



**CUSTOM HOUSE CAPITAL LIMITED**  
**SUMMARY OF THE FINAL REPORT BY COURT APPOINTED**  
**INSPECTORS DATED 19 OCTOBER 2011**

**LEGEND**

The following table represents a reference legend of the parties referred to within this summary.

<b>CBI</b>	<i>Central Bank of Ireland</i>
<b>CHC</b>	<i>Custom House Capital Limited</i>
<b>HBC</b>	<i>Horwath Bastow Charleton, Chartered Accountants</i>
<b>HBCWM</b>	<i>Horwath Bastow Charleton Wealth Management Limited</i>



## **1 SUMMARY OF THE FINAL REPORT BY COURT APPOINTED INSPECTORS**

### **1.1 OVERVIEW**

Following the CBI's concerns about the affairs of CHC over the past two years, an investigation was authorised into its affairs following the successful ex parte application by the CBI to the High Court on 15 July 2011.

Following the appointment of Inspectors to CHC in July 2011, CHC arranged with HBC and its associated firm HBCWM, an authorised investment firm, to provide administrative support to CHC under the terms of a service level agreement and to ensure continuity in managing client asset holdings.

### **1.2 HIGH COURT INVESTIGATION**

As a result of the application, two CBI investigators were appointed by the High Court to investigate the affairs of CHC and to report the results to the Court.

The Inspectors determined at an early stage that a comprehensive review of all material and reconciliation of all items would not be possible within an acceptable timeframe for completing their report to the Court. The Inspectors sought to identify and quantify the major issues of concern with respect to CHC's handling of client investments and the financial standing of CHC itself.

The Inspectors submitted their Final Report to the High Court under seal on 19 October 2011, with a final Court hearing on 21 October 2011. Within this report the Inspectors have identified and quantified the major issues of concern relating to the misallocation of client assets and other related issues. Part A and Part B of the Inspectors Final Report contain further detail on same.

### **1.3 ORIGIN OF MISCONDUCT**

The origin and rationale behind the misuse of client funds would appear to be relatively straightforward. CHC committed itself to a number of property projects and placed deposits in advance of securing the required equity from prospective investors. The capacity to raise the required funding was constrained following the emergence of the global financial crisis in 2007.

As a result CHC sought to cover investment shortfalls through the creation of investment products and eventually through the misuse of client holdings. Notwithstanding the relatively straightforward explanation of how the shortfalls in the financing of property investments occurred, the consequences of the actions taken by CHC to fill those shortfalls are complicated.

### **1.4 IMPACT OF THE MISCONDUCT**

The Inspectors believe that it will take several months to resolve all client positions, if ever possible, due to the difficulty involved in confidently establishing documentary evidence and cash trails. Due to the poor level of documentary evidence to validate certain transactions, much of the relevant information may not be available except through staff members' recollection of events, notwithstanding the fact that they may have been involved, at different levels, in the issues described in this report.

In the limited time available the Inspectors have identified €56.1 million of clients' holdings, which were improperly transferred from various investment structures managed by CHC. This €56.1 million does not include the Bond 2 holder funds of €10.4 million.

As a result of significant failures in the operation of CHC's business activities, misallocated client monies were utilised for a variety of purposes including:

- Payments to meet cash demands for other clients;
- Loans to or investments in property projects;
- Payments in respect of commissions to third-party introducers;
- Payment of day-to-day costs of property projects;



- Payment of commissions to CHC;
- As a fixed-term deposit in the name of CHC used as security for a loan to CHC subsequently used to finance a property project;
- A temporary loan to third parties.

The range of purposes to which client monies were misallocated adds to the difficulty in achieving a full reconciliation and the possible recovery of misused client holdings.

## 1.5 KEY AMOUNTS

The following table represents a summary of the monies identified to date which have been improperly transferred from client holdings.

		Total € Million	Improperly Transferred € Million	**Section Reference
<b>Cash Funds</b>	Cash Fund 1 (Destiny PRSA Cash Fund)	10.4	9.9	2
	Cash Fund 2 (Destiny Select II Cash Fund )	3.8	3.7	2
<b>Equity Funds</b>	Equity Fund 1 (Destiny PRSA Equity Fund)	8.9	6.8	3
	Equity Fund 2 (Destiny Equity Fund)	11.8	10.1	3
<b>Pooled Rental Bank Accounts</b>			6.4	4
<b>Pooled Client Asset Bank Accounts</b>			11.9	5
<b>Bond 1 (Barclays Commodity Bond)</b>			7.3	6
<b>Total funds improperly transferred per Inspectors Report</b>			56.1	1
			Mezzanine Finance € Million	Section Reference
<b>Bond 2 (Mezzanine Finance invested in property funds )</b>			10.4	1
<b>Overall Total (Mezzanine bonds and improperly transferred funds)</b>			66.5	

\*\*Please note that the section references indicated above refer to the specific sections contained within the Inspectors Final Report. Please refer to same for further detail as required.

## 1.6 CONCLUSION

Without the support of HBC as noted above, CHC would have found it difficult to continue in operation. HBC are endeavouring on behalf of CHC and the Liquidator to ascertain the extent of misappropriation of funds, and to liaise with relevant third-party providers to ensure continuity in managing client holdings. The exact sums of money taken directly/indirectly from CHC clients and placed into property investments and/or used to meet other cash needs cannot be precisely stated without a detailed reconciliation of clients' holdings being conducted. However, it is clear that this amount will be in excess of the €56.1 million already identified. This does not include the funds owed to Bond 2 holders, which amount to €10.4 million

Following a review of the Inspectors' final report, on 21 October 2011, the High Court made Orders winding up the Company and Kieran Wallace of KPMG was appointed Official Liquidator. The Liquidator and his team are currently working on determining the assets of the Company and securing its records. The Liquidator will have to reconcile the financial records of the Company to ascertain the precise status of each client's investment. This process will be complex and lengthy and the Liquidator expects it to take a number of months to complete. HBCWM will continue to manage and act as custodian of client assets, under the supervision of the Liquidator.

The High Court investigation has concluded and the final report of the investigators is published and available for viewing at [www.centralbank.ie](http://www.centralbank.ie).