit and Investment Company (“ICIC”) was a separate *group* of companies controlled by BCCI. Its affairs were closely intertwined with BCCI; and ICIC was used extensively to facilitate a number of BCCI’s illegal activities. Through a questionable pattern of ‘nominee ownerships’ in several jurisdictions in the world, BCCI secretly and illegally acquired shares through nominees such as Gaith Pharaon, Abdul Raouf Khalil in CCAH (Credit & Commerce American Holdings N.V. the ultimate parent company of First American Bankshares) in 1982, Independence Bank, Encino, California in 1985 and National Bank of Georgia in 1985. BCCI’s secret and illegal acquisition of banking interests in the United States was one of the reasons for its ultimate closure worldwide.

BCCI was shut down in the United States – July 5, 1991

On July 5, 1991, the Bank of England, the *IML* in Luxembourg and Cayman Regulatory Authorities coordinated the close down of BCCI within their respective jurisdictions. In July, 1991, the operations of the BCCI global entities - BCCI, SA, BCCI (O) Ltd, BCCI Holdings (Luxembourg) SA, and ICIC (collectively “BCCI”) - were closed in most of the 69 countries in which BCCI was doing business then. All US Operations of BCCI (aside from illegally controlled banks) had, by that time, been consolidated into ‘depository agencies’ in Los Angeles, CA and New York, NY.

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On July 5, 1991, BCCI’s licensed operations in the United States were seized by the Superintendent of Banks of the State of California, whose title is now the Commissioner of Financial Institutions of the State of California (the “California Commissioner”), and the Superintendent of Banks of the State of New York (the “New York Superintendent”).

In August, 1991, the Receivers and Liquidators (the “Worldwide Liquidators”) appointed for BCCI by courts of the United Kingdom, Luxembourg and the Cayman Islands filed petitions in the US Bankruptcy Court for the Southern District of New York (the “Bankruptcy Court”) under 11 USC § 304, seeking to add all assets of BCCI held by the California Commissioner and the New York Superintendent to *one pool of assets for all claimants worldwide*.

In September, 1991, the California Commissioner appointed Mr. Robb Evans (“Evans”), as a Special Deputy and the Chief California Liquidator (“California Liquidator”) of the California Property and Business of BCCI (“California Assets”) to preserve and orderly liquidate the California assets. The “California assets” included a number of assets in other states, with concentrations in Florida and Texas.

By a stipulated order entered in the US bankruptcy proceedings in October, 1991, the bankruptcy proceedings did not interfere with the state-law liquidations in the United States.

Before even the *surplus assets* (anticipated to result at the end of California or New York liquidations) could be administered in to the *ancillary proceedings* in the US Bankruptcy Court or could revert to the Worldwide Liquidators, the United States Government, in the District Court, DC and the State of New York, in the state courts of New York, alleged that BCCI secretly and illegally owned and controlled Independence Bank, Encino, California (“Independence”), First American Bankshares Inc. (“First American”), and Burt Lance’s National Bank of Georgia, and that BCCI illegally invested in CenTrust Savings Bank of Miami, Florida, all in violation of criminal provisions of, *inter alia*, the Racketeer Influenced and Corrupt Organizations (“RICO”) statute.

Plea Agreement – January 24, 1992:

In December, 1991, the US Department of Justice (“DOJ”), the Manhattan District Attorney (“DA”), the New York Superintendent, the California Commissioner, the

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Federal Reserve, the FDIC and various other regulatory authorities entered into a Plea Agreement (“Plea Agreement”) with the Worldwide Liquidators. By that agreement, the Worldwide Liquidators pled BCCI guilty to criminal charges and agreed to a comprehensive forfeiture of BCCI’s assets located in the United States. The *asset list* included any *surplus* generated in the New York and California Liquidations. The United States District Court for the District of Columbia (the “District Court” or “Court”) accepted the Plea Agreement and ordered those assets of BCCI forfeited to the US Government on January 24, 1992.

Within eighteen months of appointment, the California Liquidator completed most of the California Liquidation which was peppered, from inception, with hundreds of claims and litigation from within the United States and from global cross-claimants, including global depositors and borrowers.

By the end of 1992, the California Liquidator paid in full all eligible claimants (including priority claimants, creditors of the business in California as per California Financial Code §1760) and awaited instructions for turnover of *surplus assets* [as per California Financial Code §1785(d)].

As the California Commissioner approached completion of his duties, the Court, on March 5, 1993, on the motion of the DOJ, issued an Order Appointing Trustee. By this Order, the District Court appointed Evans as Trustee (the “BCCI Trustee”) to receive and liquidate the surplus assets in the California liquidation of BCCI, for the purpose of *forfeiture*.

By Order dated July 20, 1994, the BCCI Trustee was directed by the District Court to receive and liquidate assets from the New York Superintendent, on the same basis as the assets received from the California Commissioner. *On February 1, 1995, the District Court approved the substantive consolidation of the two asset portfolios, in the interest of efficiency.* Additional assets were added by the District Court to the BCCI Trustee’s estate, from sources other than California Commissioner or the New York Superintendent, by orders dated September 20, 1996, October 2, 1996 and December 22, 1998.

As directed by the Court, the BCCI Trustee received assets in multiple waves and in varying states of liquidity, since 1993 through December, 1998 and also provided the Court, DOJ and the Worldwide Liquidators an inventory of the assets received in each wave, in the manner and within the timeframe set in the respective Court’s Orders. After each such inventory was filed by the BCCI Trustee, the described *tranche*

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thereafter became the subject of an amendment of the Court’s Order of Forfeiture of January, 24, 1992 to include those assets and to commence ancillary proceedings therein.

By early 1998, in order to close the US Trust in a manner that integrates all interests to the greatest extent practical, a transition plan was developed by the BCCI Trustee. As recommended by the BCCI Trustee, the Court issued instructions to consult with all Interested Parties to attempt to identify convergent goals. The Trustee consulted with, and summarized to the Court, the interests of (1) the California Commissioner, (2) the New York Superintendent, (3) the Florida Superintendent of Banks, (4) DOJ, (5) the Worldwide Liquidators, (g) the Manhattan DA, (7) the FDIC, (8) the Federal Reserve, and (9) the U.S. Marshals Service. It also noted some issues in common between the BCCI Trustee and Mr. Harry Albright, as Trustee of First American Corporation (“First American Trustee”).

A Transition Plan (“Plan”) was developed, in tandem with DOJ’s final procedures. The Plan was approved by the Court on August 12, 1998. DOJ, the Worldwide Liquidators and the BCCI Trustee then reached an agreement on, among other things, the other terms of the wind-up of the BCCI Trustee’s functions and the transfer of assets he held, treatment of unresolved issues and the creation of a separate Trust for the benefit of the Worldwide Liquidators, referred to as the Court Appointed Fiduciaries (the “CAF” and “CAF Trust”).

The interests, recognized under the Plea Agreement, of Entities in the United States, were satisfied by the beginning of 1999. The Trustee was thereafter advised that the Attorney General of the United States (the “AG”) reached a memorandum of understanding with the FDIC that assured the FDIC and the BIF that they would incur no net loss. A reserve was created with forfeited funds to reimburse the Bank Insurance Fund (“BIF”) in full [This BIF merged with SAIF in 2006 to become ‘DIF’].

Geneva Agreement – January 1994:

The BCCI group’s Majority shareholders’ involvement with BCCI had exposed them to investigation by the US Authorities and to the possibility of criminal prosecutions and civil actions in the United States. In 1993, an action was commenced by First American Bank against some 30 or so defendants, including the Majority Shareholders (*the President of the UAE, HH Sheikh Al Nahyan, The Govt. of Abu Dhabi, and Abu Dhabi Investment Authority*), alleged to have participated in BCCI’s illegal ownership of First

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American Bank. In January 1994, the Majority Shareholders entered into a global agreement, in Geneva, Switzerland, with the US Authorities to resolve all criminal and civil issues for the benefit of innocent BCCI Creditors.

Under the Geneva Agreement, the Majority Shareholders:

- Released all claims against First American Bank including a debt of some \$239 million;
- Relinquished a 28% stock ownership interest in CCAH;
- Agreed to transfer to the Liquidators the vast quantity of BCCI records retained in Abu Dhabi;
- Agreed to cooperate with the US Authorities and the Liquidators, including opening up access to key individuals of BCCI held in Abu Dhabi.

Under the terms and conditions of Geneva Agreement, the US Authorities agreed to distribute to the Worldwide Liquidators a part of the realizations from the Geneva Agreement. As per this, the US Authorities released about \$172.5 million to the Worldwide Liquidators.

On July 2, 1999, the Court issued the Final Order of Forfeiture and Disbursement (“Final Forfeiture”). A copy of the Final Forfeiture is attached under Tab 1. The order provided for (1) the disbursement of all liquid assets transferred and by then held in escrow by the United States Marshals Service; (2) the dissolution of the two Trusts created by the Court to aid in the liquidation of forfeited assets; and (3) the transfer of all remaining illiquid assets including the corporate stock of First American Corporation either to the DOJ or to the CAF, who were liquidating the BCCI corporate defendants.

The Court ordered that the roles of the two trustees appointed and supervised by the Court (the BCCI Trustee and the First American Trustee) shall be terminated in an orderly fashion upon completion of their disbursements under the Final Forfeiture and as per the Plea Agreement.

On or about September 28, 1999, the BCCI Trustee filed his final report to the Court confirming that the directions contained in the Final Forfeiture had been complied with and surpluses transferred. With the final tranche of \$155.9 million transferred at closing, the sum of all recoveries transferred by the BCCI Trustee to the United States

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Marshal’s Service aggregated to \$347.4 million. The BCCI Trustee was honorably discharged by the Court effective as of September 28, 1999.

In accordance with a Trust Agreement with BCCI Holdings (Luxembourg) S.A., Bank of Credit and Commerce International S.A., Bank of Credit and Commerce International (Overseas) Limited, and International Credit and Investment Company (Overseas) Limited, through their Court Appointed Fiduciaries (the “CAFs”), dated as of August 31, 1999, and as per the Asset Transfer Agreement made as of August 31, 1999 by and between Robb Evans, as BCCI Trustee, and Robb Evans, as the CAF Trustee, Evans assumed responsibility for the remaining assets transferred by the BCCI Trustee as of August 31, 1999. The residual assets transferred included some cash, loans, real property, and judgments and were valued about \$13.5 million with unquantifiable liabilities in the form of pending lawsuits and US taxes owed. Over the next thirteen years, the CAF Trustee settled all the outstanding liabilities, settled with US tax authorities, collected all illiquid assets including two judgments and remitted, net of all costs and expenses, an amount of \$27.6 million to the Court Appointed Fiduciaries. By July 31, 2012, the CAF Trustee filed the final tax returns to the Authorities and wound down the CAF Trust before the final dividends were paid by the Worldwide Liquidators.

First American Corporation Recoveries and wind down (1999 – 2006)

Evans was appointed to serve as the sole director of First American Corporation (“Director”) effective November 9, 1999. The director completed all responsibilities, remitted a net recovery of \$20.3 million to the *shareholder(s)*, and wound down the holding company in February, 2006. These payments were in addition to the \$326 million previously recovered before the termination of the First American Trustee and also the \$18.8 million allocations of Pharaon Settlement Payments to First American (paid directly to the shareholder, BCCI).

Total US Recoveries turned over to the Worldwide Liquidators (1991-2012):

The Plea Agreement resulted, at close of the CAF Trust in August 2012, in disbursement of approximately \$1.096 billion to the Worldwide Liquidators, approximately \$644 million under the mandatory provisions and an additional \$452 million by the exercise of the AG’s discretion. The Geneva Agreement resulted in a net recovery of about \$172.5 million ***bringing the grand total of recoveries from the United States to about \$1.269 billion.***

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Financial Outcome and Dividends (Global Perspective)

The attached schedules 1 to 7 included under Tab 2 show the financial outcome statements and supporting information compiled on a global basis by combining the financial information provided by the Luxembourg, Cayman and English Liquidators at wind down of the BCCI Worldwide Liquidation in August 2012. These *compilations* are neither audited nor individually verified. Between the three Liquidators who have hitherto been referred to as ‘*Worldwide Liquidators*’ the global *gross* recoveries totaled \$8.601 billion. After reckoning the global cost of Liquidation over the last 21 years, i.e. \$1.711 billion, the balance funds available for dividends to all classes of Claimants remained at \$6,890 million (which included the total *net* US Recoveries of \$1.269 billion). The sum total of all dividends paid to the population of *admitted creditors* (i.e., \$6,890 million, to about 74,000 claimants, against a total of all claims of about \$8.492 billion), represented (a) **90.0586%** of the admitted claims for ordinary creditors, (b) **64.0915%** to Majority Shareholders (who gave up certain rights to funds sourced from the United States), and (c) **87.1592%** to all *other Creditors*.

The US recovery, in summary

To sum up, the known Global Net Recovery of \$6.9 billion paid as dividends (to all classes of creditors) included \$1.27 billion (or 18.42%) provided by the US Liquidation.

TAB 1

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

FILED

JUL 02 1999

Clerk, U.S. District Court
District of Columbia

UNITED STATES OF AMERICA

v.

BCCI HOLDINGS (LUXEMBOURG),
S.A.,

BANK OF CREDIT AND COMMERCE
INTERNATIONAL, S.A.,

BANK OF CREDIT AND COMMERCE
INTERNATIONAL (OVERSEAS)
LIMITED,

AND

INTERNATIONAL CREDIT AND
INVESTMENT COMPANY
(OVERSEAS) LIMITED,

Defendants.

Crim. Action No. 91-0655 (JHG)
Defendants 1-4

FINAL ORDER OF FORFEITURE AND DISBURSEMENT

For the reasons stated more fully in the Opinion issued this date, this Order brings to an end the longest-running criminal forfeiture proceeding in history. It provides for (1) the disbursement of all liquid assets currently held in escrow by the United States Marshals Service; (2) the dissolution of the two trusts created by this Court to aid in the liquidation of forfeited assets; (3) and the transfer of all remaining illiquid assets, including the corporate stock of First American Corporation, either to the Department of

(N)

Justice or to the Court Appointed Fiduciaries, who are liquidating the BCCI corporate defendants in this case.

1. Background

When a defendant is convicted of a criminal offense for which forfeiture is provided as a sanction, or when a defendant enters a guilty plea to such offense, the Court, pursuant to Rule 32(d)(2) of the Federal Rules of Criminal Procedure enters a preliminary order of forfeiture transferring the defendant's interest in the property subject to forfeiture to the United States. The preliminary order of forfeiture becomes final *as to the defendant* at the time of sentencing, but it remains "preliminary" as to third parties until all such third parties have had an opportunity to litigate whatever claims they may have in an ancillary proceeding. See *United States v. Christunas*, 126 F.3d 765 (6th Cir. 1997); *United States v. Bennett*, 147 F.3d 912 (9th Cir. 1998).

Once the ancillary proceeding is concluded, the order of forfeiture becomes final as to *all parties*, and the United States has good title to all forfeited assets. 18 U.S.C. § 1963(l)(7). In a case such as this, where a total of 175 claims were filed in the ancillary proceeding, the Court finds it prudent to enter a final order of forfeiture affirming that all statutory requirements regarding the rights of third parties have been met, that the ancillary proceeding has been concluded, that all amendments to the order of forfeiture necessary to recognize third party rights have been made, and that the United States has good title to the remaining forfeited assets.

In this case, the Court accepted the defendants' guilty plea and entered a preliminary order of forfeiture on January 24, 1992. Thereafter, the Court amended the Order of Forfeiture on six occasions to include additional assets that were subject to forfeiture under the original Order but that had not been located or identified at the time the original Order was entered.¹ The last such amendment occurred on December 22, 1998.

After the entry of the original Order, and on each occasion thereafter when the Order was amended to include newly discovered property, the Court conducted an ancillary proceeding pursuant to 18 U.S.C. § 1963(l). In all 175 claims ("L-claims") were filed in the ancillary proceedings. Most of those claims were denied, but on various occasions the Court amended the Order of Forfeiture to recognize all or part of a third party's claim.

¹The preliminary order of forfeiture directed the defendants to forfeit all property in the United States that was acquired or maintained in violation of 18 U.S.C. Section 1962 (the RICO statute), or constituted any interest in, or property affording a source of influence over, the RICO enterprise. *See* 18 U.S.C. 1963(a)(1) and (2). That order defined what was subject to forfeiture, but it remained for the United States, through post-trial discovery and investigation, *see* Section 1963(k), to locate the specific assets covered by the forfeiture order, and to move to amend the preliminary order to include those assets once they were located. In this respect, the preliminary order in this case was no different from a preliminary order of forfeiture in a drug case that orders the defendant to forfeit "all proceeds" of the offense for which he was convicted, but leaves it to the government, through post-trial investigation, to locate the specific assets and move to add them to the order of forfeiture. Amendment of the forfeiture order also assures that third parties have notice of the particular assets being forfeited to the government. This procedure will be codified in the new Rule 32.2, Federal Rules of Criminal Procedure, scheduled to take effect December 1, 2000. *See* Proposed Rule 32.2(e)(1) (order of forfeiture may be amended at any time to include newly discovered property that falls within the scope of the order).

The last ancillary proceeding ended today, July 2, 1999, when the Court disposed of the last L-claim. All proceedings required by Section 1963(I) having been conducted in accordance with law, all amendments to the Order of Forfeiture necessary to recognize third party rights having been made, and the time for the appeal from the disposition of all L-claims having expired, the Court may now enter a Final Order of Forfeiture affirming the government's title to the remaining forfeited property.

2. Termination of Trustee's Role; Disbursement of Assets

In addition to affirming the completion of the ancillary proceeding, and the government's title to the forfeited property, the Court must enter a final order of forfeiture in this case to resolve several other matters. In particular, the Court must authorize the U.S. Marshals Service (the "Marshals") to disburse the remaining forfeited funds in accordance with the Plea Agreement, provide for the termination of the roles of the court-appointed Trustees, and provide for the transfer or disposition of any forfeited, liquid and non-liquid assets. (The two Trustees appointed by the Court were Harry W. Albright Jr. (the "First American Trustee"), Robb Evans (the "State Liquidation Trustee").)

In its December 22, 1998 Order ("Sixth Order of Forfeiture"), the Court directed the Government to address these matters as follows:

[A]s soon as the ancillary proceeding following the issuance of this Order is complete, or if no further L-claims are filed, as soon as the 30-day period for filing such claims has expired, the United States shall file a motion and proposed Final Order of Forfeiture that sets forth a procedure for dividing

the remaining liquid and non-liquid assets held by the Marshals and/or Robb Evans in accordance with the Plea Agreement, terminates the role of Robb Evans as court-appointed trustee, provides for the allocation of any future distributions by the Court's other trustee, Harry Albright, and addresses what rights the United States may have in any other property of BCCI that is identified after the Final Order of Forfeiture is entered.

The Government has now complied with this direction by filing a motion for a Final Order of Forfeiture. In accordance with the Government's motion, in which the Court-Appointed Fiduciaries,² both Trustees, the Board of Governors of the Federal Reserve concurred, it is hereby

(A) **ORDERED** that all matters involving the rights of third parties having been concluded, and all necessary amendments to the Order of Forfeiture have been made by previous Orders of this Court, the United States has clear title to the remaining forfeited property; it is

(B) **FURTHER ORDERED**, as set forth below, that the roles of the two Trustees appointed and supervised by the Court shall be terminated in an orderly fashion, and the forfeited assets that have not previously been disbursed by Order of this Court shall be divided between the Department of Justice and the Court-Appointed Fiduciaries in accordance with the Plea Agreement. As set forth below, all forfeited assets currently subject to this Court's jurisdiction will be identified, with a value placed on non-liquid assets (with certain exceptions), and the aggregate total of all assets, liquid and non-

² The term "Court-Appointed Fiduciaries" refers to the liquidators appointed in Luxembourg and the Cayman Islands with respect to the liquidation of the four corporate defendants.

liquid, tangible and intangible,³ will be divided evenly between the United States and the Court-Appointed Fiduciaries. As the parties have agreed, and with the exceptions noted below, the United States' portion of the divided assets will consist exclusively of liquid assets; all non-liquid assets will be allocated to the Court-Appointed Fiduciaries. It is

(C) FURTHER ORDERED, as the United States has agreed, that the United States has waived its right to the forfeiture of certain intangible assets (as described herein) and to any assets presently unknown to the parties that may subsequently be discovered or located; it is

(D) FURTHER ORDERED, as set forth below, that the United States Marshals Service and each of the Trustees shall file a notice to the Court advising the Court when each of them completes all of the requirements set forth in this Order, and that upon the filing of his respective notice, each of the Trustees will be discharged without further Order of the Court.

IT IS FURTHER ORDERED that the property now in the possession of the Marshals and the two court-appointed Trustees shall be disbursed as follows:

(1) The First American Trustee is currently in possession or control of four categories of assets:

³The remaining assets consist of liquid assets, such as cash, tangible non-liquid assets, such as chattels and real property, and intangible non-liquid assets, such as debts and judgments.

(a) Cash and cash equivalents held by First American Corporation ("FAC") and the First American Trustee (of which some portion is currently subject to reserves and therefore is not available for distribution in accordance with the Procedural Order);

(b) Unexecuted final judgments against six defaulted defendants entered on common law causes of action in *First American Corporation v. Al-Nahyan*, CA No. 93-1309 (JHG) (DDC)("Zayed") held by FAC;

(c) Unexecuted final judgments against six defaulted defendants entered on RICO causes of action in *Zayed* held by FAC; and

(d) A cause of action filed by FAC in Luxembourg against Price Waterhouse, former auditors to the BCCI Group.

(2) ~~The State Liquidation Trustee is currently in possession of cash and non-liquid~~ forfeited assets, as reflected in his regular reports to the United States and to the Court. These assets include, without limitation, judgments, causes of action, loans, and real property. The State Liquidation Trustee also is exposed to certain potential liabilities as Trustee for the United States.

(3) The Marshals are currently in possession of forfeited cash assets in the amount of approximately \$294 million, which have not previously been disbursed by order of this Court. In addition, there were certain assets listed on the First through Sixth Supplemental Lists of Forfeited Property that the Marshals were unable to recover.

(4) For purposes of paragraph 8, not later than 10 days after the entry of this Order, the First American Trustee will provide the Marshals with a schedule to be prepared by the First American Trustee and FAC of liquid and non-liquid assets in their possession or control. The First American Trustee will also provide the Marshals with a schedule of FAC's and the First American Trustee's known potential liabilities, a summary of the portion of the liquid assets and tangible non-liquid assets held in reserve for expenses, potential liabilities and contractual obligations and the reasons for the reserve. The purpose of having the First American Trustee provide these schedules and summary of the reserves to the Marshals is to allow the Marshals and the State Liquidation Trustee to make a fair calculation of the value of the liquid and non-liquid ~~assets to be divided between the United States and the Court-Appointed Fiduciaries~~ pursuant to the Plea Agreement. For the purpose of the division of assets between the United States and the Court-Appointed Fiduciaries, as described in paragraph 8, and in recognition of the reserves, the First American Trustee's cash assets described in paragraph 1(a) shall be considered non-liquid assets.

In preparing the schedule (and only for the purposes of this allocation), FAC shall assign no value to the assets described in paragraphs 1(b), (c) and (d).

(5) The United States has waived its right to distribution of the assets described in paragraphs 1(b) and (d). The United States has not waived its right to distribution of the

assets described in paragraphs 1(a) and (c), which include the RICO judgments set forth as follows:

DEFENDANT	JUDGMENT
Ghaith R. Pharaon	\$1.280 billion
Estate of Mohammed Mahmoud Hammoud	\$1.5 billion
Swaleh Naqvi	\$1.5 billion
Agha Hassan Abedi or his successors in interest	\$1.5 billion
Facial Saud Al-Fulaij	\$1.5 billion
Abdullah Darwaish	\$1.5 billion

The First American Trustee will transfer the RICO judgments to the United States pursuant to paragraph 9.

(6) For the purposes of paragraph 8, not more than 30 days after the First American Trustee provides the schedules referred to in Paragraph 4 to the Marshals, the State Liquidation Trustee and the Marshals will provide the Court, the Government, the First American Trustee and the Court-Appointed Fiduciaries with a schedule listing all liquid and non-liquid assets subject to the jurisdiction of the Court, including assets held by the Marshals, by the State Liquidation Trustee and by the First American Trustee.

The Marshals will include, as non-liquid assets, any property listed as subject to forfeiture on any of the amendments to the preliminary order of forfeiture that the Marshals have thus far been unable to collect. In preparing the schedule, the State Liquidation Trustee and the Marshals, after consultation with the Court-Appointed

Fiduciaries, will assign a reasonable dollar value to the non-liquid assets (except the assets described in paragraphs 1(b), (c) and (d)), and will include an offset representing the reasonable value of any reserves of the State Liquidation Trustee, the First American Trustee, and FAC. For purposes of this paragraph and Paragraph 8, the cash assets held by the First American Trustee that are described in Paragraph 1(a) will be considered one of the non-liquid assets, to the extent they are subject to reserves.

(7) The Superintendent of Banks of the State of New York continues to hold \$1,800,000 in surplus funds from the New York liquidation of BCCI, S.A. that was forfeited to the United States in the Sixth Order of Forfeiture. The right of the United States to receive those funds pursuant to the Order of Forfeiture will also be included as one of the non-liquid assets held by the State Liquidation Trustee for purposes of Paragraph 6. Thus, the \$1,800,000 may remain in the possession of the Superintendent until such time as the Superintendent needs to dispense all or part of the funds to satisfy outstanding liabilities, or determines that there is no longer any reason to hold the property in reserve, at which time the Superintendent will transfer the money, or whatever part of it remains, to the Court-Appointed Fiduciaries. Following the appointment of Robb Evans as Trustee for the Court Appointed Fiduciaries as set forth in paragraph 10, *infra*, the Superintendent will report on a quarterly basis to Mr. Evans concerning the status of these funds.

(8) Once the estimate of the value of the liquid and non-liquid assets referred to in Paragraph 6 is made, the United States and the Court-Appointed Fiduciaries will divide the assets pursuant to the Plea Agreement as follows: 50 percent of the assets (consisting exclusively of liquid assets) to the United States, and 50 percent of the assets (consisting of all non-liquid assets, all liabilities, and the balance of the liquid assets) to the Court-Appointed Fiduciaries. Such division of the assets will occur within 10 days of the production of the schedule referred to in Paragraph 6 is made, and will not require any further Order of this Court.

(9) The following assets are specifically exempted from the division of assets set forth in paragraph 8:

(a) The claims of State Liquidation Trustee against Udruzena Beogradska Banka ("UBB"), (*Robb Evans, Trustee v. Beogradska Banka d.d.*, 97 CIV 21570 (LMM) (S.D.N.Y.)),⁴ and Rafidain Bank (*Robb Evans, Trustee v. Rafidain*, 95 CIV 6326 (LAP) (S.D.N.Y.)).⁵ Because these claims may ultimately be paid out of funds blocked by the Office of Foreign Asset Control, they may only be recoverable if they remain in the

⁴ This claim arises from a number of bills of exchange, approved and accepted by UBB and maturing August 26, 1991. Payment was never made. U.S. Treasury Regulations blocking transactions with the former Yugoslavia may prevent payment from U.S. resources at this time, but there is no bar on payment from foreign resources.

⁵ The claim arose out a letter of credit transactions and has been reduced to judgment by the State Liquidation Trustee. Because the debtor is an Iraqi bank, the claim may be payable out of funds blocked in the United States by the Office of Foreign Asset Control. There is, however, no claims process in place for the distribution of these funds to appropriate claimants. It is expected that a claims process will be instituted within the next few years.

possession of the United States or another U.S. national. Accordingly, the parties have agreed that these assets will be transferred to the United States within 30 days of the entry of the final Order of Forfeiture. At such time as these claims are liquidated by the United States or its designees, the liquidated proceeds shall be divided evenly between the United States and the Court Appointed Fiduciaries pursuant to the Plea Agreement without further Order of this Court.

(b) The RICO judgments held by FAC, described in Paragraph 5, will be transferred in their entirety to the United States within 30 days of the entry of this Order. The United States and the Court Appointed Fiduciaries will consult to determine the most efficient means of enforcing any judgments.⁶ At such time as any or all of those assets are liquidated by the United States or its designees, the liquidated proceeds shall be divided evenly between the United States and the Court Appointed Fiduciaries pursuant to the Plea Agreement without further Order of this Court.

(10) Except as provided in Paragraph 8, and except for the assets under the control of the First American Trustee which will be disbursed as provided in Paragraph 11, the State Liquidation Trustee will initially take possession and control of the Court Appointed Fiduciaries' share of the liquid and non-liquid assets as this Court's Trustee. As described in the Court Appointed Fiduciaries' submission concerning the orderly transition of forfeited assets, which was filed along with the Government's Motion for a

⁶ The United States may appoint the Court Appointed Fiduciaries to collect one or more of the judgments on its behalf.

Final Order of Forfeiture, the State Liquidation Trustee will then transfer the Court Appointed Fiduciaries' share of the liquid assets as directed by the Court Appointed Fiduciaries, and will take possession of the remaining assets as Trustee for the Court Appointed Fiduciaries pursuant to a Trust Agreement agreed by Mr. Evans and the Court Appointed Fiduciaries. As Trustee for the Court Appointed Fiduciaries, Mr. Evans will take all steps necessary to effect the transfer of the assets including execution of appropriate assignments, deeds, and other documents. Upon the transfer of the assets to Mr. Evans in his capacity as Trustee for the Court Appointed Fiduciaries, his Trusteeship for this Court and the United States will be terminated.

(11) Except as provided in Paragraph 9(b), the First American Trustee will transfer within 10 days of the delivery of the schedule described in paragraph 6, supra, the following:

(a) Consistent with the supplemental private letter ruling from, and the closing agreement with, the Internal Revenue Service, dated June 29, 1999, the assets described in paragraphs 1(a), (b) and (d), above, will remain in FAC and will be transferred by the First American Trustee to the Court Appointed Fiduciaries through a transfer of all right, title and interest in the shares of FAC as represented by the FAC share certificate issued to the First American Trustee on June 23, 1992 (the "FAC Shares") to BCCI Holdings (Luxembourg) S.A. Pursuant to the Order Appointing Trustee and the Procedural Order, the First American Trustee has the right and power to dispose of the FAC Shares, subject

to this Court's approval and consistent with the purposes of his appointment. It is the collective view of the United States, the Board of Governors of the Federal Reserve, the Court Appointed Fiduciaries and the First American Trustee that the FAC Shares should be transferred to BCCI Holdings (Luxembourg) S.A., the ultimate parent of the BCCI Group, to allow the Court Appointed Fiduciaries to continue to realize First American's assets for the benefit of the creditors and depositors of the BCCI Group.

(b) As a condition precedent to the transfer of these shares, the United States has consented to the transfer and has waived any interest it has in future distributions from FAC or the First American Trustee. The Board of Governors and the Federal Reserve Bank of New York also have waived any future interest they may have in distributions from FAC or the First American Trustee pursuant to the "Geneva Agreement" and the "Clifford and Altman Settlement".

(12) On or before September 30, 1999, the First American Trustee shall file his final report to the Court and complete any other requirements set forth in the Order Appointing Trustee, dated June 23, 1992, and the Procedural Order, dated December 21, 1994.

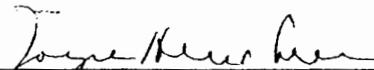
(13) The State Liquidation Trustee, the First American Trustee and the Marshals shall each file a notice to the Court advising the Court that each of them has completed all of the requirements set forth in the Order, and that upon the filing of their respective

notices, each of the Trustees are hereby discharged from any further duties or obligations without further Order of the Court. And it is

FURTHER ORDERED that all materials previously filed under seal in this matter shall be unsealed forthwith.

IT IS SO ORDERED.

July 2, 1999, 2:45 p.m.



JOYCE HENS GREEN
United States District Judge

TAB 2

BCCI GROUP

Statement of Financial Outcome

		US\$m
Receipts		
Global Recoveries	(Schedule 1)	4,765
Domestic Recoveries	(Schedule 2)	2,706
Interest Income		<u>1,130</u>
Total Receipts		<u>8,601</u>
Disbursements		
Liquidators' Fees	(Schedule 3)	620
Other Costs	(Schedule 4)	681
Legal Fees	(Schedule 5)	<u>410</u>
Total Disbursements		<u>1,711</u>
Net Receipts		<u>6,890</u>
Value of Admitted Claims	(Schedule 6)	<u>8,492</u>
Dividend Payments	(Schedule 7)	
Interim Dividends		6,616
Final Dividend		<u>274</u>
Total Dividends		<u>6,890</u>

The figures are compiled as at 30 November 2011 and include accruals and provisions for future costs. Minor adjustments could be made to increase the amount included in the final dividend (C18.4). Further explanations and commentary are provided in the schedules below.

BCCI GROUP
Summary of Global Recoveries

	Section Ref	Recovery	
		US\$m	US\$m
Government of Abu Dhabi	C4.2		2,194
US Recoveries			
US Plea Agreement	C5.2	1,096	
Geneva Agreement	C5.3	<u>173</u>	1,269
Recoveries from Claims - Disclosable			
Kuwait Finance House	C8.3	93	
Auditors	C11	195	
Ghaith Pharaon	C13.3	175	
Virani	C13.6	25	
Gulf Group*	C13.7	19	
American Express	C13.10	9	
Hammoud	C13.12	5	
Shaik	C13.13	5	
Attock Cement	C13.15	3	
Al Sharqi	C13.16	3	
Akbar/Capcom	C13.17	2	
KIFCO	C15.2	23	
BCP	C15.2	<u>2</u>	559
Total Recoveries from other Claims – Confidentiality Agreements and sundry others	C9		
Mahfouz Parties	C13.1	}	
Bank of America/SPIB	C13.2		
Adham	C13.5		
BAII	C13.8		
Clifford & Altman and Baldwin Tuttle	C13.9		
Bryce and others	C13.11		
Al Fulaij	C13.14		
Sundry others			
TOTAL			<u>4,765</u>

*Additional recoveries from the Gulf Group were recorded as domestic recoveries within the Cayman Liquidations giving a total recovery across all estates of US\$86 million.

BCCI GROUP
Summary of Domestic Recoveries

	US\$m
Receipts	
BCCI Holdings	38
BCCI SA Luxembourg	659
BCCI SA England	1,562
BCCI Overseas	393
CFC	3
ICIC	<u>51</u>
TOTAL	<u>2,706</u>

Domestic Recoveries include any net assets received from individual branches whether pooling or non-pooling. This statement does not, however, incorporate any analysis of the receipts or disbursements of branch liquidations beyond those received or incurred through the Cayman, Luxembourg and English estates.

BCCI GROUP
Summary of Liquidators' Fees

	US\$m
BCCI Holdings	7
BCCI SA Luxembourg	43
BCCI SA England	375
BCCI Overseas	183
CFC	2
ICIC	10
	<hr/>
TOTAL	<u>620</u>

Comments

1. The size (370 branches/subsidiaries/affiliates in some 71 countries) complexity and duration (c.21 years) of the global liquidation, involving the investigation of widespread fraud and litigation in multiple jurisdictions, have led to substantial costs.
2. This level of fees must also be considered against the backdrop of the nature of the recoveries made. The major recoveries, in particular those listed in Schedule 1, and withdrawal of significant claims arose only after extensive investigation in various areas and subsequent negotiations or litigation.
3. The Liquidators' fees in England are significantly higher than in other estates for the following reasons:
 - The main business and core branch network of the BCCI Group was centred in England. The English legal system also allowed for significant claims both by the Liquidators (fraudulent trading) and against the liquidation estates. On the closure of BCCI, there were therefore, of necessity, high levels of activity in or operated from England;
 - Costs of global projects were, as from 1993, shared and borne by the global estates in agreed portions as set down in the Global Cost and Recovery Sharing Agreement (C3.5). The English estate bore the largest single proportion with 48.75% (reflecting its relative significance in terms of liquidation activity) followed by the Cayman estates with 36.625%, and the Luxembourg estates with 14.625%;
 - In 2008, following the completion of most global projects, the Global Cost and Recovery Agreement was terminated. Uncompleted global projects such as Khalil were continued with costs being borne by the individual estates administering the projects. At the time of the termination of this Agreement there were unresolved issues between the estates regarding the transfer of funds between them. Principally as a result of these issues, there were outstanding balances in the region of US\$100 million (representing costs properly authorised and incurred) recorded as being due by the Luxembourg and Cayman estates to the English estate in its capacity as Paying Agent under this Agreement (C3.6). As all estates will have access to the funds they require to pay the estimated final dividend, and

as these issues had no impact on the net funds available for distribution to creditors, the English Liquidators concluded that costs should not be incurred in seeking settlement of these outstanding balances. The balances are therefore reflected as additional costs borne by the English estate;

- The Luxembourg Liquidators generally did not use staff from their own firms. Their staff costs are not categorised as "Liquidators' Fees" but are included in "Other Costs" on the Financial Outcome Statement and in Schedule 4.
4. Fees charged by all Deloitte partners and staff are categorised in England and Cayman as "Liquidators' Fees" and are approved within these jurisdictions. Luxembourg recorded fees for Deloitte partners and staff under "Other Costs" - see Schedule 4, Note 1.
 5. Fees and costs have not been allocated to each individual activity in this report. The main reasons for this are as follows:
 - During its trading life BCCI operated as a US Dollar denominated bank. Its co-ordinated global liquidation has also been conducted in US Dollars with creditor claims converted into, and admitted in, US Dollars, and all dividends calculated and paid in US Dollars;
 - Significant costs were incurred, and paid, over many years in various currencies, notably in £ Sterling and Euros. Aggregate costs were converted on a monthly basis into US Dollars for the purposes of presenting the combined financial information for the global liquidation;
 - The numerous, and at times significant, fluctuating exchange rates which have applied over the period when these costs were paid in local currencies led the Liquidators to conclude that it was neither a cost effective nor useful exercise to seek to report the costs of all individual activities in US Dollars;
 - A true comparison of realisations and costs would be further complicated by the fact that realisations are also largely reported in US Dollars even though actual realisations were in various currencies;
 - A number of significant activities involved overlapping investigations within individual liquidation estates, and across different liquidation estates. As between different liquidation estates costs were not necessarily analysed in the same manner, particularly prior to the implementation of the Global Cost and Recovery Sharing Agreement which only operated from January 1993 (C3.5);
 - Many of the activities also required significant strategic and management time from Liquidators which, in a number of cases, will have been recorded under their roles in overseeing and co-ordinating the global liquidation rather than against individual activities.
 - Discounts against hourly rates and specific invoices were negotiated from time to time and separately in different liquidation estates. In the early years, overall discounts were negotiated retrospectively and after original invoices had been raised. The discounts were not then allocated against individual activities and projects.

SCHEDULE 4

BCCI GROUP Summary of Other Costs

Summary	Total
	US\$m
Additional Liquidators' / Legal / Other (Note 1)	69
Liquidation Expenses (Note 2)	44
Other Professional Fees and Expenses (Note 3)	32
Staff Costs (Note 4)	87
Premises and Other Costs (Note 5)	167
Liquidation / Creditor Committee Costs (Note 6)	10
Net VAT and Government Fees (Note 7)	81
Payments under Global Settlement Agreements (Note 8)	191
TOTAL	<u>681</u>

Notes

1. These include amounts paid by the English estate as Paying Agent on behalf of other estates and additional Deloitte and legal professional fees either recorded in the Luxembourg estates as "global costs" or "domestic costs".
2. These include expenses incurred by liquidation staff on accommodation, subsistence, and travel in dealing with the global liquidation in numerous jurisdictions.
3. These include other professional fees such as property valuers, auditor fees in the Luxembourg estates, US tax advisers and advertising costs.
4. These include the full payroll costs of staff directly employed in the liquidation.
5. These include rents, utilities, rates, security, document storage.
6. These include the costs of independent legal advice to Committees in the various jurisdictions.
7. These include fees paid to the Insolvency Service in the UK and irrecoverable VAT.
8. These include the payment made towards the Bank of England costs on terminating the claim (C10.1) and the payment made in order to reconstitute the Employee Staff Benefit Trusts (C6.4).

SCHEDULE 5

BCCI GROUP SUMMARY OF LEGAL FEES

	Total
	US\$m
BCCI Holdings	2
BCCI SA Luxembourg	25
BCCI SA England	243
BCCI Overseas	128
CFC	1
ICIC	11
	<hr/>
TOTAL	<u>410</u>

Comments

1. These represent legal costs and disbursements covering all domestic activities and global projects. Luxembourg recorded legal fees on global projects under "Other Costs" - see Schedule 4, Note 1. This global report and the separate domestic reports for individual estates contain some details and commentary on legal fees incurred.
2. The legal costs are substantial for the same reasons as detailed in Schedule 3 as regards the Liquidators' costs.
3. Likewise the relatively higher level of UK legal costs have occurred for the reasons detailed in Schedule 3 as regards the Liquidators' costs in the UK.

SCHEDULE 6**BCCI GROUP
SUMMARY OF CREDITOR CLAIMS**

	Claims Admitted	
	Number	Value US\$m
BCCI Holdings	13	177
BCCI SA Luxembourg (Note 1)	24,990	2,712
BCCI SA England (Note 2)	39,431	2,559
BCCI Overseas (Note 1)	9,510	2,844
CFC	29	136
ICIC	95	64
TOTAL	<u>74,068</u>	<u>8,492</u>

Notes

1. BCCI SA Luxembourg and BCCI Overseas figures include claims filed originally with UAE, Bahrain, Cyprus, Japan (four pooling branches of BCCI SA) and China (the sole pooling branch of BCCI Overseas).
2. BCCI SA England includes claims originally filed with Scotland and Isle of Man.

SCHEDULE 7**BCCI GROUP****SUMMARY OF DIVIDENDS**

Claim Category	Claims Admitted	Total Dividend	Dividend Rate
	US\$m	US\$m	
Preferential claims (Note 1)	10	10	100.00%
Ordinary claims	6,326	5,698	90.0586%
Claims entitled to reduced dividend (Note 2)	<u>2,156</u>	<u>1,182</u>	(various)
	<u>8,492</u>	<u>6,890</u>	

Notes

1. These are claims which have been paid in full whether through their preferential status under local statute or by virtue of the small creditors' scheme implemented in Cayman.
2. This reflects creditors who have entered into agreements under which they have agreed to receive reduced dividends (C18.3). It also reflects creditors who have received dividends from non-pooling branches and who, accordingly, receive lower dividends from the pool.

APPENDICES

APPENDIX 1

BCCI HOLDINGS CONSOLIDATED ACCOUNTS - PRE-CLOSURE

BALANCE SHEET

	Management Accounts Unaudited June 1991 US\$'000	Unaudited December 1990 US\$'000	Audited December 1989 US\$'000
ASSETS			
Cash and due from banks	3,867,801	5,064,885	8,787,927
Certificates of deposit	511,314	653,899	1,657,210
Investments in securities and other dealing assets	1,460,641	1,418,686	1,931,905
Loans and advances (less provision for loan losses)	10,183,068	10,800,221	10,235,448
Accrued interest	153,052	247,591	359,546
Investment in affiliates	8,547	8,739	65,339
Property and equipment	217,306	243,712	245,666
Other assets	582,379	217,208	235,526
TOTAL ASSETS	16,984,108	18,654,941	23,518,567
LIABILITIES			
Demand deposits	2,386,678	2,728,850	3,595,507
Savings and time deposits	10,810,240	12,437,782	14,857,108
Due to banks	2,693,812	2,497,165	3,242,583
Floating rate notes	-	-	27,650
Accrued interest on deposit and other funds	77,805	239,394	339,177
TOTAL DEPOSITS AND OTHER FUNDS	15,968,535	17,903,191	22,062,025
Provision for taxes	65,699	71,698	68,733
Other liabilities	694,091	369,648	313,214
TOTAL LIABILITIES	16,728,325	18,344,537	22,443,972
CAPITAL FUND			
Issued and paid up shares (deficiency)	844,750	844,750	744,750
Legal reserves	52,509	53,257	51,954
Retained earnings and other reserves	(1,248,857)	(1,183,980)	(372,585)
SHAREHOLDERS' EQUITY	(351,598)	(285,973)	424,119
Subordinated capital notes	462,100	462,100	517,000
Minority interests	145,281	134,277	133,476
TOTAL CAPITAL FUND	255,783	310,404	1,074,595
TOTAL LIABILITIES AND CAPITAL FUND	16,984,108	18,654,941	23,518,567

APPENDIX 2

BCCI SA CONSOLIDATED ACCOUNTS - PRE-CLOSURE

BALANCE SHEET

	Management Accounts June 1991 US\$'000	Unaudited December 1990 US\$'000	Audited December 1989 US\$'000
ASSETS			
Cash due from banks	1,803,633	2,641,830	4,465,079
Certificates of deposit	239,325	305,303	523,346
Investments in securities and other dealing assets	59,760	59,698	73,662
Loans and advances (less provision for loan losses)	3,812,505	4,157,205	3,843,818
Accrued interest	67,072	80,113	111,434
Investment in subsidiaries	58,007	36,482	35,680
Property and equipment	77,811	92,984	96,522
Other assets	165,784	32,298	41,179
TOTAL ASSETS	6,283,897	7,405,913	9,190,720
LIABILITIES			
Demand deposits	879,234	911,170	1,060,135
Savings and time deposits	4,630,773	5,753,111	6,457,901
Due to banks	485,702	500,069	955,507
Floating rate notes	-	-	-
Accrued interest on deposits and other funds	65,503	94,108	120,089
TOTAL DEPOSITS AND OTHER FUNDS	6,061,212	7,258,458	8,593,632
Provision for taxes	21,854	25,574	15,789
Other liabilities	188,627	83,935	46,129
TOTAL LIABILITIES	6,271,693	7,367,967	8,655,550
CAPITAL FUND			
Issued and paid up shares	307,500	307,500	307,500
(deficiency)	-	-	-
Legal reserves	7,842	7,842	7,842
Retained earnings and other reserves	(488,138)	(462,396)	34,828
SHAREHOLDERS' EQUITY	(172,796)	(147,054)	350,170
Subordinated loan capital	185,000	185,000	185,000
Minority interests	-	-	-
TOTAL CAPITAL FUND	12,204	37,946	535,170
TOTAL LIABILITIES AND CAPITAL FUND	6,283,897	7,405,913	9,190,720

APPENDIX 3

BCCI OVERSEAS CONSOLIDATED ACCOUNTS - PRE-CLOSURE

BALANCE SHEET

	June 1991 US\$'000	Management Accounts Unaudited December 1990 US\$'000	Audited December 1989 US\$'000
ASSETS			
Cash due from banks	1,415,212	1,714,960	3,301,399
Certificates of deposit	186,255	260,542	1,046,778
Investments in securities and other dealing assets	965,131	967,747	1,334,617
Loans and advances (less provision for loan losses)	4,021,322	4,035,435	3,006,676
Accrued interest	-	93,380	151,021
Investment in subsidiaries	-	-	-
Property and equipment	43,832	50,285	57,205
Other assets	188,708	79,032	79,644
TOTAL ASSETS	6,820,460	7,201,381	8,977,340
LIABILITIES			
Demand deposits	529,228	646,739	778,460
Savings and time deposits	2,160,914	2,345,669	3,386,547
Due to banks	3,923,035	3,942,093	4,119,375
Floating rate notes	-	-	-
Accrued interest on deposits and other funds	-	80,786	138,461
TOTAL DEPOSITS AND OTHER FUNDS	6,613,177	7,015,287	8,422,843
Provision for taxes	39,497	31,767	22,314
Other liabilities	247,284	152,704	107,561
TOTAL LIABILITIES	6,899,958	7,199,758	8,552,718
CAPITAL FUND			
Issued and paid up shares	450,000	450,000	450,000
Proposed stock dividend	-	-	-
Legal reserves	-	-	-
Retained earnings and other reserves	(654,498)	(573,377)	(150,378)
SHAREHOLDERS' EQUITY	(204,498)	(123,377)	299,622
Subordinated loan capital	125,000	125,000	125,000
Minority interests	-	-	-
TOTAL CAPITAL FUND	(79,498)	1,623	424,622
TOTAL LIABILITIES AND CAPITAL FUND	6,820,460	7,201,381	8,977,340