

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO:

G 0155/09

IN THE MATTER OF PRIMEO FUND (IN VOLUNTARY LIQUIDATION)
AND IN THE MATTER OF SECTION 131 OF THE COMPANIES (AMENDMENT)
2007

PETITION

TO: The Grand Court of the Cayman Islands

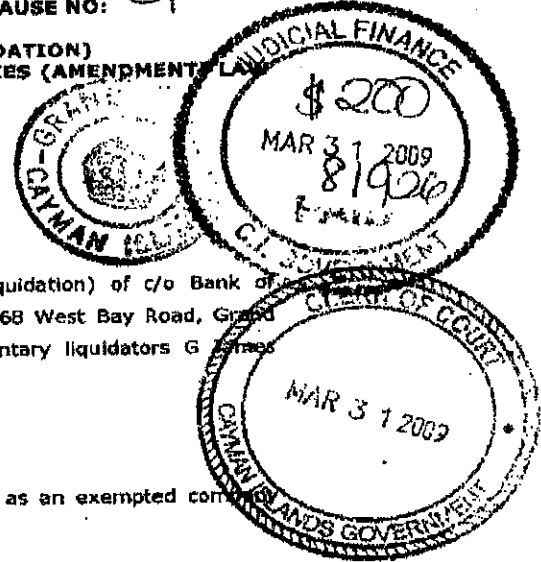
THE HUMBLE PETITION of Primeo Fund (In Voluntary Liquidation) of c/o Bank of Bermuda (Cayman) Limited, P.O. Box 513 GT, HSBC House, 68 West Bay Road, Grand Cayman KY1-1102 (the "Company") acting by its joint voluntary liquidators G. Cleaver and Richard Fogerty (the "Liquidators") shows that:

The Company

1. The Company was incorporated in the Cayman Islands as an exempted company with limited liability on 18 November 1993.

Share Capital

2. The share capital of the Company is the aggregate of US\$80,000,000 divided into 100 founder shares of US\$1.00 par value each and 79,999,900 participating shares of US\$1.00 par value each, and EUR20,000,000 divided into 20,000,000 participating shares of EUR1.00 each.
3. The holder of the founder shares has the right to receive notice of, attend and vote as a member of the Company at general meetings and the right in a winding up to repayment of capital, but no right to participate in the profits or assets of the Company.
4. The holders of the participating shares, save where specified in the Directors' resolution creating the participating shares, have no right to receive notice of, attend at or vote as a member of the Company at general meetings, but have a general right to participate in the assets of the Company in a winding up.
5. All 100 founder shares of the Company are held by Pioneer Alternative Investment Management Limited ("Pioneer"), which also acts as Investment Adviser to the Company.



6. As at the date of the resolution to wind up the Company the directors of the Company were Mr Declan Murray; Mr Alberto La Rocca and Dr Ursula Radel-Leszczynski.
7. All three directors are employees of Pioneer or its affiliates.

The Investment Structure

8. The Company was structured as an open ended investment fund and the Directors had power from time to time to establish and maintain a separate portfolio or sub fund for each class of participating shares.
9. The Directors established two existing sub funds namely, the Primeo Select Fund ("Primeo Select"); and the Primeo Executive Fund ("Primeo Executive").

Primeo Select

10. The investment objective of Primeo Select, as stated in the Company's Offering Memorandum dated 25 April 2007 ("the Offering Memorandum"), was to achieve long term growth by investing with one or more underlying managers that may, in turn, appoint one or more sub-managers to invest the assets of Primeo Select.
11. The Company invested all the assets of Primeo Select with one manager, Herald Fund SPC, an exempted segregated portfolio company incorporated in the Cayman Islands and registered as a regulated mutual fund under Cayman Islands law ("Herald"). It is my understanding that Herald in turn invested all the assets of Primeo Select in Bernard L. Madoff Investment Securities LLC ("BLMIS").

Primeo Executive

12. The investment objective of Primeo Executive, as stated in the Offering Memorandum, was to achieve long-term growth by investing with underlying managers that may, in turn, appoint one or more sub-managers to invest the assets of Primeo Executive.
13. The Company invested the assets of Primeo Executive with the two managers; Herald and Alpha Prime Equity Hedged Fund, a Bermudan Company ("Alpha"). It is my understanding that both Herald and Alpha in turn invested all the assets of Primeo Select with BLMIS.
14. At this stage, the aggregate net asset value of the various classes of the Company's participating shares is unknown, however the Liquidators understand that prior to

the suspension of shares (detailed below) the last reported total Net Asset Value ("NAV") was in the region of US\$600 million.

The Madoff Events

15. On 11 December 2008, Bernard L. Madoff ("Madoff"), the principal of BLMIS, was arrested by the Federal Bureau of Investigation on allegations that he operated BLMIS as a "Ponzi Scheme" and perpetrated a fraud of massive proportions on the investors of BLMIS.
16. On the same date the United States Securities and Exchange Commission ("SEC") filed a Complaint against Madoff and BLMIS in the United States District Court, Southern District of New York ("the US Court") alleging that Madoff and BLMIS committed an ongoing securities fraud and other breaches of US securities laws and regulations.
17. On 15 December 2008 Orders were made by the US Court, *inter alia*, freezing the assets of Madoff and BLMIS and appointing Irving H. Picard ("the BLMIS Trustee") as trustee for the liquidation of the business of BLMIS.

Suspension of Redemption and NAV

18. On 11 December 2008, the Directors of the Company were notified that the directors of both Alpha and Herald respectively each passed a resolution (i) to stop the calculation of the NAV in relation to all participating classes of shares, (ii) to suspend the issuance of any new shares and (iii) halt the redemption of any existing shares with effect from 12 December 2008.
19. On 12 December 2008, the Directors of the Company passed a resolution to stop calculation of the NAV in relation to all participating shares and to suspend both the issue and redemption of shares with effect from 12 December 2008.
20. On 23 January 2009, Pioneer, as the holder of 100% of the Founder Shares of the Company, and being the only person entitled to attend and vote at general meetings of the Company, passed a special resolution that the Company be wound up voluntarily and that the Liquidators be appointed as joint voluntary liquidators of the Company.
21. It is averred that the Liquidators are qualified to accept appointment by the Court as the official liquidators of a company and have fulfilled the requirements pursuant to O.3 r.4(1) of the Companies Winding Up Rules 2008.

Grounds upon which the Petition is Presented

(1) *Company is or is likely to be insolvent*

HSBC

22. Upon appointment, the Liquidators commenced steps to obtain the books and records of the Company and to gather in the assets of the Company.
23. Shortly following their appointment, the Liquidators were advised by the Directors that HSBC Securities Services (Luxembourg) S.A. ("HSBC") held approximately US\$5 million in bank accounts on behalf of the Fund.
24. By letter dated 29 January 2009 the Liquidators wrote to HSBC requesting that HSBC arrange to transfer all monies held by it on behalf of the Company to an account under the control of the Liquidators in the Cayman Islands.
25. In addition, discussions were held between representatives of the Liquidators and representatives of HSBC.
26. On 26 February 2009 the Company's attorneys wrote to HSBC making a further demand that the monies held by HSBC be transferred forthwith in accordance with the Liquidators' letter dated 29 January 2009.
27. HSBC, by letter dated 3 March 2009, wrote stating that HSBC were not in a position to transfer the monies, having received a letter from US lawyers acting on behalf of the BLMIS Trustee to the effect that "HSBC may hold BLMIS customer property on behalf of [the Company] which may be recoverable from HSBC" by the BLMIS Trustee. HSBC indicated a willingness to consider meeting the day to day expenses of the Company should they be properly certified.
28. HSBC have refused to provide to the Liquidators the letter from the BLMIS Trustee's lawyers.
29. On 12 March 2009, following further conversations with HSBC, the Liquidators became aware that the money held by HSBC on behalf of the Fund is held by HSBC Bank Plc in London rather than in Luxembourg.
30. Without the monies held by HSBC Bank Plc the Liquidators have no liquid assets with which to fund the investigations being undertaken by them, or to carry out the many management and administrative duties which they have in their capacity as Liquidators of the Company. Further, the Liquidators are unable to fund the

appointment of experts and advisers in relation to the many complex issues which have so far arisen and which are likely to arise during the course of the liquidation. In the absence of a transfer of the funds to the Liquidators' control the Company is insolvent or is likely to be insolvent thereby causing potential prejudice to the Company's creditors.

Creditors' Claims

31. Pursuant to information provided by HSBC, it is possible that the Company has outstanding redemption requests totalling approximately EUR90,000,000 and US\$48,000,000. The Liquidators cannot and do not make any admissions as to the validity of any such redemption request and further examination of the books and records of the Company will be required before any position can be taken. However, it is averred that should even a fraction of the redemption requests be deemed to be valid, it is likely that the Company will be deemed to be insolvent.

(ii) *The supervision of the Court will facilitate a more effective, economic and expeditious liquidation of the Company in the interest of the contributories and creditors*

32. In circumstances where the Company is insolvent or likely to be insolvent, the liquidation cannot progress efficiently. The Liquidators face, inter alia, the following time sensitive issues which must be addressed urgently. The Court's guidance is likely to be sought in respect of one or more of the issues set forth below:

(i) The BLMIS Trustee has sent time sensitive notices to creditors and potential creditors of BLMIS requiring the submission of claims in the BLMIS liquidation. The compilation and submission of a claim on behalf of the Company requires the marshalling of significant amounts of documents and information by the Liquidators' staff, which will be time consuming and demanding.

The Liquidators may also have to take US legal advice as to the likely standing of the Company in the BLMIS liquidation, which advice is likely to guide the approach of the Liquidators to the filing and also the other steps which might be taken with respect to the recovery of the assets of the Company.

(ii) To date, and notwithstanding written requests by the Directors of the Company prior to the winding up resolution, and by the Liquidators subsequently, neither Herald nor Alpha has provided any substantive information as to the steps they have taken or intend to take with respect to the recovery of the assets of the Company which are at risk by the events affecting BLMIS.

The Liquidators will have to consider and determine the most appropriate steps to take with respect to these two entities through which the assets of the Company were invested.

- (iii) The investors of the Company are located in a number of countries but primarily in Austria, Israel and Luxembourg. The Company was listed with regulators in a number of jurisdictions including the Cayman Islands, Austria, Luxembourg and Singapore. Urgent steps are required to be taken to address the legal and regulatory issues which have arisen in relation to the various regulators as a result of the suspension of redemptions of the Company's participating shares and the winding up of the Company.
- (iv) A number of the Company's investors have written to the Company, and to Pioneer, raising questions regarding their position as investors in the Company and the steps to be taken for maximising the return of their assets.
- (v) The Company has been named as a defendant in proceedings in the US. The Liquidators have to consider obtaining legal representation and advice in respect of these proceedings.
- (vi) A letter was sent by the Liquidators to the investors of the Company on 2 March 2009. The letter sets out to the investors the current status of the liquidation. Among other things, the letter refers to the existence of the monies held by HSBC.

The Liquidators are concerned that now the existence of these monies is known, one or more investors may seek to commence an action in the jurisdiction with respect to these monies in order to improve the position of such investor(s) relative to others. A moratorium against such actions would be of significant benefit to the Company, any potential creditors and its investors.

s.426 Insolvency Act 1986

- 33. It is averred that the supervision of the Court is further sought to assist the Liquidators in seeking recognition in the United Kingdom pursuant to s.426 Insolvency Act 1986.
- 34. Recognition is sought as a result of information obtained by the Liquidators to suggest that the monies held by HSBC are held in London. The Liquidators seek recognition on two bases:

(i) Should proceedings be issued for the delivery up of the monies held by HSBC, it may be more effective, economic and expeditious to bring those proceedings in the United Kingdom; and

(ii) As pleaded at paragraph 32 (vi) the monies presently identified in the United Kingdom are at risk of one or more investors seeking to commence an action in the jurisdiction in order to improve the position of such investor(s) relative to others. A moratorium pursuant to s.130(3) Insolvency Act 1986, against such actions would be of significant benefit to the Company, its creditors and its investors.

35. In light of the foregoing, the Liquidators humbly aver that the Court should accede to the supervision of the liquidation, *inter alia*, to:-

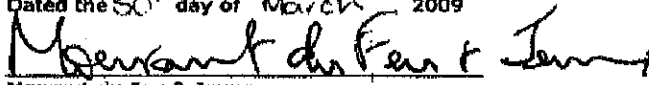
- (a) assist the Liquidators in the repatriation of the Company's assets;
- (b) enable the Liquidators to have the benefit of the Court's directions and guidance in a liquidation involving the investigation and recovery of a loss of approximately US\$600 million in assets;
- (c) provide the shareholders of the Company who are entitled to participate in the assets of the Company with the benefit of a liquidation process which has the transparency which is afforded by a Court supervised liquidation;
- (d) enable the Liquidators to obtain the directions of the Court with respect to foreign proceedings against the Company;
- (e) facilitate the Liquidators' application for recognition in the United Kingdom;
- (f) facilitate dealings with the BLMIS Trustee;
- (g) bring about a moratorium on actions which might be contemplated by creditors or shareholders against the Company; and generally
- (h) facilitate a more effective, economic and expeditious liquidation of the Company in the interests of its creditors and the holders of its participating shares.

YOUR LIQUIDATORS THEREFORE HUMBLY PRAY AS FOLLOWS:

- (1) That pursuant to section 131(a) and (b) of the Companies (Amendment) Law 2007 the voluntary liquidation of the Company, commenced by special resolution dated 23 January 2009, be continued but subject to the supervision of the Court.
- (2) That G James Cleaver and Richard Fogerty be confirmed as joint official liquidators ("Official Liquidators") of the Company and that the Official Liquidators be granted the power to act jointly and severally.
- (3) That the Official Liquidators not be required to give security for their appointment.
- (4) That in addition to their other powers, the Official Liquidators do have all the powers set out in the Third Schedule of the Companies (Amendment) Law 2007 as though they were Official Liquidators.
- (5) That the requirement to hold a creditors meeting within 28 days of this order, pursuant to O.B r.2(1) of the Companies Winding Up Rules 2008, be dispensed with.
- (6) That the Court do issue a letter of request to the High Court of Justice of England and Wales (the "High Court") requesting that the High Court exercise its discretion under s.426 of the Insolvency Act 1986 on the terms of the draft Letter of Request annexed hereto.
- (7) That the Court require any person who is or was a director, officer or professional service provider of the Company, to deliver up to the Official Liquidators, in accordance with the directions of the Official Liquidators, any of the Company's property which is in his custody or under his control and which he is required by law to deliver up.
- (8) That the costs of presenting this Petition be paid out of the assets of the Company as an expense of the liquidation.
- (9) Such further and alternative orders and/or directions that the Court should think fit.

YOUR PETITIONER WILL EVER PRAY ETC:

Dated the 30th day of March 2009


Mourant du Feu & Jeune

NOTE: It is not intended that this Petition be served.

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO:

**IN THE MATTER OF PRIMEO FUND (IN VOLUNTARY LIQUIDATION)
AND IN THE MATTER OF SECTION 131 OF THE COMPANIES (AMENDMENT) LAW 2007**

**DRAFT
LETTER OF REQUEST**

TO THE HIGH COURT OF JUSTICE OF ENGLAND AND WALES

WHEREAS this Court is exercising its jurisdiction in relation to insolvency and winding up matters;

AND WHEREAS the Primeo Fund (in official liquidation) (the "Company") was incorporated in the Cayman Islands as an exempted company with limited liability on 18 November 1993;

AND WHEREAS:

- (i) On 23 January 2009 the Company, passed a special resolution that the Company be wound up voluntarily.
- (ii) On [] a petition was presented in this Court in respect of the Company for the voluntary liquidation of the Company be continued subject to the supervision of the Court.
- (iii) On [] this Court made an order (the "Order") which is annexed to this Letter of Request granting the relief sought by that petition and authorizing, inter alia:
 - (a) The appointment of Messrs Richard Fogerty and G James Cleaver of Zolfo Cooper (Cayman) Limited, (formerly Kroll (Cayman) Limited), 4th Floor Bermuda House, Dr Roy's Drive, P.O. Box 1102 Grand Cayman KY1-1102, Cayman Islands as Joint Official Liquidators (the "Liquidators"); and
 - (b) The granting to the Liquidators all the powers set out in the Third Schedule of the Companies (Amendment) Law 2007 subject, where necessary, to the sanction of the Court.
- (iv) As a result of the Order no suit, action or other proceeding shall be proceeded with or commenced against the Company except with the leave of the Court and subject to such terms as the Court may impose;

AND WHEREAS the evidence filed by the Liquidators and annexed to this Letter of Request has demonstrated to the satisfaction of this Court:

- (i) That the Company may have significant assets within the jurisdiction of the High Court of England and Wales (the "High Court"); and
- (ii) That in order for the Liquidators to discharge their obligations and in order to get in, preserve and realise the assets of the Company for the benefit of creditors, it is just and convenient that this request should be issued.

THIS COURT HEREBY REQUESTS that the High Court exercise its discretion under s.426 Insolvency Act 1986 to assist this Court by ordering and directing, in so far as the High Court considers it just and appropriate, that:

- (a) The appointment and recognition by this Court of Messers Richard Fogerty and G James Cleaver of Zolfo Cooper (Cayman) Limited, (formerly Kroll (Cayman) Limited), 4th Floor Bermuda House, Dr Roy's Drive, P.O. Box 1102 Grand Cayman KY1-1102, Cayman Islands as official liquidators of the Company be recognized by the High Court;
- (b) The Liquidators have such powers as would be available to them under the Insolvency Act 1986 as if they had been appointed liquidators under a compulsory liquidation pursuant to part IV Insolvency Act 1986.
- (c) Anything that is authorized to be done by the Liquidators is to be done by all or any one or more of the persons appointed.
- (d) For so long as the Company remains in Liquidation in the Cayman Islands, no action or proceeding shall be commenced or proceeded with against the Company or its property, in respect of any debt of the Company, except by leave of the High Court and subject to such terms as the High Court may impose .

AND THAT The High Court grant such further or other such relief as it thinks fit in aid of the official liquidation of the Company.

JUDGE OF THE GRAND COURT

Dated this day of March 2009