Haringey Council

Report for:	**Leader's Signing – 20 September 2013**	**Item Number:**	

Title:	**Sale of the Council's Interest In Landsbanki**

Report Authorised by:	**Julie Parker – Director of Corporate Resources**

Lead Officer:	**Kevin Bartle – Assistant Director – Finance (Ext 5972, kevin.bartle@haringey.gov.uk)**

Ward(s) affected: All	**Report for: Key Decision**

1. Describe the issue under consideration

1.1 The Council has a number of investments in Icelandic Banks following the collapse in 2008. This report considers and makes a recommendation for the sale of the Council's interest in one of these banks; Landsbanki, following the receipt of an offer for purchase negotiated by Solicitors Bevan Brittan.

2. Cabinet Member introduction

2.1. The Council has received independent advice from two separate sources, both of which conclude that it is in the Council's best interests to sell our claim now and therefore remove any further risk of loss on this investment.

2.2. This report sets out in more detail why this recommendation is being made but I am satisfied that the offer represents good value for money for the Council and I support the sale.

3. Recommendations

3.1. That the Council sells its share in LBI on the basis of the terms set out at 3.2 below.

3.2. That delegated authority be given to the Director of Corporate Resources, (or in her absence the Assistant Director of Finance (Deputy CFO), to finalise the sale, on the condition that a reserve price is agreed on the terms set out in the exempt part of this report (Appendix A).

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4. Alternative options considered

4.1. The alternative option is to not sell the Council's interest now but to await the conclusion of the winding up process which may, or may not, yield a better return.

5. Background information

5.1. At the time of the collapse of the Icelandic Banks in October 2008, the London Borough of Haringey had £15.157 million deposited with Landsbanki Islands hf. The Council subsequently became a priority claimant on the estate of Landsbanki (now renamed LBI), for £15.810 million representing principal plus interest to April 2009. To date, the Council has received distributions of over £7 million in pounds sterling (GBP) and a small amount of Icelandic Krona (ISK) which is residing in an escrow account awaiting the relaxation of capital controls.

5.2. The Council has received, via the solicitors appointed by the LGA; Bevan Brittan, a number of offers for its remaining claim on LBI, including the sum held in escrow (this is an account where our funds are held in custody until such a time as the existing currency restrictions are lifted). Should the sale go ahead, it will be conditional upon a reserve price being agreed by the Director of Corporate Resources, (or in her absence the Assistant Director of Finance (Deputy CFO), on terms set out in the exempt part of this report.

5.3. The Council has been provided with independent advice on the course of action it should take from the LGA, which has also been provided to all other Councils with a claim on LBI. It was felt appropriate to take additional, and tailored, advice for Haringey Council from its Treasury Management advisers, Arlingclose. The terms on which a reserve price needs to be set are based on this advice.

6. Scenario Modelling

6.1. The main factor in deciding whether to sell the claim is whether it is expected to provide value for money. This will depend on the relationship between the highest amount finally offered, and the prospects for future distributions from the LBI winding up process.

6.2. The maturity profile of LBI's assets shows that it anticipates recovering enough from its debtors to pay the remainder of priority claims by 2017. However, there are four major risks that are likely to affect the amount and the timing of repayments to the Council. Arlingclose have modelled these risks in their work for us. The risks modelled are as follows:-

6.2.1. Recovery from the Assets owned by LBI;
6.2.2. The Foreign Exchange Dispute;
6.2.3. Foreign Exchange Rates; and,

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6.2.4. Capital Controls.

7. Analysis

7.1. The model used by Arlingclose incorporates a large number of scenarios from the uncertainties within the risks set out above. This analysis has informed the terms on which a reserve price is to be agreed.

8. Other Considerations

8.1. There is an impact on the Council's General Fund. In accordance with the Accounting Code of Practice, the Council holds its investments in LBI on the balance sheet at a sum which is the estimated recoverable amount discounted at the original interest rate. As the discount unwinds in future years, notional interest income will be credited to the General Fund; this may be offset by additional impairment costs if the estimated recovery amounts drop or the estimated distribution dates are extended.

8.2. The sale will be conducted via an auction process although at the time of writing, the final date has not been confirmed.

8.3. Closure - there will be a benefit to the Council, which is difficult to value, of gaining closure on its Landsbanki investments, which will include administrative time savings, once a sale is completed. By selling its claim, the Council will receive a known amount of cash in replacement for future unknown cash flows and accounting entries. Although the Council would still retain an exposure to Heritable and Glitnir Banks, it will have reduced the risk to its future budget position from Icelandic banks.

8.4. Depending on the Council's aversion to regret, there may be a worry that selling at a price that eventually turns out to be too low would compound a perceived bad decision to have deposited cash in Landsbanki in the first place. However, once it stops being a creditor of LBI, the Council will have no need to continually monitor distributions and review its decision to sell. But if it does not sell, it will certainly need to monitor future pay-outs and will therefore be perfectly positioned to regret not having sold when the opportunity arose, especially if a large number of other local authorities in a similar position do sell.

8.5. Legal costs - Bevan Brittan has pointed out that if a significant number of authorities do sell their claims, the continuing legal costs will be borne by a smaller number of authorities. Since many costs are fixed irrespective of the size of claim, this is likely to increase the cost for their remaining clients. This is another incentive for Haringey to act with the majority of local authorities. The financial analysis does not take account of legal costs.

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8.6. Buyer's motivations - the principal motivation of any buyer of the Council's claim will be to make a return on their investment. It is therefore tempting to believe that the buyer will only pay a price that is below the asset's true value; that view however would ignore the fact that the buyer is likely to have a significantly different risk appetite to the Council. The parties making offers to the Council are acting as intermediaries on behalf of undisclosed buyers, likely to be hedge funds and other investment funds specialising in distressed debt. They are seeking a five to ten year stream of cash flows with a range of upside and downside risks. Most mainstream investments either offer downside risk only (e.g. corporate bonds) or are very long-term in nature (e.g. equities); distressed debt therefore forms a niche market in which certain players are willing to buy at a price that may appear attractive. Investment managers with a specific target asset allocation for distressed debt may pay over the odds just to satisfy their client's needs.

8.7. Other investors will be seeking a basket of worldwide exposures, maybe in a global GDP tracker fund, and claims on the failed Icelandic banks represent one of the few ways of gaining an exposure to the Icelandic economy and its currency. Alternatively, the buyers may already have ISK denominated liabilities and an exposure to exchange rate risk that cannot easily be managed. A rare opportunity to buy ISK denominated assets may therefore be of increased value to these organisations.

8.8. It should also be noted that as a commercial organisation, the buyer is likely to ascribe a higher value to the potential upside arising from exchange rate movements than the Council. As an organisation investing public money, the Council is more concerned with realising as close to 100% of principal as possible. The buyer will have a more balanced view of the upside and downside risks, and may be willing to pay to receive the upside.

9. Conclusions

9.1. Having considered these factors and our own appetite for the risks presented by holding onto our claim, it has been concluded that it is not helpful to second guess what the motives of the unknown final buyer may be. It is perfectly normal for different organisations to ascribe different values to the same object; that is the basis of any functioning market.

9.2. The best course of action for the Council depends on what we believe constitutes a successful outcome. If success is only measured as the eventual return of cash totalling 100% of the original principal amount invested, no matter how long it takes and irrespective of the opportunity cost of lost investment interest in the meantime, then we should not sell our claim. Some of the modelling scenarios eventually result in cash pay-outs higher than the original principal, although many of these outcomes rely on favourable exchange rate movements.

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9.3. However, if a more balanced view of the risks can be taken, and the time value of money taken into account, then following the above methodology, a sale at a reserve price as set out in the exempt part of this report would, in Arlingclose's opinion, appear to represent good value.

10. Comments of the Chief Finance Officer and financial implications

10.1. This is the report of the Chief Financial Officer and her comments are included throughout.

11. Head of Legal Services and legal implications

11.1. The Head of Legal Services has been consulted in the preparation of this report, and makes the following comments.

11.2. The Head of Legal Services understands that under Icelandic law - which is the relevant law for present purposes, and which has been applied throughout the recovery process - claims in winding up proceedings are a form of property which can be legally traded.

11.3. The key question which ought to underpin a decision on sale or retention, is whether the proposal to buy which is being offered is likely to yield a better return than would holding onto the debt in anticipation of achieving a 100% yield at some point in the future. That debate is set out at paragraphs 6, 7 and 8 of the report, which addresses relevant considerations. Those considerations have been reflected in the terms on which a reserve price needs to be set.

12. Equalities and Community Cohesion Comments

12.1. N/A

13. Head of Procurement Comments

13.1. N/A

14. Policy Implication

14.1. There are no policy implications involved in selling the Council's interest in LBI.

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15. Reasons for Decision

15.1. An offer has been made for buying the Council's claim in LBI as set out above. This report recommends taking that opportunity as it is deemed in the best interests of the Council.

16. Use of Appendices

16.1. Appendix A – Exempt report NOT FOR PUBLICATION

17. Local Government (Access to Information) Act 1985

17.1. This report contains exempt and non-exempt information. The exempt information is set out at Appendix A and is not for publication as it contains exempt information relating to the financial or business affairs of any particular person (including the authority holding that information) as defined in Paragraph 3 of Schedule 12A of the Local Government Act 1972.

COUNCILLOR CLAIRE KOBER

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DATE

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