



## FY 2021 EARNINGS CALL TRANSCRIPT | APRIL 3, 2022

### **Presentation Operator:**

Hello, and welcome to the Burford Capital Presentation of 2021 Full Year Results. My name is Laura, and I'll be coordinating your call today. There will be an opportunity for questions at the end of the presentation. (Operator Instruction)

I will now hand you over to host Christopher Bogart, Chief Executive Officer to begin. Christopher, please go ahead.

### **Christopher Bogart, Chief Executive Officer:**

Hello, everyone. Thank you, all, for joining us both on the telephone and by the webcast for our earnings call about our full year 2021 numbers. As usual with me on the call are Jon Molot, Burford's Chief Investment Officer; and Ken Brause, Burford's Chief Financial Officer; and we'll walk you through the slides that you should have before you seriatim.

I'll start on Slide 3, which is really just an overall summary of some of the key things that happened during the course of the year. And I would say that we are very pleased with our 2021 performance. This was the best year in our history for new business, not only in terms of the total amount of business that we wrote across all of Burford's pools of capital, which translated into further growth in our now \$5 billion plus portfolio of litigation assets. But I'd particularly highlight the strength of the balance sheet commitments and deployments, which is of course, where we maximize our returns for shareholders. We also, of course, as you can see there, have continued to produce strong returns along with very, very low losses.

Before I go on in the slides, I'll just comment on a couple of other things that I'm seeing in the business. First of all, as we announced just yesterday, we have done the final closing now on a new fund, a \$360 million fund that we call the Burford Advantage Fund. And this fund is designed to fit in between the lower returning post-settlement fund activity that we already have been doing for a number of years, and the traditional core high return litigation finance matters.

There was a gap in our product offering, both to clients in the market and to fund investors. And this new fund fills this gap, so that we now have really a complete end-to-end solution across the legal finance landscape. And this new fund, which we raised from a number of large institutional investors, endowments and the like, this new fund comes with a structure that we quite like as well.

These are assets that we anticipate returning roughly in sort of the 12%-to-20% range annually. And so the structure of this fund, instead of a traditional management and performance fee structure, pays the fund investors a simple 10% annual return. And Burford retains any excess that we're able to generate.

We do better with that economic structure than a traditional 2&20-style fund, once we get not very far at all, into that 12% to 20% range, somewhere around 13% or so depending on your assumptions. So we're quite pleased with having that new fund available to us. We did a first close of it during the fall of 2021. And so, you'll actually see some notations about and some activity in it during the course of the fiscal year. But the final close just occurred last Friday.

And I think, in addition to just our happiness about having this incremental vehicle available to us, I think it also underlines the wide range of liquidity options and capital availability that we have for us.

The other thing that's nice to finally see in this, I'm sure is consistent with lots of your lives, is that the post-COVID world is resuming its pace. So for example, we've talked for the last couple of years about the fact that we have largely not seen some stalwart things in the legal industry going on like in-person conferences, which are significant marketing opportunities for us. Those are in fact resuming and indeed I'm in Europe right now, about to tomorrow attend the first-in-person large gathering of lawyers that I've been at since 2019. So I'm really excited to see the world reopening and having things come back to life.

Turning to Slide 4. This again, emphasizes the new business activity that we carried on in 2021 and this is presented here on a Burford-only-basis. In other words, just what we're doing on our balance sheet, and I would really highlight for you the Burford-only deployments. This is where we make the most money. We obviously keep Burford-only profits for our balance sheet and for our shareholders, as opposed to the activity that we do in our private funds. We love our private funds business. But the reality is, we make a lot more money, a lot more profit when we invest directly from the balance sheet and to see Burford-only deployments, effectively double year-over-year and reach a significant all-time high, is a terrific set up for those assets to produce balance sheet shareholder-driven cash and profitability in the future. And that applies to our core litigation finance assets. We are really putting our balance sheet capital just behind those high returning assets at the moment.

Slide 5 talks about what's going on in realizations. And look, those of you who have followed Burford for a while are fully aware that the timing of litigation resolutions is entirely uncertain, and that's not a bad thing.

That's what gives us our lack of correlation to the market and to broader economic activity and candidly, it's also what generates the ability for us to earn the high returns that we've consistently been able to generate.

If these cases were predictable both in substance and duration and timing, I don't think that you'd see the returns that you do, and I think you'd see a different level of competition in this market. But instead, this is the one thing that one needs to contend with when you run a legal finance business, which is that we're in the hands of the litigation process, and

ultimately the courts, in driving the timing, the duration of outcomes. So that's always been present, and you've seen the period-to-period unpredictability and variability in the past. There is no question that COVID has added to that uncertainty. And what we're hoping for during the course of 2022, is to see some amelioration of that COVID-based uncertainty and when I talk about COVID delays, there are really two things going on. The first is that you are seeing delays in the litigation process itself. Not in the court process, but the litigation process. So when you file a piece of litigation, what happens for quite a long time is the parties engage in discovery, in the exchange of documents and witness testimony and so on, long before you ever go to trial. And that process was interrupted by COVID.

Sometimes legitimately, in the sense that parties truly couldn't, because of restrictions put on them, because of the various lockdowns and restrictions, couldn't do all of the discovery activities that they were supposed to be doing.

For example, in the Petersen case, we saw a meaningful delays in the discovery schedule because literally the Argentine government offices were closed, and people could not go into them to retrieve and produce documents. And some of these delays are tactical. Defendants often seek delay and seize on any kind of reason to proffer for delay. And so there was probably some taking advantage of COVID that went along there as well.

As the world reopens, those delays are significantly reducing and unless we get another variant that causes more distress, you would reasonably expect those not to continue past this year. Courts are just not going to be sympathetic to the idea any longer that witnesses can't get on planes and sit for depositions and clients can't produce their documents. So I'm looking forward to an improvement in that. Now, I said the same thing in the fall of 2021 and then we had Omicron. So I'm hoping not to be proved wrong by another pesky variant. But that's the path that we're on there.

The other kind of COVID delay relates to the actual scheduling of court proceedings and trials. And as you all know is just logical, we would—that's a catalyst for settlement as well. If you're just sitting there and nothing much is happening in your litigation, there is not any particular reason that you go and settle it tomorrow, whereas an impending trial tends to be the thing that focuses the minds of the parties and brings them together for a negotiation and ultimately settlements. And as you know, a clear majority of our matters end in settlement, they don't all go to trial.

So what we see on the trial calendar, and this varies jurisdiction by jurisdiction, as we certainly see backlogs that have arisen because of COVID and those backlogs are to do with the absence of physical distancing in court rooms, the unavailability of jury pools and also often the prioritizing of criminal trials. And so that backlog will continue to take some time to work its way through the system. And that will vary jurisdiction-by-jurisdiction. But we're certainly on the right side of the curve now instead of the wrong side of the curve.

It's important to emphasize, as we do on this slide, that this is all just timing. This has nothing to do with the substance of these adjudications. We don't see cases discontinuing. We see incredibly low loss rates, not sustainable. Those are not sustainable loss rates. They are so low because nothing much is happening in the cases.

But what that is, is confirmation that nothing bad is happening in the cases. It's simply that things are taking longer to make their way through the snake, if you will, than they were

before COVID. And so we're optimistic about what the future holds as we begin to work our way more rapidly through some of our own existing vintages that have not yet come to fruition.

Turning to Slide 6. This is a familiar chart to many of you, and I'm not going to go through it in great detail, but fundamentally, the message here is that it shows that the business is continuing to perform strongly. We start on the left-hand side with the fact that we continue to be able to deploy most of the capital that we have committed in the cases. The middle shows you that we remain with a robust level of settlements, which take all of the litigation and risk out of these matters and a significant progress, significant level of adjudication gains, in other words wins a trial. So we win much more often than we lose.

And I think the other thing to emphasize here over what is now almost \$2 billion of cash recoveries and as a reminder, this slide is cash. This isn't fair value. It's just the sheer consistency of both turning in those settlements and wins and the consistency of returns that we have been able to demonstrate.

Slide 7 is the companion of that slide, another old favorite and really it highlights two things. One is, it reminds us of the asymmetry of our portfolio that nobody rational spends risks \$20 million in legal fees on a \$20 million claim. And so when we lose, we tend to lose less than the money that we make when we win. And this chart amply shows that.

The other thing it shows is the repeatability of what we do. If you now look, we've got 26 separate matters over time that have generated returns of over 200%, more than 3x MOICs. So these are not flashes in the pan. This is a consistent repeatable part of a litigation portfolio where you will always have some losses and where we would expect to continue to be able to produce some very high returns from cases that go the distance and produce.

Turning to Slide 8. This slide accompanies some text in the management statement in the annual report about a case study that we've put together. We try to do these every year when we have something to illustrate and this case study actually illustrates quite a few dynamics that we've talked about in the past. First of all, it shows the winding path of litigation. This is a case that has been running in our portfolio since 2013, and during the period of time from 2013 to 2021 when it resolved right at the end of the year, this case has gone through motion practice in the trial court. It's been dismissed. It's been up on appeal. It's been overturned. It's gone back to the trial court for summary judgment again. And finally with a trial judge-imposed mediation, finally settled before going to trial.

But it's a winding path sometimes. And what that means when you look at these older cases is that there is—it's entirely possible for there to be significant value in these older cases. This was a very profitable case for us. Even though it took eight years, it's still generated a 23% IRR and a generated a 231% return on capital. So it is simply wrong to assume that because cases are old, there is necessarily something wrong with them. All that age means is that the case is wending its way through the process. Now to be sure, some of those cases we'll probably lose, just like in the rest of our portfolio, some of our cases, we'll probably lose, but there is value in that back book, and this is a good illustration of the ability to take that value out. This also shows the impact of COVID. This case would have resolved more rapidly. It would have been in trial well before this mediation and settlement happened if we hadn't had COVID. And so it's just an example of COVID related delay.

But the other thing it's let us do is lay out here, the way that our fair value approach actually operates in these cases and you can see, not only that it is sensitive to the events in the case, but that even when we get to the end, in the case that was quite positively positioned by that point, we still have only a relatively small minority of the ultimate outcome booked as fair value.

And as you can see along the way, this case actually went to zero at one point, when we had lost in the trial court before we were able to turn it around and get it back to trial. So as I said, there is more detail in the Annual Report but we thought that this was really quite an interesting illustration of a number of things including, as I say, the application of our fair value policy.

Turning to Slide 9. And I'm very pleased to be able to say at long last, we can report that discovery in the YPF matter, that all of the discovery deadlines have finished. So fact and expert discovery, both now have reached the point where they have been concluded. And now we are on to summary judgment. So what does that mean? That means a few things. First of all, it means that the case resumes some level of court activity instead of what has been happening for the last couple of years, which is mostly been just activity between the parties, exchanging documents and witnesses and expert statements and so on.

Another thing that means is, that you're going to be able to see more about this case because the summary judgment filings and the summary judgment proceedings are public open court matters instead of the discovery, which is not something that happens in open court. So what's going to happen is the parties are going to file their summary judgment motions in the middle of April. The plaintiffs will put in a motion saying we have a strong case, and we should win and the defendants will put into motion that says the plaintiffs case is terrible and they should lose. And those motions will be legal argument and they'll be accompanied by expert reports and other evidence.

Then each side will respond to the other side's motions; that happens at the end of May. And then each side gets one round of further reply, and that happens in the third week of June. And that's a completely traditional legal briefing schedule. Once those three rounds of legal briefing is complete, then the court will decide whether and when to schedule oral argument and then will go off and write a decision about the summary judgment motions.

It's possible for the court to resolve the case entirely on summary judgment without ever holding a trial or it's also possible that the court will not resolve the case and send it to trial. And this little flow chart on the slide shows you the possible outcomes there. If the case isn't resolved in summary judgment, it will go to trial relatively rapidly after the release of the summary judgment decision. And if it is fully resolved, then the losing party, it could be us, it could be Argentina and YPF, the losing party then has a right of appeal. However, if we are the winning party, if the plaintiffs are the winning party in this case, then the judgment is enforceable even while the appeal is pending, unless there is a bond posted which is unlikely or unless a court grants an unusual stay of the proceedings.

So what all of this means, is two things. One is, after a long period of waiting and just speculating about Petersen, you're going to see some activity this year. You're going to see filings that will flesh out the case in more detail than has happened in the public before.

Although you'll have to read the legal arguments to some extent with a grain of salt because both sides will obviously be putting their rhetorical best foot forward.

And, depending on the speed of the court, it's entirely possible that you might even see a decision on these motions during the course of 2022 as well. But we just don't know that. That's entirely in the hands of the trial court. So something to watch, given the prominence of the Petersen has taken on in Burford's portfolio, but hopefully not prominence that overshadows the large size and great strength of the rest of the portfolio and to talk more about that, here is Jon Molot.

**Jonathan Molot, Chief Investment Officer:**

Thank you, Chris. And thanks to all of you for joining. I'm very pleased to be here, chatting with you. If we turn to Slide 10, that's exactly where I'm going to talk about is the portfolio and you see that we have a very large portfolio that has continued to grow. It's 15% larger at the end of 2021 than it was at the end of 2020 and that's based in large part on a very significant increase in our capital provision-direct new commitments. They were up 80% from last year.

And they've continued to increase over the last five years. Right. We've got a compound annual growth rate of 43% over the five years. And, when you think about what's in that portfolio, it's pretty incredible the diversity of what we have built, right. We still turned down lots of matters that come our way. We have a very rigorous investment process. But fortunately, we have the internal expertise and the market reach that we are not limited to any one particular type of litigation or one type of geography or jurisdiction.

So whether it's intellectual property, whether it's contract disputes, whether it's a business tort, whether it's an investor state dispute under an investment treaty, it could be in Europe, it could be in North America, it could be international arbitration, we take it all and we want to be there and have long been there for law firms that have diverse practices with global reach and companies who have diverse portfolios of litigation that cover lots of different topics in lots of different jurisdictions. So we've built a very large portfolio with diverse matters included in them. And that's really what makes me love this business and be optimistic about its future because that's what delivers the future returns.

If you turn to Slide 11. I'm going to talk about one way we have grown the portfolio, which we've talked about in the past, but I think bears a little more discussion, and that is monetizations and claim families. We have talked about in the past how even though, as I mentioned, we are takers of the matters that come our way. We build the diverse portfolio, because we are able to be all things to all people in the litigation space, right?

If there's legal risk of a company or a law firm, they can come to us and we're never going to turn it down based on subject matter that we don't understand it. We may turn it down because we don't like the risk reward but not based on subject matter or geography. That being said, once we have invested in the matter and we get to know it and we see its progression, the risk-reward can evolve, and we can like the risk a lot and think this would be an attractive place to deploy more capital.

Sometimes it will be the very same counterparty, a corporate that's come to us to finance its expenses associated with a litigation to defray the General Counsel's budget and remove an

expense from their accounting numbers. And then as things progress, they realize they would like to monetize a portion of the receivable of the amount of money that they expect to receive when the matter resolves profitably.

Sometimes it's not the same counterparty, it could be a different company in the same industry with very similar overlapping claims or a different law firm that's representing clients in the same industry. And so we're able to basically take what we've learned about a matter, watched the matter progress and continue to build a position in that area, and you've seen in the past that we have done this quite profitably, double down on investments we like. And that we continue to do it today in a number of different areas where we like them in. And I'd say there are three distinct advantages that come from this strategy. One is just, if you like the investments, putting out more capital in good investments as the risk-reward improves, is a very attractive matter. Two, the expertise and value-add that we always just use to distinguish ourselves from competitors and others in the market, really comes into play here because as we get to know a particular area, there's really nobody in the world that knows it as well as we do. And we will often know a set of litigation claims better than the claimant that's actually pursuing them, because we are so steeped in the risk. And that way we can not only be a provider of capital, we could be a provider of smart capital. And I think that counterparties come to us, not based on price competition, but based on the value we can add to their clients in terms of strategy, strategic advice, settlement prospects, you name it.

The third way in which this is a very important strategy to us is, it provides operating leverage and efficiency, right. If you've already done the underwriting in an area and gotten to know it, it's just that much more efficient to put out more capital on a risk that you understand, than it is reinventing the wheel to learn the case again. We love learning about new cases. We do it all the time, but there are efficiencies when you're putting out more capital on risks you already understand.

So that's part of the strategy of what has grown our book. But it does not diminish, as I mentioned at the outset, the diversity of the portfolio and our continuation of a policy of taking risk. And frankly, I should say, sometimes these claim families can be sufficiently broadly cross-collateralized relative to their clients that that does mitigate the risk as well, that even though there could be a core claim. We've seen some place else that a company has—the company may have other claims, they want to throw into our portfolio as well.

Okay. So turning to Slide 12. I'd like to spend a couple of minutes talking about our history of our portfolio and looking at vintages by age and you'll see the potential, the very large significant potential from these larger more recent vintages, which have many matters remaining to resolve. If you look at this slide, you'll see on the left, the older vintages have by and large resolved. From 2009 to 2013, many of them you see are at 100%. Some are less so, but you see from the bullet point, there is only \$39 million of deployed capital remaining among the pre-2013 vintages which represents only 3% of total deployed cost on ongoing matters.

So most of the money that is out—is out in these more recent vintages where we've really significantly scaled up and grown our business. This is not to say that those older vintages don't have profitable matters. Chris just alluded to a case study a couple of minutes ago,

showing that one such matter that was quite old, that's been in our portfolio for a long time, that ended up delivering very attractive returns. So there's still value there.

But the real value is from the more recent things we've put on since as we've grown, and Chris alluded before, to the fact that COVID delays have slowed down resolutions that they are coming in later than we would have expected. That only adds to the value of the portfolio today, that you have these very attractive later vintages that are quite large, and they have not resolved as quickly as they might have because of COVID. So there's a lot of potential left in there and it makes me very optimistic for the future.

Finally, I'd like to talk, if you turn to Slide 13, about the probabilistic modeling that we introduced back in November at the New York Stock Exchange on our Investor Day. And you'll recall from that conversation that we have been doing probabilistic modeling for quite a long time, very sophisticated, probabilistic modeling. We use it as part of our underwriting process, every matter before we put out capital gets modeled. And we use it as part of our portfolio management process. Those models are updated every quarter and the team is able to use that modeling to decide where to allocate resources among the many matters in our portfolio.

So it's been a very useful internal tool. For a long time, we did not share any of the results of that probabilistic modeling publicly with our investors. But over time, we accumulated sufficient experience where we were able to have a large-enough number of resolved matters that had been subject to earlier modeling. That we're able to compare the actual results when the cases concluded with the modeled results, when we put the investments out. And see that there were sufficient accuracy there that this may be a metric that would be of value to our investors.

We don't make projections. We're not forecasting what our earnings will be, but we thought this was a data point that investors would want to know, given that in our experience, it has shown a measure of accuracy or that it seems like a useful metric.

So when you look at what our modeling says today, it's not surprising, the modeling today shows a more valuable portfolio than the modeling showed six months ago. In November we presented it based on the first half of 2021 and now we've updated it to include the full year of 2021. And you'll see it's still projecting quite attractive returns, 137% return on invested capital. It's projecting \$3.8 billion in recoveries on \$1.6 billion invested and those are not our projections.

That's just reporting what the modeling says. But that is a roughly 10% increase. That's \$2.2 billion of gain in the models, compared to \$2 billion, you would have seen at the end of the first half of '21. And so it's not surprising that as we put out more capital in attractive investment opportunities, and as the matters that are in our portfolio continue to progress, even if COVID slowed down their progression nonetheless there have been some events, but it's not surprising that you'd see an increase in the model's projected value of the portfolio. And so that's really what leaves me very optimistic about the future for us and very bullish in our portfolio. We've built a tremendous portfolio of assets in the legal space. We have a team that's been able to both underwrite and bring those matters in and monitor and continue to stay on top of them. And I'm very pleased with how we've done particularly as Chris said, with significant increases in our commitment and deployment levels this year.



And with that, I will turn it over to Ken.

**Ken Brause, Chief Financial Officer:**

Well, thank you, Jon and I'll add my good morning and afternoon to everybody. I'm pleased to be here today as well. So I don't have a slide for this, but before discussing our financial results, I just wanted to take a few minutes and mention some of the updates and enhancements that we've made to our financial reporting which you've likely seen already on our website.

As we've said, this is our first financial report prepared under US GAAP. And for the most part, the US GAAP rules are very similar to IFRS rules, including things like revenue recognition and fair valuing of our capital provision assets. One change which I want to point out that also has been applied to past periods in IFRS as well, is that we are now consolidating a subsidiary called Colorado Investments, which is where the third-party interests in the Petersen claims that we've sold, reside.

The result of this is an increase to assets at period end of \$383 million. But there is also a corresponding liability on the balance sheet, reflecting the 38.75% of the Petersen claim that was sold. And as a result, there is no impact on Burford-only shareholders' equity from this consult change in consolidating this entity.

Third party interests in consolidated assets, which had been reported as a liability under IFRS, are now reported in shareholders' equity as a non-controlling interest and—but again, when we report equity based financial metrics, our focus is on shareholders' equity attributable to holders of ordinary shares, which therefore will remove that third-party interest.

The change to US GAAP also results in a few changes to presentation within the financial statements. For instance, one difference is that the portion of the impact of foreign currency gains and losses that relates to our capital provision assets, is now included in capital provision income and the remainder is reported on the foreign exchange line in other income. And another is at lease liability and right-of-use asset expenses are now reported in operating versus financing costs.

But rather than go on we have a very detailed table in our Annual Report reconciliation section that goes through each of these changes. Now turning to the numbers, and we can go to Slide 14 where we've got some financial metrics presented. So for the year, we reported a net loss attributable to ordinary shares of \$72 million or \$0.33 per diluted share, which was at the low end of the range we provided in our business update last month. As Chris said, we had a strong year for new business, however, the slower case progress that he discussed, limited both realizations and therefore fair value adjustments, and as a result, capital provision income for the year.

Still, we reported solid realized gains in line with the 2019 levels that included the gains related to the Petersen sales. Some other highlights from this page, just to mention, we'll get into them in more detail, but operating expenses were generally in line with previous years, apart from the performance-related asset recovery item.

Our tangible book value at year end was \$6.47 per diluted share and our Burford-only liquidity, which consists of cash and equivalents and marketable securities, remain robust at \$315 million.

So moving to Slide 15 to talk about asset management income. Burford-only asset management income increased 6% from last year to \$26 million as you can see on the top graph, primarily reflecting income from BOF-C, our arrangement with the sovereign wealth fund as the core litigation finance asset in that fund continue to season.

We earned management fees for most of our managed funds during their investment periods. In 2021, we earned those fees on BOF, BAIF and the Strategic Value Fund.

Performance fee income of \$6 million was unchanged from last year. Since most of our funds are European waterfalls, we generally earn and therefore recognize performance fees after investors have received their capital contributions back and preferred returns. While performance fees in 2020 were related to the Partners I fund, a legacy fund from our GKC acquisition, performance fees in 2021 were primarily related to BAIF.

And going forward, we continue to be in a position to earn asset management income from BOF-C and performance fees from Partners funds II and III, BAIF and BOF, and as Jon just mentioned, our models indicate these fees could be as much as \$400 million on a Burford-only basis going forward.

Also, as Chris mentioned, we did close on the new fund called the Burford Advantage Fund, a \$360 million fund that includes \$300 million of third-party investments. Burford's balance sheet deployments into the Advantage Fund will be considered capital provision-indirect assets going forward.

Moving to Slide 16 and turning to expenses. In conjunction with our adoption and reporting in US GAAP, we also changed the categories in which we're reporting our operating expenses, most notably for compensation and benefits expense. The salaries and benefits line should generally grow in line with headcount, while annual incentive comp should move as a function of overall annual performance of the business. And those two line items are represented in the middle portion of the graph on the left, the black piece of the bars and you can see the trend there.

The light blue bars in that graph are performance-related compensation and primarily amounts related to portfolio performance. These include equity compensation and the legacy asset recovery incentive payments. Almost all employees of Burford participated in the restricted stock program, which we believe aligns their interest and ours with you, our shareholders.

The legacy asset recovery expense relates to when we acquired that business in 2015. And we expect future costs to be lower than the amount in 2021. In fact, if we exclude the costs related to asset recovery, opex was up only slightly compared to the prior year. And if you look at Burford-only opex, as a percentage of Group-wide portfolio, which is the graph on the right, that continue to decrease to 2.1% in 2021. Over time we would expect this percentage to continue to tick down as we make larger investments and continue to emphasize monetizations and claim families.

So moving to Slide 17, our liquidity slide. Our Burford-only liquidity position, which consists of cash, equivalents and marketable securities, the latter of which we previously referred to as cash management assets, remained robust at the end of 2021 at \$315 million. You'll note in the chart on the right that marketable securities are considerably larger proportion of our liquidity than in past years. Those assets consist predominantly of high quality and liquid money market and fixed-income assets that are managed by one of the top fixed income managers in the US.

This approach to managing our liquidity enables us to earn an incremental yield on our liquid assets, without taking undue risk and from which we would expect to see increased benefits as short-term interest rates rise. And although deployments exceeded cash receipts in 2021, our receipts certainly covered our operating expenses and financing costs, and we were still able to support our growth as a result of the \$400 million bond offering we did last April. We believe the maintenance of a relatively high level of liquidity is prudent in order to take advantage of new opportunities when they arise, while also recognizing the somewhat unpredictable nature of our cash inflows.

Due from settlement receivables were up a bit last year from historic levels. The year-end figure included about \$23 million related to a single case that concluded in 2020 and the delay in that payment is due to some unrelated judicial proceedings. But we do expect to have this receivable be paid in this current year. The majority of the other due from settlement receivables have been collected since year-end.

Now turning to Slide 18, our debt slide. We have just over \$1 billion of debt outstanding, a 62 million Sterling note or bit over \$80 million is coming up for maturity in August and we do have ample liquidity on hand to retire the balance. After that, our next maturity isn't until 2024 and we believe our debt is well laddered. Our debt-to-equity ratio of 21% at year-end was well below our covenants on the UK bonds of 50% and our total debt-to-tangible equity ratio of 0.77 times was well below our incurrence test levels of 1.5 and 2 times in the US bond.

We will actively manage our liabilities and expect to continue to be an opportunistic issuer of debt. We maintain our long-held view that while this business should have some leverage, given the variability of cash flows, leverage should remain at a relatively low level. And with that, I'll turn it back to Chris for some concluding remarks.

**Christopher Bogart, Chief Executive Officer:**

Thanks very much, Ken. And turning to Slide 19, really just summing up what you've heard. We were very pleased with the growth of new business in 2021, both across the business and particularly on a Burford-only basis, which sets those assets up to maximize future shareholder benefit.

Despite some of the delays that we discussed, we had a strong year for cash generation, generating more than enough cash as Ken noted, to cover all of our needs for operating expenses and financing. And we have a robust balance sheet liquidity and good access to capital from multiple sources.

And as we said, 2022 should be the year where at least something happens with YPF. So we're very bullish about where we sit today, and what the future holds. And with that, let me invite your questions.

## **Q&A**

### **Operator Instructions:**

Our first question comes from David Chiaverini from Wedbush Securities. David. Please go ahead.

### **David Chiaverini, Analyst:**

Hi, thanks, and thanks for all the details. Very helpful. And it's great to see the strong rebound in new commitments and deployments. Any commentary you can provide relating to the outlook for additional commitments and deployments.

### **Christopher Bogart, Chief Executive Officer:**

We don't really guide going forward, as you know. But I think it's fair to say that we certainly see activity in the pipeline and in the legal industry. I think an interesting question will be, and you'll notice in the management statement in the Annual Report, we provided some statistics about new litigation filings in the US courts, showing that both civil cases in general and bankruptcy cases in particular had fallen to five-year lows in 2021.

Now, that does not mean, first of all, that there is a scarcity of litigation. Five-year lows still mean hundreds of thousands of cases. But what it does suggest because the conduct underpinning litigation hasn't gone away. It's just that probably there is some pent-up demand out there in the system, that people basically during COVID were taking their time and not rushing to the courthouse.

And in lots and lots and lots of civil cases you have many years to file a case before it goes stale, before it runs a follow of the statute limitations. So it will be interesting over the next little while to see what happens with that pent-up demand. Whether it's going to happen this quarter or next quarter, I have no way of knowing, but it does feel like there is some pent-up demand in the system.

And then on insolvencies, which has historically given us a decent amount of business, we've gone to historic lows, given the amount of stimulus in the system, now in a world where you're withdrawing stimulus and seeing both inflation and interest rate increases. It stands to reason that you will start to see a reversal of that downward trend in insolvencies.

### **David Chiaverini, Analyst:**

Great, that's helpful. And can you talk about, you spoke a little bit about your liquidity, \$300 million of cash. You have a \$84 million debt maturity coming up. Can you talk about your capacity to the extent that you do see these additional opportunities, can you talk about the capacity and to the extent that you may have to turn away some business given limited capacity from a liquidity standpoint?

**Christopher Bogart, Chief Executive Officer:**

It's certainly not something that we would anticipate doing. We think our liquidity is both strong and adequate for the business that we want to do. But it's also clear that we have multiple alternative paths available to us, if we so choose. For example, in 2021, one of the larger deals that we did and this wasn't the liquidity constraint, it was a risk management matter.

But you saw that in a very short period of time, we took an extra \$100 million of exposure that we did in a sidecar arrangement with our sovereign wealth fund partner. And so that was an example, again, not liquidity-based, but simply the size of the matter that we were prepared to put on the balance sheet. So I think we have numerous options on the liquidity front, not to be in a position of turning away business.

**David Chiaverini, Analyst:**

Great. And then last one from me, can you talk about—go ahead.

**Christopher Bogart, Chief Executive Officer:**

No, go ahead.

**David Chiaverini, Analyst:**

So the last one for me is, any changes in the competitive landscape, whether it's any new entrants or existing competitors becoming more aggressive?

**Christopher Bogart, Chief Executive Officer:**

We talk about competition in the management statement as well. And what we say there is, there's always been competition in this business. That hasn't changed. We think it's a good thing. We think that having multiple players in the marketplace makes the use of legal finance more conventional and more mainstream and that's a net positive. In other words, a rising tide lifts all boats here.

And so, no, I don't think that we've seen seismic changes in the competitive landscape, especially, in the world of traditional commercial litigation financing. People are always trying to enter and lots of them, once they do enter, figure out that this is actually a pretty hard business to do well at and lots of them then turn around and go and do something else. So, you certainly have that dynamic that continues, and you certainly have hedge fund capital flowing into things that we don't really do, most notably into the US mass tort market and to some extent, into the US consumer litigation finance market. But in terms of where we sit at the high dollar commercial end of the market, there hasn't really been a dramatic change in the competitive landscape.

So thanks, David for those and we're going to into this first telephone and webcast questions. And so from the webcast, Julian Roberts from Jefferies has posed a pair of questions. The

first being about the Advantage Fund. Will the duration of assets in the Advantage Fund be shorter than for the average balance sheet asset?

And I think the answer to that is, not necessarily. We have a pretty wide range of asset durations. When you look at individual matters on the balance sheet and I think you'll see the same range of durations in the Advantage Fund. Certainly, some of those matters will be shorter duration than traditional funded from inception, stand-alone litigation claims, but at the same time, we have shorter duration matters on the balance sheet as well.

So I'm not sure that—it's early days, but I'm not sure that we would predict an overall shortening of duration, the way that we do in the post-settlement fund.

And Julian's other question is about claim families. And this—maybe this for Jon. Thinking of claim families, it looks like the North American food and beverage antitrust claims have made some positive progress with recoveries now on three assets, two of them portfolios. To what extent can we draw parallels between them and the other ones in the family?

Our ROIC is likely to increase from here in those portfolios where recoveries have been made. I know that sometimes we see a 0% ROIC on the partially resolved concluded portions of an asset until near the point of total conclusion, and then it might go up a lot.

And before I pass it over to Jon, to your last point, Julian. That's absolutely correct. And indeed, it happened this period where, if you look just at the second half ROICs, you actually see you actually see a little dip there and if you go to the table, you'll figure out that's exactly what you saw. We actually got a bunch of cash in on one of those cases. But we don't—we put it all against principal and we didn't report any return from it, which causes that number to move around a little bit. But Jon, for the rest of it.

**Jonathan Molot, Chief Investment Officer:**

Sure. Having left the accounting piece of how we recognize the income to Chris, on the substance, it's not surprising that where you have a large claim family that involves multiple lawsuits with multiple claimants, multiple defendants, that settlements would come in different times and one defendant decides to settle out with one particular plaintiff or a group of plaintiffs, one plaintiff decides to settle with a large group of defendants, and those will begin to give you some indicator of settlement levels, but it really, I would hesitate to say you can predict ROICs from the early activity.

It takes some time before basically a market develops and says, these claims are settling for this many cents on the dollar of potential recoveries of trial. And also it's important to note that as we've long said, our earlier settlements end up with attractive IRRs, but lower ROICs because you're saving the cost and uncertainty associated with the litigation process. So the plaintiffs are generally taking more of a haircut. Whereas if you push to the eve of trial or go all the way and you're successful, you end up with larger recoveries.

So it really does depend upon the facts of the individual cases as to what people's damages are, the risk appetites of the individual parties and how far along you are in the process. So, the first observation about, does the fact that some of these are starting to resolve, suggests there'll be continuing progression, generally, that is the case for these large claim families.

Whether there is yet a sort of market number, even putting aside the accounting noise that Chris described, I wouldn't want to rely on it. But when you're seeing the accounting numbers, you can't really tell where the settlement levels are coming in for, because it depends to some extent how the accountants were allocating the settlement proceeds across cost versus profit.

**Christopher Bogart, Chief Executive Officer:**

So, I think we're ready for another question from the phones.

**Operator:**

Our next question comes from James Hamilton from Numis Securities. James, please go ahead.

**James Hamilton, Analyst:**

Thank you for the presentation, and thank you for the time. I've got two or three if I may. Firstly, on slide 13, you highlight the sort of—your, what you expect to, it tends to be on the capital provision-direct portfolio, and you put the ROIC at 137% and that obviously compares to the 93% historic that you have. All else being equal, that should translate into a higher IRR. Is there a major duration difference between the two? I appreciate you probably haven't put the IRR on that because it gets you too close to profit guidance, but is there a material duration difference there or should we expect the IRRs to be trending up and therefore the ROE to be trending up as well?

**Christopher Bogart, Chief Executive Officer:**

Well, it's not just that we're—Jon can comment on this as well. It's not just that we're trying to avoid profit guidance. It's that—as we've said in the past, while the modeling that we've done has shown to be quite accurate historically at predicting outcomes. We don't have confidence at this moment in our ability to predict duration. Jon, you are going to add to that.

**Jonathan Molot, Chief Investment Officer:**

Yeah, I would just add to that the complexity of it is, in probabilistic modeling, both at inception and as we update it for each matter, we're looking at all the possible outcomes of how much money will come in and when it will come in. And just as I said in response to the earlier question, earlier matters tend to come in with lower ROICs and higher IRRs or not necessarily high IRRs but attractive ones.

Sometimes when you go the distance, so you get not only a higher ROIC, but you even get a higher IRR, if you end up having a very large outcome. But where all of that is being fed into the model and then it's being aggregated across our entire portfolio. So it is—and when we've been able to look with hindsight at the ROICs, we've seen, as I mentioned before, and as we've explained on Investor Day, sufficient correlation between—in the aggregate what the models predicted for a large number of matters and what those cases delivered, right.

Not in any particular matter, by its nature, any particular matter is going to depart from what's modeled because the model took into account all the various permutations that could happen and only one of them is going to have come true. But I don't know, because, as Chris said, duration is the hardest thing to predict and the model isn't predicting duration, is predicting the average across multiple durations, we're not at the point where we feel comfortable that if we gave you what the IRR was, that was spit out from the model, it would be quite as valuable as giving the ROIC.

**James Hamilton, Analyst:**

Okay. If I could turn to the fund. Just a couple of sort of clear up points, if you wouldn't mind. Firstly, the top end of your IRR guidance there 20%.

Obviously, that would broadly translate into you splitting the money 50-50 with the underlying clients, and I believe 10% as a yield on funds under management is the highest of ever seen.

But I also note in the statement, there was a comment about supernormal returns being shared and I was just wondering, and you don't expect those to materialize. I'm just wondering where does the supernormal returns of point sort of arrive and what are the economics after that? And secondly, how long do you believe, it will take to deploy the \$360 million?

**Christopher Bogart, Chief Executive Officer:**

So on the first question, the answer is a little bit complicated based on individual negotiations and also the fact that the 10% is a simple, in other words, non-compounding, non-IRR number. And so, you have to match—you have to do some math to get between the simple non-compounding and the IRRs. But I would urge people not to spend any time gaming that out. We are using this fund to try to fill a gap in our offering. So we're not trying to put higher returning assets in there.

We're trying—the sweet spot of this fund is assets that have IRRs in the teens. And that's what we're going after. And the reason for that supernormal provision frankly is, given the structure of the fund, it's to make sure that we're not incentivized to take on an unduly high level of risk to try to generate those supernormal return. So that's the governor there. And as to the timing, I think when—we don't really have a projection, but if you look at our historic approach to funds, we tend to raise funds in these kinds of sizes as opposed to jumbo funds to preserve our flexibility about how we allocate between funds and the balance sheet going forward. So this fund only has a three year investment period and we certainly try to size these, so that we are done comfortably before the investment period is up, but we're also not trying to be all done in one year.

As you've seen from some of the footnotes, we've already done something on the order of \$60 million plus in matters for this fund. So that sort of gives you a sense of the pace.

**James Hamilton, Analyst:**

Thank you.



**Christopher Bogart, Chief Executive Officer:**

Great. Thank you very much, James.

And at the risk of overstaying our welcome, we'll just take two final quick questions from the webcast. And then, let you go about your days. But as usual, we're very available to investors in all sorts of different ways. I am, for example, participating tomorrow in the Jefferies Conference, next week presenting at the Shares conference and we have lots of other opportunities to engage with us.

So website questions—webcast questions. One is from Trevor Griffiths which is sort of a question of the moment. Have you any Russian exposure, subject to sanctions or reputational risk?

So the short answer to that question is, no. And let me then just give a little tiny bit more nuance. Burford does not and has never done business where we need to be enforcing against assets that are in Russia, or frankly in the Ukraine, for that matter. And we, as a rule, do not take on matters where we're concerned about the integrity of the underlying court systems and our ability to have a fair and rule of law-based approach to our asset enforcement. So if we were approached by a client where we would need to enforce against assets in Russia, we would not do those deals.

We have from time-to-time done deals where we were needing to enforce against Russian assets, Russian controlled assets that are outside of Russia, but that is as a policy matter, consistent with the sanctions regimes. And so it is not uncommon for us and for other people in that business to be able to get permission from the relative governments to go and do just that. And we've successfully done that in the past because what we're engaged in doing, is not enriching the sanctioned parties. We're in the business of actually removing assets from the sanctioned parties. And so that, as I said is consistent with the underlying policy goals. But that is not a significant part of our business.

And then a question, just moved on my screen, a YPF question from Richard Hallett. On the basis that you win the YPF case, while I understand your arguments that Argentina will ultimately pay, please could you outline the various mid to bearish scenarios and related timetables for receiving cash settlement.

Well so, the most bearish scenario is that we lose, which we don't think is terribly likely on the odds, but it's certainly something that is an ever-present risk in any piece of litigation. And the way that we would lose here is that the judge would prefer the legal arguments of Argentina about one of the various affirmative defenses that Argentina has interposed. As you'll see from the summary judgment filings, we don't think those arguments are particularly strong. And we have provided expert evidence to rebut them. But that's the most bearish scenario.

In terms of what would happen on the cash payment and settlement and enforcement front, that's really not an area, as we've said before, that we're prepared to talk a lot publicly about. And the reason for that is, that this isn't a broad-brush thing. These things are very strategic and very case specific. And so the activities that we will undertake and the plans

that we will put in place for the enforcement or ultimate settlement of a judgment, should one be granted in our favor, those are not things, even though I know investors would like to discuss them, those are not things that are ultimately in investors' interest to have us discussing before you've seen them play out in the public sphere.

What I would say is, Argentina has in the past, paid its judgments. It's paid them, Argentina has a long history of litigating aggressively, losing, and then negotiating for a reduced payment of the amount that it's lost. It's a tactic that they've used for years and years and years. And for those of you who have followed us in the past, you'll know that we've had other successes against Argentina that fall into that same playbook.

So Argentina doesn't have, it's not like some other scofflaw countries like Venezuela, for example, that is building up a huge stockpile of unpaid judgments. Argentina doesn't have a big stockpile of unpaid judgments. And the reason is, because it's a resource rich economy that does a lot of exporting and ultimately with perseverance, people have been able to bring Argentina to the table because of the threat of being able to enforce against assets outside of Argentina.

So, for that I think, as a high level, is what we can say. But I think there is probably not much more we can say at the moment about the specific case. And with that, and given that we're six minutes over time, I want to thank everybody again for attending and for their questions and for your continued support of Burford. And we'll look forward to further dialog with you as the weeks and months pass.

**Jonathan Molot, Chief Investment Officer:**

Thanks everyone.

**Operator:**

This concludes the conference.

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