

Gable Insurance AG in liquidation

Interim Report of the Trustee in Bankruptcy as at 31 December 2023

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1 Introduction

The present 8th interim report of the Trustee in Bankruptcy relates to the 2023 calendar year (reporting period). It builds on the previous seven interim reports.

The General Review Hearing was continued on 26 May 2023. The Trustee in Bankruptcy has thus now made a declaration in respect of (*i.e.* admitted or - partially - contested) 13,442 claims in the amount of CHF 257.6 million and it has admitted CHF 113.7 million as (privileged) insurance claims. Another 279 claims in the amount of approximately CHF 82.2 million in respect of which the Trustee in Bankruptcy has not yet made a declaration have currently (as of 31 December 2023) been registered. In total, 13,721 claims in the amount of CHF 339.8 million have thus been registered in the bankruptcy proceedings so far.

In the reporting period, approximately CHF 584,000 in premium payments which have not yet been passed on could be made collectible and GBP 964,000 in reinsurance benefits could be realised. Against the liabilities, there are currently assets which in their realised form (liquid assets and investments) amount to approximately CHF 78.0 million (as of 31 December 2023).

In the reporting period, the Trustee in Bankruptcy has also been involved in various court proceedings. On the one hand, the purpose of them is to make assets collectible. Of particular note are the liability proceedings against two former directors in London and the proceedings against a former coverholder / its liability insurer in Paris to achieve the release of premium payments which have not yet been passed on. On the other hand, their purpose is to serve as defence against claims which, in the view of the Trustee in Bankruptcy, are not justified and which it has contested in the course of the previous General Review Hearings (either with regard to the ground for such claims or with regard to the amount thereof or with regard to their order of precedence/classification). These legal actions to assert contested claims („Anordnungsklagen“) have been brought in Liechtenstein. In the reporting period, four new such legal actions were filed. One of such actions ended with a judgment in favour of the plaintiff, another one was declared to be withdrawn upon application by the Trustee in Bankruptcy. In light of the fact that in early February 2024, a now definite and final judgement in favour of the bankrupt company was rendered, five review proceedings are currently (as of 19 April 2024) pending.

2 Assets

The assets of the bankrupt company are composed of cash at bank and securities, of outstanding claims arising from the insurance business, in particular reinsurance benefits, and of responsibility claims (if any). They are described below.

2.1 Cash at banks and securities

As laid out in detail in the 2022 Interim Report, a profound change in the investment environment caused the Trustee in Bankruptcy to review the existing investment strategy and to adjust the same with regard to the now comparatively very attractive returns for investments with an average rating of A. On the basis of an independent analysis, the Trustee in Bankruptcy has also decided to invest only and directly in fixed-income investments and to refrain from a partial diversification in other investment classes such as shares.

As a consequence, during the reporting period, both the share portfolio had, by the end of the year, been completely reduced in stages, all collective investments (funds) were liquidated and the liquid funds from mature bond investments were invested in instruments with a significantly higher interest amount / in short-term money market investments. In this context, the Trustee in Bankruptcy is pursuing what is called a “buy-to-hold” strategy with short remaining maturities (1 to 3 years) in order to rule out the risk of possible price losses towards the end of the bankruptcy proceedings / prior to the payment of the bankruptcy dividend.

In the course of 2023, both the equity markets and the interest development had a significantly positive effect on the bankrupt company's fixed assets. In total, a net market return of 5.0% could be realised. In CHF this is an amount of 3.7 million. However, in the reporting period, the performance was adversely affected by the rate development of the accounting currency GBP against the larger positions in EUR, NOK and DKK. Finally, this resulted in an absolute return of 2.9% / an amount of CHF 2.2 million in the entire investment portfolio. In this context, the realised interest income and the book gains from the renewed increase in bond prices were roughly balanced.

The Trustee in Bankruptcy continues to believe that with the investment strategy adjustments mentioned above nominal net returns of around 3.0% p.a. may be generated in the coming years.

In addition to the monthly review of the investment performance, there are semi-annual meetings with the LLB asset managers.

The bankrupt company's financial situation (cash at bank and securities) has developed in CHF as set out below since the previous report (as of 31 December 2023):

Liechtensteinische Landesbank AG (LLB)

Investment class	31/12/2023	31/12/2022	Δ in currency	Δ in %
Liquidity	CHF 3,094,290.17	CHF 2,241,764.10	CHF 852,526.07	38.0%
Investments	CHF 74,957,212.07	CHF 74,223,560.82	CHF 733,651.25	1.0%
Total	CHF 78,051,502.24	CHF 76,465,324.92	CHF 1,586,177.32	2.1%

2.2 Outstanding claims arising from the insurance business

The outstanding claims arising from the insurance business are composed, on the one hand, of the insurance premiums which have been collected by the coverholders, but have not yet been passed on to the bankrupt company, and, on the other hand, of the claims against reinsurance undertakings.

2.2.1 Claims against coverholders

The premiums not passed on by the coverholders to the bankrupt company are termed "trapped funds". In the interim balance sheet as at 30 June 2016 on a going concern basis and at liquidation values, relevant claims of the bankrupt company against the coverholders in the amount of approximately CHF 85.0 million were stated. In the previous reports, the Trustee in Bankruptcy described the largely lacking value of this asset item.

In the reporting period and in cooperation with the run-off manager Enstar, the Trustee in Bankruptcy continued to conduct the assessment of all former coverholders of the bankrupt company with regard to trapped funds. The Trustee in Bankruptcy had started to conduct the said assessment in the past year. Fortunately, the situation of the English brokers could be brought to a conclusion. For this purpose, intensive negotiations were needed, and in four cases they led to the determination of the outstanding premium payments and the

subsequent collectability of the relevant amounts. Two cases had to be closed without any returns for the benefit of the bankrupt company, after the coverholders had provided information and documents to settle the outstanding positions and after the amount of the claims determined after a thorough investigation did not justify taking legal action.

In the reporting period, payments in the amount of approximately CHF 584,000 could be effected, as a result of which the total amount of the hitherto collected trapped funds rose to approximately CHF 5.7 million.

At the end of the reporting period, only two claims were still in the process of being handled. The first one is against the coverholder in France through which the major part of the bankrupt company's business in France had been handled. The legal proceedings brought against it in France continues to be pending. The second claim is against the former Norwegian brokers of the bankrupt company. While the justification and the amount of these claims is not disputed, there is some disagreement as to whether the requirements are met so that the said amount may be set off against premium repayments made by the brokers to the former policyholders of the bankrupt company. Regarding this issue, the Trustee in Bankruptcy is in talks with the legal counsel of the adverse parties. In 2024, the Trustee in Bankruptcy will continue its efforts to finalise these two cases.

2.2.2 Claims against reinsurance undertakings

As of 31 December 2023, the bankrupt company received a total of approximately GBP 32.4 million in reinsurance benefits. During the reporting period, reinsurance benefits in the amount of approximately GBP 964,000 were collected.

The requirements for the payment of the reinsurance benefit by Barbican Specialty Reinsurance (BSR), the QS reinsurer of the Danish construction damage liability insurance business, in respect of which an agreement was reached in 2022, have been fulfilled almost completely during the reporting period. The Trustee in Bankruptcy expects to receive these sums in the near future.

In terms of their amount, the claims of the bankrupt company against its reinsurers by far represent the largest asset which has not yet been realised. At the moment, reinsurance claims in the total amount of approximately GBP 26.7 million have been reserved.

2.3 Liability claims

In its previous report, the Trustee in Bankruptcy informed about the indictment by the Liechtenstein Public Prosecutor's Office of the former President of the Board of Directors and the former director and manager of the bankrupt company. The trial was scheduled / adjourned to take place on 19 August 2024 (expected duration of the trial: ten days). As a civil claimant, the bankrupt company / its Trustee in Bankruptcy is a party to the proceedings.

As described in the most recent interim report, legal action to assert liability claims against the above-mentioned two former directors of the bankrupt company has been taken in London, and the Trustee in Bankruptcy is represented in such proceedings by an English law firm. The assertion of the liability claims in court proves to be complex and time-consuming. Various court hearings which concern procedural aspects have been held to date.

3 Liabilities

In the reporting period, the General Review Hearing could be continued on 26 May 2023. During the fourth court hearing in total, as part of the General Review Hearing, the Trustee in Bankruptcy made a declaration to the Bankruptcy Court on the correctness and order of precedence of a total of 915 claims (damage claims and premium repayment claims) in the amount of approximately CHF 106.6 million¹. The Trustee in Bankruptcy has thus now made declarations with regard to 13,442 claims amounting to CHF 257.6 million. The admitted claim sum amounts to CHF 141.3 million, of which CHF 113.7 relate to (privileged) insurance claims. In light of the fact that the bankrupt company, as of 31 December 2023, has realised assets in the amount of approximately CHF 78.0 million, it appears to be quite certain that (non-privileged) bankruptcy claims cannot be satisfied.

At the moment (as of 31 December 2023), 279 claims in the amount of approximately CHF 82.2 million have been registered. The Trustee in Bankruptcy has not yet made a declaration in respect of them. In total, 13,721 claims amounting to CHF 339.8 million² have thus been lodged in the bankruptcy proceedings. The number of claims which have not yet been assessed at all or which have not yet been assessed completely could thus be significantly reduced. The fact that the claim sum compared to the number of claims is very high is due to the fact that these claims include insurance claims which are asserted by the most important creditors of the bankrupt company and the values of which are high. First and foremost, these are claims by national guarantee schemes the claims of which consolidate hundreds or (ten) thousands of individual claims. In addition, a great number of claims which have not yet been assessed are complex by nature, and in some cases relevant court proceedings are also pending, and the amounts of such claims are high. It is obvious that the decision to be reached by the Trustee in Bankruptcy as to whether it will admit or contest these claims and as to how it will classify such claims will have a great impact on the ratio between assets and liabilities.

The dividend (percentage in the bankruptcy) that the creditors of (privileged) insurance claims may expect to receive is consequently contingent upon this and upon the further

¹ For calculation purposes of all CHF amounts set out hereinafter, the exchange rates as of 31 December 2023 were used. As a result, there will be differences with regard to the amounts stated in the previous newsletter of the Trustee in Bankruptcy.

² The seemingly strange fact that the total claim sum has decreased compared to the previous annual report despite a rising number of lodged claims is also due to the exchange rates as of 31 December 2023.

developments with regard to assets and liabilities. Therefore, it continues to be impossible to make an estimation of the percentage.

At the end of the reporting period, approximately 1,250 lodged damage claims were in the process of being handled, and additional claims may be lodged in the future. Therefore, it is to be expected that a larger number of additional claims will be registered. Consequently, it is still uncertain at what point in time the General Review Hearing can be completed. In any case, the Trustee in Bankruptcy will continue the assessment process of the lodged claims.

3.1 Privileged insurance claims

3.1.1 Filings of claims from an insurance benefit

Of the claims in the amount of CHF 257.6 million which have now been finally assessed, approximately CHF 194.4 million are (privileged) insurance claims. The Trustee in Bankruptcy has hitherto admitted CHF 113.7 million as (privileged) insurance claims. Apart from that, a great number of unsettled damage claims are still in the process of being handled, in France in particular.

3.1.2 Filings of claims by national guarantee schemes

The national guarantee scheme in England (FSCS) has updated its lodged claim prior to the continuation of the General Review Hearing. Up to date (as of: April 2023), the FSCS has made payments for damage claims in the amount of approximately GBP 69.6 million and refunded premiums in the amount of approximately GBP 12.6 million. The reserves for unsettled damage claims have reduced to GBP 26.0 million. Enstar, the run-off manager, which is in close contact with the FSCS, has assessed and admitted damage payments in the amount of approximately GBP 67.6 million. Consequently, the Trustee in Bankruptcy admitted this amount as a (privileged) insurance claim on 26 May 2023. As early as during the continuation of the General Review Hearing on 30 September 2020, the Trustee in Bankruptcy could, on the basis of the assessment by Enstar, admit premium repayment claims in the amount of GBP 9.2 million as (non-privileged) bankruptcy claims.

After the Trustee in Bankruptcy had already admitted approximately DKK 136.8 million for the benefit of the national guarantee scheme in Denmark (DGF) during the continued General Review Hearing on 30 September 2020, another approximate amount of DKK 3.5 million could

be admitted as a (privileged) insurance claim on 26 May 2023. This corresponds to an update of the claim lodged on 3 March 2022 (as of 31 December 2021). Enstar had assessed this update in mid-2022 as part of an audit and recommended it for acceptance. The subsequent update on 31 December 2022 by which another approximate amount of DKK 5.5 million was lodged by the DGF could be assessed by Enstar during an audit in August 2023. On account of the positive assessment outcome, the Trustee in Bankruptcy will be able to admit this amount at the next continuation of the General Review Hearing. The damage reserve for the 55 still unsettled damage claims amounts approximately to DKK 18.8 million (as of 31 December 2022).

The Italian CONSAP provides damage coverage in the area of motor vehicle liability insurance whereupon the Swiss National Guarantee Fund (NGF) assumes the compensation payments made and files a claim in the relevant amount in the bankruptcy proceedings. During the continuation of the General Review Hearing of 30 September 2020, the Trustee in Bankruptcy had already admitted CHF 864,000 as a (privileged) insurance claim. During the continuation in the reporting period, another CHF 490,000 could be admitted as a (privileged) insurance claim on 26 May 2023. The NGF had filed an additional claim in this amount during the update of its lodged claim in 2022. In light of the fact that CONSAP continues to handle unsettled motor vehicle liability damage claims, the NGF will file additional claims in the future.

The Irish ICF made payments in 25 Irish liability damage claims in 2021 and 2022. In the reporting period, eight additional damage claims were submitted to the competent court for review and subsequently paid by the guarantee fund. Twelve unsettled claims (as of 31 December 2023) are still in the process of being handled. The ICF has so far failed to file a claim.

3.2 Bankruptcy claims

Of the claims in the amount of CHF 257.6 million which have now been finally assessed, around CHF 63.2 million are (non-privileged) bankruptcy claims. The Trustee in Bankruptcy has so far admitted CHF 27.6 million as (non-privileged) bankruptcy claims.

4 Current state of the bankruptcy proceedings – Liquidation of the insurance business

Damage claims continue to be in the process of being handled, because the Trustee in Bankruptcy / the claims handlers continue to receive justified filings of claims. In collaboration with the run-off manager Enstar, the Trustee in Bankruptcy has put in place a handling system which has proved its worth for years.

In the reporting period, the Trustee in Bankruptcy has undertaken comprehensive efforts to make various assets collectible. Primarily, these efforts relate to making the trapped funds collectible and to asserting liability claims against two former directors of the bankrupt company in court.

The legal actions to assert contested claims, of which five are currently pending in court (as of 19 April 2024), have also occupied the attention of the Trustee in Bankruptcy during the reporting period. Of the 1,492 decisions dispatched following the court hearings on 30 September 2020 and 20 December 2021, 341 (as of 31 December 2023) have not yet been served. After the continuation of the General Review Hearing on 26 May 2023, another 290 decisions were dispatched. Given the progress in the dispatch of these decisions, it has to be expected that further legal actions to assert contested claims will be filed.

Various claims submitted to the Bankruptcy Court during the above-mentioned General Review Hearing relate to the three-party scenarios described in the previous reports. The decision made by the Trustee in Bankruptcy with regard to the treatment of these scenarios has now reached the stage of judicial review, after certain creditors concerned have filed legal actions to assert contested claims.

4.1 Policyholders

New damage claims continue to be filed. This is mainly the case in France, but also in Italy and in England. The number of outstanding damage claims, *i.e.* damage claims which are still in the process of being handled, is however in continuous decline.

4.2 Coverholders and claims handlers

As regards the coverholders and claims handlers, things have remained the same since the previous interim reports. Reference can be made to the mentioned interim reports.

4.3 Reinsurance undertakings

In the 4th interim report, the Trustee in Bankruptcy outlined its strategy in connection with the reinsurance benefits. This strategy was pursued in the reporting period.

The importance of the reinsurance benefits as an asset item in the present bankruptcy proceedings is illustrated by the figures mentioned in item 2.2.2. The Trustee in Bankruptcy will make the careful management of this asset a top priority in the future too.

4.4 Guarantee schemes

Information on guarantee schemes has already been reported elsewhere (see item 3.1.2).

4.5 Regulators

In the reporting period, the Trustee in Bankruptcy also exchanged information with the Liechtenstein supervisory authority (FMA) on a regular basis. The meetings usually take place every two months.

4.6 Pending legal disputes

In its most recent interim report, the Trustee in Bankruptcy informed that, as of 15 March 2023, a total of ten legal actions to assert contested claims had been filed of which five had already been completed. Since then, three new legal actions to assert contested claims were filed and three proceedings were completed so that, as of now (*i.e.* 19 April 2024), five review proceedings are pending in court.

Outside of Liechtenstein, the bankrupt company is currently involved in 155 pending legal cases. These court proceedings are related to insurance damage claims and, thus, to the regular liquidation of the bankrupt company's insurance business.

4.7 Legal challenges

The Trustee in Bankruptcy's attention continued to be occupied by the same legal issues as in the past year:

4.7.1 Claims against coverholders (trapped funds)

The efforts by the Trustee in Bankruptcy to achieve an ideal management of this asset could largely be completed during the reporting period. In the United Kingdom, in particular, the processes could be brought to an end. In some cases, it was possible to collect insurance premiums which had not yet been received. In other cases, the Trustee in Bankruptcy, in collaboration with the coverholders, at least succeeded in achieving clarity with regard to the money flows. It proved to be true that a great number of the claims existing in the books of the bankrupt company were either non-existent or were impaired in value. Write-offs thus were correspondingly high.

Currently, there are still two unresolved areas: On the one hand, the insurance premiums held by a French coverholder and, on the other hand, the insurance premiums held by Norwegian brokers. Reference to what is stated in item 2.2.1 can be made.

4.7.2 Claims against former body members (directors' liability)

One focus of the activities of the Trustee in Bankruptcy is the management and handling of the liability proceedings in London against two former directors of the bankrupt company. This task is legally complex and extremely time-consuming. The Trustee in Bankruptcy will continue its efforts to see whether an out-of-court compromise / settlement with the defendants can be reached. At the moment, it cannot be foreseen whether any such compromise / settlement can be reached, or whether the legal dispute will finally be heard and decided by the competent court in London in the summer of 2025.

4.7.3 Contestation of asserted creditor claims (review proceedings)

Another focus of the activities of the Trustee in Bankruptcy in the reporting period was to process the legal actions filed by creditors to assert contested claims. The goal is to obtain convincing as well as definite and final court decisions as rapidly as possible. This task will challenge the Trustee in Bankruptcy also in the next reporting period.

4.7.4 Treatment of claims from third parties (classification)

In its most recent interim report, the Trustee in Bankruptcy provided extensive information on how it deals with claims asserted by third parties. The position it has taken led to various contestations of the registered privileged satisfaction during the continued General Review

Hearing held on 26 May 2023. Two of the creditors concerned decided to challenge such contestation by means of a legal action to assert contested claims. The Trustee in Bankruptcy hopes that the two pending legal actions to assert contested claims will lead to a convincing judicial resolution of this issue in compliance with the relevant case law of the EFTA Court.

Vaduz, 19. April 2024

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