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## West Bromwich Building Society PIBS – Update No. 2

### Report on the Society's Meeting

About a dozen PIBS holders turned up for the meeting of the Society in London on the 4<sup>th</sup> September. However, the Chairman of the Society, Dr Woods-Scawen, did not so the meeting was chaired by the Chief Executive, Robert Sharpe. The only other directors present were Stuart Hislop, Jonathan Westoff and Andrew Jones (Company Secretary). Dr Woods-Scawen was apparently on holiday, but several attendees commented on this apparent discourtesy.

Mr Sharpe commenced the meeting by saying he would only take questions relevant to the resolutions (on legal advice he believed he could do this). I challenged his right to limit what people said but in practice he did not attempt to inhibit questions or comments too significantly. However, the meeting was somewhat fragmented and as a result it was necessary for people to phrase their questions to fit in with the resolutions. There was also a general session for open questions however, while we waited for the poll results.

Mr Sharpe explained that voting would be on a poll based on the value of the PIBS held. PIBS holder Christopher Latham challenged this in that he suggested that it was one vote one holder according to the Prospectus (at least in terms of General Meetings of the Society). Legal discussion then took place, with the Society arguing that this was not a General Meeting but simply a meeting of PIBS holders. However, the Prospectus is really not altogether clear on this point. The Chairman decided to proceed with the meeting regardless.

There were a lot of questions and adverse comments from the audience, particularly from Mr Hensher and Mr Morris – the latter being particularly irate. Below are the questions and comments that I planned to put to the meeting, and the answers I obtained (I believe most of these were covered at some time but the fragmented nature of the meeting meant it was rather unstructured):

A – Could the Chairman confirm that the PIBS holders are members of the Society whereas the Subordinated Debt holders were not, and that while the latter were consulted on the recent financial restructuring of the Society and had the opportunity to take legal advice on the proposals, the PIBS holders were not? *The Answer was – that is correct so far as the situation that applied before conversion of the subordinated debt to PPDS (the second part was answered later where force majeure and lack of time was given as the reason for failing to consult the PIBS holders).*

B – Could he also confirm that the directors claim “unfettered discretion to cancel or reduce interest payments to PIB holders” (see letter from Richard Sharpe to Peter Morgan dated 28<sup>th</sup> July). In other words, if the board decides that instead of paying the PIBS holders the £4 million pounds per year in dividends that they were promised in the prospectus, that it chooses to pay that as bonuses to the directors for their exceptional performance in managing the affairs of the Society, then that is perfectly OK and nobody could object? Or perhaps they might choose to pay it to the local West Bromwich dog’s home and that would be OK also? *The answer was, yes the board has absolute discretion but any expenditure would clearly need to be within the constraints imposed on the directors by their general responsibilities to act on behalf of the Society.*

I made the following general comments:

C – PIBS are generally classified and sold as fixed interest investments. Indeed the very title of the West Bromwich PIBS states the interest rate to be a 6.15%. Although it is well known that the security of PIBS in terms of the priority on any wind-up is lower than other debt and there are usually provisions for a temporary suspension of the dividends due on them if the Society gets into difficulties. But the West Bromwich Building Society seems to have been claiming to have invented a new kind of financial instrument and have effectively sold a “pig in a poke” – one where neither the income nor capital are guaranteed. Indeed I might even question whether the Society has breached the Trade Descriptions Act by calling them PIBS when they do not apparently adhere to the standard definition of such instruments.

Morally this is questionable in the extreme and is very likely to be challenged. The board seem to have paid little attention to the interest of their own members which is also an overturning of the basic ethical principles of a mutual society.

The PIBS holders accept that it was necessary to take action, and promptly, to protect the financial position of the Society. But the proposals for the PIBS holders, are simply not acceptable. They need some certainty of future income and it is not reasonable to permanently pay them a lower interest rate than the Society is paying for funds in the open marketplace to finance their mortgage lending.

There were other proposals that would have been possible, and the swinging cuts in the PIBS income seems to be totally unnecessary and we suspect was simply thrown in to provide a sop to the deal imposed on the subordinated debt holders.

D – As regards the resolutions on the agenda for this meeting, the last one simply appears to reflect the desire of the current directors not to have their names associated with this outrageous proposal.

The other resolutions are an attempt to remove the future accountability of the board to the PIBS holders for these decisions.

I therefore strongly recommend to all those present at this meeting to vote against all the resolutions.

E. I asked whether the terms of the agreement with the PPDS holders will be made public because those terms have a direct impact on the proposals for the PIBS holders. Why has the Society not published the details of this agreement? *The answer was that the agreement with the PPDS holders would not be published. However, it was later clearly stated that the “yield equalisation term” is in the PPDS agreement which is why it cannot be varied.*

*This clearly inhibits the board from varying the payment to the PIBS holders (for example improving it if and when the Society recovers financially), even if the board continues to have the right to vary the interest payment as they claim the prospectus supports. They might be breaking their agreement with the PPDS holders by so doing.*

The voting on the resolutions then took place (after about an hour of discussion). The results were:

Resolution 1: For: 35,186,000 Against: 2,968,000

Resolution 2: For: 10,131,000 Against: 3,023,000

Resolution 1: For: 35,151,000 Against: 2,993,000

All resolutions were therefore carried by the required 75% majority, although narrowly in the case of the second resolution. It is not clear why the voting pattern varied between the resolutions. The "turn-out" of proxy votes was about 50% which is probably as high as might be expected.

A disappointing result in some ways, on a fairly technical issue in reality. It just shows how difficult it is to communicate with holders of shares or bonds, particularly at short notice and when so many are in nominee accounts. The votes were almost certainly dominated by a few larger nominee holders. Only one of the larger nominee holders (Pilling & Co) was represented at the meeting.

### **Report on the UKSA Meeting**

The day after the above meeting, UKSA held a meeting for the PIBS holders in Walsall chaired by Peter Morgan. It was as well attended as the above, but with little overlap of attendees.

Mr Lawson explained what UKSA does as an organisation, and some practical aspects of how "Action Groups" can be formed. He briefed the meeting on what had transpired the previous day, and what information had been obtained. He explained that with such short notice it was always going to be difficult to overturn the board's recommendations. This is particularly the case with so many holders in nominee accounts, a problem that UKSA has been campaigning on vociferously of late. Nominee accounts generally disenfranchise the beneficial owners and the nominee operators usually pay little attention to the rights of their clients. If they vote at all, they may not pay much attention to the issues, and communicating with them is difficult.

Those present were unanimous that they were not satisfied with the position adopted by the Society and that action should be pursued to try and improve the situation of the PIBS holders. The meeting discussed various possible steps which could be taken (which it is not prudent to disclose here). How we can identify and communicate with the other PIBS holders was also discussed (so far we only have about 50 contacts who have responded to our media coverage).

One issue that was discussed also was whether the West Bromwich PIBS holders might have some claims for "misselling" based on the fact that they were promoted as safe, fixed interest investments, when in reality it has turned out to be otherwise. Obviously this depends to some extent whether investors were given advice, and what information might have been provided by the stockbrokers.

More information will be provided on these matters to our contacts in due course.

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*Note that all previous "Update" notes and other information on the West Bromwich PIBS are present on this page of our web site: [www.uksa.org.uk/WestBromwichBS.htm](http://www.uksa.org.uk/WestBromwichBS.htm)*