# A Plan for all Reasons:

# Six Months On

## A D D E N D U M

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An Update to the Proposed Solutions for the resolution of mis-selling disputes in the Cyprus Property Market

***This document contains the personal opinions of the author, freely expressed to aid a better understanding of the issues, without prejudice to the legal position Maxwell Alves Solicitors may hold as a firm***

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## Executive Summary

1. This update to our White Paper a 'Plan for All Reason – Six Months On' published on 27/01/2013 is made following:

    a. the visit of the writer to Cyprus (24/02/2013 to 13/03/2013) where he had high level meetings with banks, developers, politicians and Government agencies; and
    b. the crisis that Cyprus is currently facing following the bail-out negotiations with the Troika.

2. Discussions with banks in Cyprus during the visit of the writer culminated in the submission of the attached Heads of Agreement to Alpha Bank, who have by far the largest volume of these loans and who were the most resistant to the idea. The same Heads of Agreement were also to be submitted to the other banks (Laiki, Hellenic, Emporiki and National Bank of Greece) who had already agreed to this approach during the discussions. Their submission was overtaken by events.

3. In view of the above we are providing updates on the following:

    a. What happened to the money;
    b. The current crisis
    c. The Proposed British Bailout

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## What happened to the money

Following discussions with developers in Cyprus, it is now clear that a lot of the money made from the overinflated property prices is no longer in the system. Specifically:

1. Landowners benefited from rising land prices and a number of developers are stuck with land that they bought at the peak of the market. This makes them reluctant to go into voluntary liquidation in the hope that someday land prices will recover but at the same time, the cash is not there for them to provide refunds to victims of mis-selling and their current values does not justify further lending against them by cash strapped banks.

2. Sales Agents benefited from hefty commissions sometimes as much as 30% on the value of the property. Most of these agents were British and the limited liability companies they operated under have long disappeared.

3. The Government of Cyprus has benefited from stamp duties (1.5% - 2.0%), VAT (15%), Property Transfer Fees (3% - 8%) and Annual Property Taxes (0% - 0.8%), The coffers however are empty due to mismanagement of the economy and a preventable accident that destroyed the island's main power supply station.

## The current crisis in Cyprus

Most readers will have followed the news on their screens. At the time of writing only the Bank of Cyprus and Laiki (Cyprus Popular Bank) appear to be affected. Laiki will go into Administration/Liquidation/Receivership immediately and its guaranteed deposits of up to €100K (the guaranteed sum) and performing loans will be transferred to the Bank of Cyprus, whereas Non-Performing Loans (NPLs), generally defined as being three months or more in arrears, will be left to be collected by the Administrator/Liquidator/Receiver and will be used to provide some repayment to depositors of balances over €100K. They are expected to lose over 90% of their deposits.

The future of the Bank of Cyprus which is the oldest and largest bank on the island is also very much in doubt and only time will show whether it can survive without another bail out. Bank of Cyprus deposits over the guaranteed sum, are expected to lose around 40% we are told (but more realistic estimates place the figure to 60%) and in return they will receive bonds from the bank that may be redeemed one day if and when the bank returns in the black. The Bank of Cyprus will also be saddled with a €9 billion debt created by Laiki recently by utilising the Emergency Liquidity Assistance (ELA) mechanism from the European Central

Bank. These figures must be viewed in context to the size of the economy which is less than €20 billion GDP.

The percentages are not yet finalised as it appears that huge deposits disappeared through the back door immediately before and during the crisis which left the remaining deposits vulnerable to even higher cuts than previously anticipated.

The Cyprus banking landscape, therefore, will change drastically. Of the Cypriot banks, only the smallest, Hellenic, is safe although it too suffered losses recently. The Co-operative banks are also unaffected by compulsory levies. This leaves the banks from the mainland of Greece (Alpha Bank, Emporiki and National Bank of Greece) and foreign banks that did not get involved in mis-selling.

The Greek banks were re-financed under the Greek bailout last year. In the meantime, Alpha Bank has acquired Emporiki from Crédit Agricole which, we understand, involved the French seller injecting over half a billion Euros into Emporiki and underwriting a credit line of approx €2 billion. Alpha Bank and Emporiki, therefore, should not have liquidity problems. They are still required, however, to bring in the NPLs.

There is also one further measure that we believe will most certainly be a term of the Troika bail-out. Specifically the requirement to clear NPLs within 18 months. This will add to the pressure to issue writs for their recovery, given problems with liquidity and a recently introduced time limit to take legal action which is understood to be 6 years from the date of the breach. N.B. The uncertainty over the number of years is due to the ambiguity as to whether these mis-sold loans fall into the category of “mortgages” where the time limit is 12 years or loan agreements where the time limit is 6 years.

How this may affect victims of mis-selling

Most victims have mortgages that are repayable on demand. This means that even if they are not in arrears a lender in trouble may call in these loans. What happens in practice is that they would arrange for another lender to take them over but a new lender is more likely to be looking at these loans as a debt collector. This poses a threat and an opportunity.

The threat is that certain things may be done for expediency steamrollering the rights of these victims even more than previously. Banks may become more trigger-happy issuing writs without much observance about niceties.

Willingness to take back properties and add them to the stockpile is likely to be non-existent. The only two groups of buyers who have been keeping the property market going

(Russians and Chinese) have already been alienated by the antics of the Cypriot Government in the past couple of weeks and re-gaining market confidence is going to take a long time.

## **The proposed British Bailout**

In anticipation of what may happen and with the aim of stopping the cull we are actively seeking the involvement of the British Government and the engagement of the Cypriot Government which will lead to a full and final resolution of the mis-selling saga. In this respect the writer met Bill Cash MP on Tuesday 19/03/2013 with a view of promoting a bail out by the British Government and agreed to submit proposals for a "British Bailout". Bill Cash MP is co-ordinating a new All-Party Parliamentary Group (APPG) for the "Defence of the Interests of British Property Owners in Cyprus"

Under these proposals the British Government will arrange for a line of credit to British victims of mis-selling which will allow us to reach lump sum settlements with the Cypriot Banks involved. It will also allow us to impose certain other terms which will ensure that all cases, irrespective of their nature, may be resolved under these arrangements. More details of these proposals are now available in a separate document which is also attached.

## **Call for action**

British victims of mis-selling are urged to contact their MP if they are residents in the UK and ensure that they are indeed members of the APPG and that they fully support our proposals. If they are non-UK residents they should contact the local British Consul General who can in turn communicate your views through the Foreign and Commonwealth Office.

Victims who are not currently represented by Maxwell Alves Solicitors and wish to be included in the proposed settlement should contact the writer on g.kounis@maxwellalves.com