

Report To: Scheme Creditors of the  
Bermuda Fire & Marine  
Insurance Company  
Limited

24 March 2006

Direct Line: 020 7951 9838  
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Dear Sirs

## **THE BERMUDA FIRE & MARINE INSURANCE COMPANY LIMITED (IN LIQUIDATION) (“BFMIC”)**

### **INTRODUCTION**

We are writing to provide you with an update on developments with the BFMIC Scheme of Arrangement. We have previously provided policyholders and Scheme Creditors with information on the conduct of the liquidation and implementation of the BFMIC Scheme of Arrangement including letters dated 27 August 1999 and 3 August 2001, and the Explanatory Statement accompanying the proposed Amending Scheme of Arrangement dated 15 April 2004. Copies of these documents, and other relevant information is available on the BFMIC website at [www.bfmic.bm](http://www.bfmic.bm).

### **Amending Scheme of Arrangement**

Meetings of General Scheme Creditors and Protected Scheme Creditors were held in Hamilton Bermuda on 18 May 2004, and both classes of Scheme Creditor voted in favour of the Amending Scheme of Arrangement. The Amending Scheme of Arrangement was sanctioned by both the Bermuda and UK courts on 18 June 2004, and became effective on 25 June 2004. In addition, the US Bankruptcy Court made an Order amending and confirming its permanent injunction under S304 of the United States Bankruptcy Code on 23 June 2004.

The Bar Date, as set out in the Restated Scheme, for submitting Scheme Claims and Supporting Information was 29 September 2004. Subsequently, BFMIC and its run-off agent KWELM Management Services Limited, worked with policyholders and Scheme Creditors to determine each Scheme Creditor's Established Scheme Liability in accordance with section 8 of the Restated Scheme.

By 31 December 2005, the vast majority by number and value of Scheme Claims had been resolved.

### **Substantive Closure Distribution**

As a result of progress made with the determination of Scheme Claims arising from the Bar Date, and additional asset collections by BFMIC, the Joint Liquidators were able to revise the Scheme Payment Percentage from 40% to 50% on 1 June 2005. Total Scheme Payments made to Scheme Creditors in 2005 were \$76.098 million.

By 31<sup>st</sup> December 2005, the Joint Liquidators were satisfied that the determination and Adjudication of Scheme Claims was sufficiently advanced to enable the Substantive Scheme Distribution to be made as provided for in section 8.7 of the Restated Scheme. The Joint Liquidators sought and obtained approval from the Committee of Inspection to a Substantive Closure Distribution percentage of 82%, with a substantive closure distribution date of 24 March 2006.

Enclosed with this report is a cheque and schedules setting out your entitlement to a Substantive Closure Distribution, including any entitlement you have to Adjusting Payments.

In this regard, the Joint Liquidators note that some payments to Scheme Creditors have been adjusted to reflect the application of clause 3.3.2 of the Restated Scheme. This clause states that BFMIC shall not be liable to make any payment to a Scheme Creditor in respect of an Established Scheme Liability to the extent that cumulative Scheme Payments, including Adjusting Payments would exceed 100% of that Established Scheme Liability. This restriction will also apply to any further Scheme Payments made up to and including the Ultimate Distribution.

### Ultimate Distribution

As set out in this letter, BFMIC has retained, subsequent to the Substantive Closure Distribution, approximately \$16 million. In addition, the Joint Liquidators are continuing to pursue and collect BFMIC assets, including reinsurance assets. As a result it is likely that BFMIC will make further distributions, as part of the Ultimate Distribution. In this regard, the Joint Liquidators are of the view that the Ultimate Distribution is unlikely to be paid in full before 31 December 2008, and may not be paid in full before 31 December 2011.

The Joint Liquidators note that Adjusting Payments are not to be made in relation to any payments made as part of the Ultimate Distribution.

### Receipts and Payments

	\$m
Unrestricted Cash at Outset (2 November 1993)	2
Asset recoveries to 31 December 2005	
Cumulative Reinsurance Recoveries	302
Net Investment Income and Gains	65
Net Litigation Recoveries	28
Other Asset Recoveries	<u>15</u>
	412
Run Off and Other Expenses to 31 December 2005	<u>(32)</u>
<b>Net Funds Realised for the Benefit of Scheme Creditors</b>	<b>380</b>
Scheme and Other Payments to Creditors pre SCD	(227)
Substantive Closure Distribution (“SCD”)	(149)
Net Realisation of Assets 1 Jan 2006 to 24 March 2006	<u>12</u>
Net Cash Retained by BFMIC as at 24 March 2006	16

The cash funds retained by BFMIC, and any further asset recoveries made by the Joint Liquidators are to be set aside by the Joint Liquidators to provide for future costs of the liquidation and to provide for any obligation of BFMIC to Released Parties, as provided for in section 9.4 of the Restated Scheme. In this regard, the Joint Liquidators note that recoveries from reinsurers will

continue to be vigorously pursued (by negotiation where possible, but by litigation and arbitration where necessary) as long as it continues to be economically viable to do so.

From time to time, the Joint Liquidators will review the retained assets of the estate with the Committee of Inspection and may make interim Ultimate Distribution payments to Scheme Creditors, as appropriate.

### Established Scheme Liabilities

As at 31 December 2003, and as reported in the Explanatory Statement to the Amending Scheme, Established Liabilities and agreed liabilities of BFMIC were \$255 million. Subsequently, including liabilities Established as a result of claims by the Bar Date, a further \$156 million has been Established. The total Established Scheme Liabilities of BFMIC, entitled to share in the Substantive Closure Distribution and the Ultimate Distribution are approximately \$411 million.

The total Established Scheme Liabilities are materially lower than those actuarially estimated at the time the Amending Scheme was proposed. As a result of the lower than anticipated Scheme Liabilities, and effective asset recoveries, the Substantive Closure Distribution percentage is substantially higher than that projected in the Amending Scheme Explanatory Statement.

### Further Enquiries

If you have any queries arising out of the enclosed cheque and/or the information accompanying the cheque, you are invited to contact:

KWELM Management Services Limited  
John Stow House  
18 Bevis Marks  
London EC3A 7JB  
England

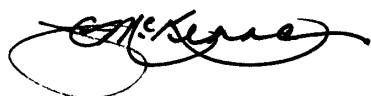
Tel: +44 (0) 20 7645 4700  
Fax: +44 (0) 20 7645 4700

E-mail: [creditor.helpdesk@bfmic.bm](mailto:creditor.helpdesk@bfmic.bm)

If you have any general queries relating to the content of this letter or the Liquidation, you are invited to contact:

<p>The Bermuda Fire &amp; Marine Insurance Company Limited (In Liquidation) c/o Ernst &amp; Young 1 More London Place London SE1 2AF England</p> <p>Attention: Mr. Mark Adams</p>	<p>Tel: +44 (0) 20 7951 2000 Fax: +44 (0) 20 7951 9002</p> <p>E-mail: <a href="mailto:madams@uk.ey.com">madams@uk.ey.com</a></p>
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Yours Faithfully



John C McKenna  
Joint Liquidator



Gareth H. Hughes  
Joint Liquidator