



BBY

Liquidators' second annual report

21 September 2017

BBY Holdings Pty Limited (receivers and managers appointed) ACN 075 187 432

BBY Limited (receivers and managers appointed) ACN 006 707 777

BBY Advisory Services Pty Ltd (receivers and managers appointed) ACN 102 761 008

Broker Services Australia Pty Ltd ACN 074 976 364

(all in liquidation)

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1. Executive summary

BBY was formerly the largest independent stock broker in Australia and New Zealand before its collapse in May 2015 when 10 group companies were placed into external administration.

Purpose of this second annual report

This is the second annual Liquidators' report to former clients and other creditors of the following BBY companies:

- BBY Holdings Pty Ltd
- BBY Limited
- BBY Advisory Services Pty Ltd
- Broker Services Australia Pty Ltd

Each year during the winding up of a company liquidators are required to either convene an annual meeting of creditors or lodge an annual report with ASIC, providing notice to creditors.

We have elected to lodge this second annual report with ASIC and publish a copy on the BBY creditor information website at www.kpmg.com/AU/bby. We have sent notification to approximately 6,000 former clients of BBY by email and to 400 possible creditors by post. This report provides an update on and should be read in conjunction with our previous report, dated 9 September 2016, a copy of which can be found on the website.

Classes of clients and creditors

There are various classes of former clients and creditors of BBY who have suffered losses as a result of the collapse. To the extent funds and assets were held in trust by BBY on behalf of clients the net proceeds will be available for distribution to clients as beneficiaries. General creditors are not entitled to be paid from these funds. This is discussed further below.

Clients

The value of client assets, including funds on hand and estimated future counterparty recoveries is \$41 million.

There are approximately 6,000 former clients of BBYL with claims of \$62 million against these assets, resulting in an estimated shortfall to clients, before recovery costs, of \$21 million.

We investigated the reasons for the shortfall. We concluded that BBYL did not maintain adequate financial and client records and we identified transactions outside of the ordinary course of business that may have led to the depletion of client monies and shortfalls against client obligations.

The legal entitlements of individual clients within various product lines is not clear and there is uncertainty about how potentially competing client entitlements should be treated.

We applied to the Supreme Court of New South Wales for directions in August 2015. Representative defendants were appointed by the Court to represent the respective interests of the different classes of BBYL clients. Those proceedings continued through 2016 and there was a 4 day hearing that concluded on 3 February 2017. The Court will make a determination in relation to how client monies should be dealt with and ultimately distributed.

The Liquidators have paid \$1.7 million in distributions to date, in accordance with earlier Court orders, in respect of Erroneous Deposits and Erroneous Withdrawals classes of clients.

There are a number of steps that have to occur before distributions can be made to the wider body of clients, including:

- The Court providing its directions
- Recoveries of remaining assets held with counterparties (pending the Court outcome)
- Verification and adjudication of client claims

Therefore these wider client distributions are not likely to occur before early to mid-2018. The exact timing is subject to a number of factors and is uncertain. The possible returns to clients in each of the product pools will vary depending on the Court directions.

Creditors

Whilst clients will recover a portion of their trust entitlements, there is no prospect of any return to creditors generally, except from possible recoveries that may result from potential causes of action being pursued by the Liquidators.

Creditor claims in respect of BBYH, BBYL, BBYAS and BSA could exceed \$40 million. These claims include secured creditor shortfalls, trade creditors, employees and clients in respect of shortfalls against trust assets.

Investigations and public examinations

The investigations we conducted during 2015 and 2016, culminating in our investigation report in December 2015 and supplementary investigation report in June 2016, provided evidence for the Court directions proceedings as to how BBY managed client monies.

Public examinations of former BBY officers and other parties were held in the Supreme Court of New South Wales between 12 and 23 September 2016.

Evidence was obtained during the public examinations that confirmed the accuracy of the findings in our investigation reports and provided further insight into the reasons for various transactions and who was involved. Evidence from these proceedings has been provided to the Australian Securities and Investments Commission.

Overview of liquidation process

The Liquidators' role includes winding up the affairs of each company in an orderly and fair way for the benefit of all clients and creditors. Set out in this report is a summary of key phases of work completed, in progress and remaining to be addressed (refer section 5.4). This report provides updates on:

- Client claims and trust assets (section 7.1)
- The Court directions proceedings (section 7.3)
- Investigations, including the public examinations held in September 2016 (section 10 and 11)
- Recovery actions, the costs of the winding up, receipts and payments and estimated outcomes for clients and creditors (section 12 onward)

More information

Further details of the BBY external administrations can be found on the creditor information website at www.kpmg.com/AU/bby. The website also contains key court documents, answers to frequently asked questions and other material. The website is updated on a periodic basis for material developments of interest to clients and creditors.

Clients and creditors can also email inquiries to AU-FMBBY@kpmg.com.au.

2. Glossary

ACN	Australian Company Number
Act	Corporations Act 2001 (Commonwealth)
AIMS	AIMS Financial Group
Ashurst	Ashurst Australia, lawyers assisting the Liquidators
ASIC	Australian Securities and Investments Commission
ASX	Australian Securities Exchange
ATO	Australian Taxation Office
BBY	The business operated by BBYL and the wider BBY Group
BBYAS	BBY Advisory Services Pty Ltd (Receivers and Managers Appointed) (In Liquidation)
BBYL	BBY Limited (Receivers and Managers Appointed) (In Liquidation)
BBYH	BBY Holdings Pty Ltd (Receivers and Managers Appointed) (In Liquidation)
BBYHT	BBY HomeTrader Pty Ltd (Subject to Deed of Company Arrangement)
BBYN	BBY Nominees Pty Ltd (In Liquidation)
BSA	Broker Services Australia Pty Ltd (In Liquidation) (the employment company)
Committee	Committee of Inspection
Court	Supreme Court of New South Wales
CSA	Client Segregated Account
Directors	Glenn Rosewall, Ken Rosewall, David Perkins
DOCA	Deed of Company Arrangement
Erroneous Deposits	Deposits received by the Receivers of BBYL across various product lines after the Administration date relating to a failed transaction
Erroneous Withdrawals	Margin calls made in error by the Receivers on 19 May 2015 in respect of Exchange Traded Options where BBYL did not settle its margin obligation with ASX Clear
ETO	Exchange traded options
FEG	Fair Entitlements Guarantee
FX	Foreign exchange
GST	Goods and services tax
IMF	IMF Bentham Limited
IB	Interactive Brokers LLC
Liquidators	Stephen Vaughan and Ian Hall of KPMG
NAB	National Australia Bank
Receivers	Receivers & Managers of BBYH, BBYL, BBYAS, S Parbery and M Robinson of PPB
Returned Collateral	Remaining ETO collateral of \$3.4 million returned by the ASX
Saxo	Saxo Capital Markets
St George	St George Bank, a secured creditor which appointed the Receivers

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4. Introduction

This annual report

This is the second annual report to creditors (including former clients) in the liquidations of:

- BBY Holdings Pty Ltd (in liquidation) (receivers and managers appointed) (*the BBY group parent company*)
- BBY Limited (in liquidation) (receivers and managers appointed) (*main BBY trading entity*)
- BBY Advisory Services Pty Ltd (in liquidation) (receivers and managers appointed)
- Broker Services Australia Pty Ltd (in liquidation) (*the employment company*)

This report should be read in conjunction with our first annual report dated 9 September 2016, available on the BBY creditor website at www.kpmg.com/AU/bby.

BBYH, BBYL, BBYAS and BSA were part of a wider group of BBY companies that comprised the BBY business and the affairs of these companies were interrelated. For convenience, this is a combined report covering the four companies, although we also address the affairs of each company individually.

This report covers the second 12 months of the winding up of each company from 22 June 2016 to 21 June 2017, as well as more recent developments prior to the date of this report.

Further information regarding BBY can be found on the above website, including:

- Administrators report to creditors (section 439A report), 12 June 2015
- Client monies investigation report, 22 December 2015
- Supplementary client monies investigation report, 15 June 2016
- First annual creditors report, 9 September 2016
- Court documents
- Latest news
- Frequently asked questions
- Other notices and material relating to these and other BBY companies

Decision not to convene meetings of creditors

When the winding up of an insolvent company in liquidation continues for more than 1 year, the Corporations Act (section 508) stipulates that a liquidator must either convene a meeting of creditors or prepare a report that is lodged with ASIC, setting out the conduct of the winding up during that first year and providing an estimate of when the winding up is likely to be completed.

We decided not to convene meetings of creditors of each of BBYH, BBYL, BBYAS and BSA but rather lodge this report with ASIC. Our decision not to convene meetings took into account the large number of creditors and former clients, the associated costs of convening meetings and the lack of funding to meet those costs.

Creditors may request a copy of this report free of charge. The report is also available on our BBY creditor information website at www.kpmg.com/AU/bby.

Other external administrations not included in this report

This report does not cover the conduct of other BBY external administrations including:

- BBY Nominees Pty Ltd (In liquidation), which held approximately \$25 million in assets on behalf of 600 clients. The majority of nominee assets have been returned to clients of BBYN and this liquidation is nearing its conclusion.
- SmarTrader Limited and BBY HomeTrader Pty Ltd (both subject to a pooled deed of company arrangement). A final dividend will be paid later this year and the Deed will then be concluded.
- The concluded administrations of BBY Protection Nominees Pty Ltd, Options Research Pty Ltd and Tilbia Nominees Pty Ltd.

Further information in relation to these companies is available on the BBY creditor website.

4.1. External administrations

Stephen Vaughan and Ian Hall of KPMG were appointed as Administrators of the following 10 companies within the BBY corporate group on 17 May 2015.

BBY external administration appointments				
BBY Company	Administration	Liquidation	DOCA	Administration Ended
BBY Holdings Pty Ltd	17-May-15	22-Jun-15		
BBY Limited	17-May-15	22-Jun-15		
BBY Advisory Services Pty Ltd	17-May-15	22-Jun-15		
Broker Services Australia Pty Ltd	17-May-15	22-Jun-15		
BBY Nominees Pty Ltd	17-May-15	08-Oct-15		
BBY Protection Nominees Pty Ltd	17-May-15			15-Oct-15
Options Research Pty Ltd	17-May-15			15-Oct-15
Tilbia Nominees Pty Ltd	17-May-15			15-Oct-15
Smartrader Limited	17-May-15		22-Jun-15	
BBY Hometrader Pty Ltd	17-May-15		22-Jun-15	

4.2. Receivers and Managers

Receivers and Managers from PPB are appointed over 3 BBY companies, BBYH, BBYL and BBYAS on behalf of St George Bank, a secured creditor.

5. Liquidations

BBYH, BBYL, BBYAS and BSA were placed into liquidation on 22 June 2015 and we became the Liquidators.

5.1. Role of the Liquidators

The purpose of liquidation of an insolvent company is to have an independent and qualified person (the liquidator) take control of the company so that its affairs can be wound up in an orderly and fair way for the benefit of all creditors. The Liquidators' role is to:

- Collect, protect and realise the company's assets
- Investigate and report to creditors about the company's affairs, including any unfair preferences which may be recoverable, any uncommercial transactions which may be set aside, and any possible claims against the company's officers
- Enquire into the failure of the company and possible offences by people involved with the company and report to ASIC
- After payment of the costs of the liquidation, and subject to the rights of any secured creditor, distribute the proceeds of realisation—first to priority creditors, including employees, and then to unsecured creditors, and
- Apply for deregistration of the company on completion of the liquidation.¹

In the case of BBYL the Liquidators have an additional role as trustees of the BBYL client funds to deal with those in accordance with the law. The Corporations Regulations direct that following the appointment of an administrator or the winding up of a financial services licensee, all moneys in a client segregated account must be paid to each person who is entitled to be paid money from the account. Where there is a deficiency, the money in the account must be paid in proportion to the amount of each person's entitlement.

5.2. Declaration of independence

Our previous annual report included a copy of our Declaration of Independence, Relevant Relationships and Indemnities (DIRRI).

5.3. Committee of Inspection

At the creditors meetings of BBYL and BSA on 22 June 2015, creditors formed two Committees of Inspection.

BBYL was the main trading entity and also managed client monies. BSA was an employment company which provided employment services to other group entities but did not otherwise trade.

¹ Australian Securities & Investments Commission, Liquidation: a guide for creditors information sheet 45

Role of committee

Committee members are regarded as holding fiduciary positions and must have regard to the interests of the wider body of creditors and members rather than just their own interests. The role of the Committees is to assist and advise the Liquidators and monitor the conduct of the liquidations. The Committees may provide directions and approve certain matters in the liquidations. The Liquidators must have regard to, but is not always required to comply with, such directions.

Committee members

The current memberships are set out in the table below.

BBYL and BSA Committees of Inspection			
Member	Representative	Type	Claim
BBYL			
Richard Howes Pty Ltd	Richard Howes	Client	Futures
LL Phoenix Pty Ltd & Denant Pty Ltd	Long Vo-Phuoc	Client	Futures
Derivative Management & Consulting Pty Ltd	Clive Riseam	Client	Futures
Derrick Sutton	Derrick Sutton	Client	Futures
Alchemy Trading Pty Ltd	Julian Peters	Client	Options
Agility Applications Pty Ltd	Paul Biggs	Creditor	Supplier
Hamilton Capital Pty Ltd	Enzo Pirillo	Creditor	Asset sale
BSA			
Indexys Pty Ltd	Andrew Harrington	Creditor	Commission
Trent Mackie	Trent Mackie	Employee	Commission
Gavin Long	Gavin Long	Employee	Commission
Drew Metcalfe	Drew Metcalfe	Employee	Commission

Committee membership involves a significant commitment of time and effort. Two representatives of the BBYL Committee, Heather Cullen and Craig Morris either vacated or resigned from their positions on the BBYL Committee during the previous year. We are grateful for their contributions. It was not necessary to fill their roles as the BBYL Committee already had strong representation.

Meetings

We report formally to the Committees and provide regular email updates. The following meetings of the Committees for BBYL and BSA have been held since the date of liquidation:

BBYL and BSA Committees of Inspection meetings		
Date	BBYL	BSA
29 July 2015	✓	✓
08 September 2015	✓	✓
22 December 2015	✓	✓
06 April 2016	✓	X
08 September 2016	✓	X
18 October 2016	✓	X
30 November 2016	✓	X
22 February 2017	✓	X
23 February 2017	X	✓
17 March 2017	✓	X
24 July 2017	✓	X

The first 3 meetings of BBYL and BSA were held on a concurrent basis. We have since held only one meeting for BSA as there has been relatively little activity in this liquidation pending developments in the BBYL liquidation.

Meetings of the BBYL Committee have been held separately from BSA since 6 April 2016 as the agendas included confidential material that was subject to legal professional privilege.

5.4. Overview of the liquidation process

BBYL

BBYL was the main trading entity and held client monies.

An overview of the status of the BBYL liquidation process is set out on the next page including a summary of key phases of work completed, in progress and remaining to be addressed in the winding up and steps towards the ultimate distributions to clients and creditors.

BSA

BSA was the employment company within the BBY business which dealt with most employees and contractors. BSA held no assets.

Former employees are eligible to lodge a claim for entitlements with FEG, the Commonwealth Fair Entitlements Guarantee scheme including for wages, annual leave, long service leave, payment in lieu of notice and redundancy pay. On behalf of the FEG, the Liquidators processed distributions to 87 former employees for a gross amount of \$1.8 million. Since mid-2016, the Department of Employment makes distributions directly to employees. We have continued to assist in this process.

As at the date of this report, FEG had processed \$1.87 million in respect of employee entitlements and it ranks as a priority creditor for this amount in the liquidation of BSA.

There is a possibility of funds becoming available to priority creditors of BSA including FEG and former employees. This is discussed in more detail later in this report.

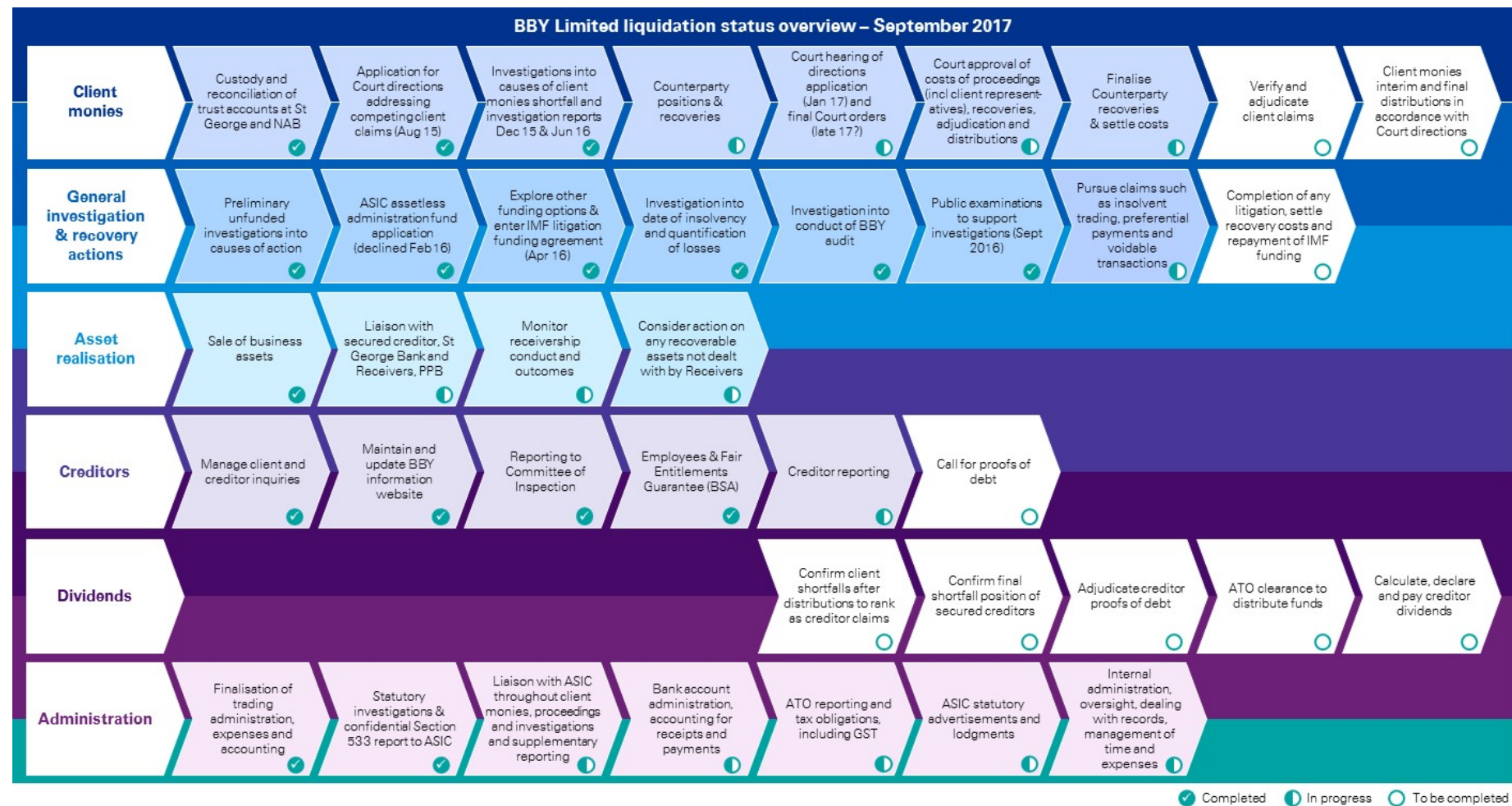
BBYH

BBYH was the parent entity of BBYL, BSA and BBYAS. This entity was head of the tax consolidated group of BBY, with GST being remitted by this company. The assets of this company mainly comprised of intercompany receivables from BSA, which are unlikely to be recoverable.

BBYAS

BBYAS was part of BBY's corporate finance business, although the majority of transactions were conducted through BBYL. BBYAS had no assets other than intercompany receivables and sundry debtors, which are unlikely to be recoverable.

BBYL liquidation overview



6. Background to BBY

For further information in relation to the background of the BBY business, refer to our first annual report to creditors, dated 9 September 2016, which set out statutory information, details of officers and shareholders, the trading history, structure of the BBY group. That report also set out the factors contributing to the failure of BBY and its collapse in May 2015.

7. Client monies

In BBYL's business, funds received from clients were initially deposited into Client Segregated Accounts (CSAs) on trust for clients. CSAs were held by BBYL in respect of the following financial products as follows:

- Equities and ETOs – cash equities (e.g. listed shares and units) and exchange traded options
- Futures – futures contracts and futures options
- FX – foreign exchange contracts
- Saxo – a variety of products, including FX contracts of difference and international products offered by Saxo Capital Markets
- IB – a variety of products offered via the Interactive Brokers platform including stocks, options, FX and futures.
- Carbon trading (largely inactive)

Investigations carried out in 2015 and 2016 indicated there was a significant overall shortfall between available client funds and client claims. BBYL generally did not maintain comprehensive records that show the client or clients who are entitled to the balance of any particular CSA. We identified transactions between CSAs within and across different product lines and between CSAs and 'House' accounts that we consider to be outside of the ordinary course of business and may have led to the depletion of CSAs and shortfalls against client obligations. In these circumstances the legal entitlement of each client to money in the CSAs is not clear and there is uncertainty about how client entitlements should be treated in the liquidation of BBYL.

In our first annual report we discussed how client monies were managed, the profile of client claims, available client assets and the estimated shortfall against claims. We also set out the challenges in dealing with client monies, the results of our investigations and the Court directions proceedings. Please refer to our previous annual report for more detail regarding these matters.

Set out below are updates in relation to client monies since our previous report.

7.1. Client claims and assets

There are approximately 6,000 clients with claims to cash and assets held in trust.

Client claims total approximately \$62 million. The estimated value of client assets is \$41 million and the estimated shortfall of assets against client claims is \$21 million before costs.

The table below sets out an updated estimated surplus / shortfall calculation comparing client assets and claims in each product line, including a summary of costs to date.

BBYL - Estimated Surplus/Shortfall Calculation by Product Line as at 30 June 2017 (excludes various future costs, refer notes below and appendix)										
Product line \$m	Equities	ETO	ETO Margin	Futures	FX	Saxo	Carbon	IB	Other	Total
Gross assets <i>(including CSAs & actual / future cash, stock & options recoveries)</i>	9.3	4.0	2.4	4.8	1.5	4.8	-	13.8	0.1	40.7
Gross client claims	(8.4)	(3.7)	(2.4)	(13.6)	(3.0)	(12.3)	(0.0)	(18.3)	-	(61.8)
Estimated surplus/shortfall of gross assets against claims	0.9	0.3	(0.1)	(8.7)	(1.5)	(7.5)	(0.0)	(4.5)	0.1	(21.1)
Costs to date (includes GST)										
Court proceedings <i>(representative defendants & recovery costs, approved & paid)</i>	(4.0)	(1.0)	(0.8)	(0.8)	(0.4)	(0.2)	-	(0.0)	(0.1)	(7.3)
Court proceedings & recovery costs <i>(submitted or approved, not yet paid)</i>	(1.5)	(0.4)	(0.3)	(0.3)	(0.2)	(0.1)	-	(0.0)	(0.0)	(2.8)
Other realisation, preservation adjudication & distribution costs <i>(not yet estimated)</i>	(0.0)	(0.0)	-	(0.0)	(0.0)	(0.0)	-	(0.0)	(0.0)	(0.0)
Estimated surplus/shortfall after costs to date / before future costs	(4.5)	(1.1)	(1.2)	(9.8)	(2.1)	(7.8)	(0.0)	(4.5)	0.1	(31.1)
Distributions to clients <i>(EDs & EWs, excludes payments since June 2017, see below)</i>	0.2	-	-	0.1	0.1	-	-	0.0	-	0.4
Cents in the dollar return										
<i>Gross assets against client claims</i>	<i>1.00</i>	<i>1.00</i>	<i>0.98</i>	<i>0.36</i>	<i>0.50</i>	<i>0.39</i>	<i>0.00</i>	<i>0.75</i>	<i>1.00</i>	<i>0.66</i>
<i>Net of costs to date, before future costs</i>	<i>0.46</i>	<i>0.69</i>	<i>0.50</i>	<i>0.28</i>	<i>0.30</i>	<i>0.37</i>	<i>0.00</i>	<i>0.75</i>	<i>0.00</i>	<i>0.50</i>
<i>Distributed to date</i>	<i>0.03</i>	<i>0.00</i>	<i>0.00</i>	<i>0.00</i>	<i>0.02</i>	<i>0.00</i>	<i>0.00</i>	<i>0.00</i>	<i>0.00</i>	<i>0.01</i>

This table is for illustrative purposes only and includes calculation rounding. A more detailed table is set out at appendix A. Estimates are based on a number of assumptions including estimates of recoverable values. There will usually be differences between estimated and actual outcomes.

Notes to the estimated surplus / shortfall calculation table

- Gross assets includes client monies held in Client Segregated Accounts as well as an estimate of future recovery of cash, stock and options held with counterparties. The values of counterparty positions changes over time in line with market movements.
- The value of gross assets has increased due to movements in foreign currencies prior to conversion and market values of counterparty positions.
- The table includes known costs including actual costs approved by the Court and costs submitted to Court for approval but not yet approved.
- The following future costs have been excluded from the table as they cannot yet be estimated with accuracy:
 - Future costs of the Court proceedings.
 - Costs of recovering the remaining counterparty assets.
 - Managing the large number of Client Segregated Accounts.
 - Verifying and adjudicating client claims.
 - Updating client records in response to changes of contact and banking details, and responding to client inquiries.

- Settling remaining costs of the Court proceedings including costs of the legal representative defendants.
- Calculating and paying distributions to clients and providing notices of distributions (costs will be influenced by how many distributions are required)
- The allocation of costs has been calculated in accordance with Court orders. Minimal costs have been allocated to the IB product line (as the majority of assets are held with the IB counterparty). Certain representative defendants have indicated their intention to apply to Court to reallocate various costs between product lines. This will have to be addressed prior to any distributions.
- Distributions totalling \$1.7 million net have been made in accordance with Court orders to those clients who have verified their claims in respect of Erroneous Deposits (received by BBY after the Administration date) and Erroneous Withdrawals (ETO margin calls by the Receivers). Costs were deducted from distributions. The above table reflects only \$0.4 million of distributions as the balance was paid after the date of the calculation, being 30 June 2017. Distributions are ongoing as client claims are confirmed and details verified.

Respective entitlements of individual clients will depend on the outcome of the Court proceedings and adjudication of claims.

The ultimate return to clients in each of the product lines is subject to determinations of the Court, the final value of counterparty recoveries and the outcome of various recovery initiatives by the Liquidators, recovery of assets, verification and adjudication of claims and the distribution process.

As a result of these limitations in information and the uncertainty of outcomes, we cannot provide advice in relation to year end portfolio valuations or annual statements. We recommend former BBYL clients seek their own independent advice in relation to any tax and audit matters.

7.2. Counterparty holdings

BBY dealt with a number of counterparties on behalf of clients including the ASX, Interactive Brokers, Halifax, ABN AMRO, Saxo, ADM, CMC Markets and BNZ.

Recoveries from counterparties to date have been \$5.6 million, as summarised below:

BBYL – Counterparty Recoveries	
Counterparty	Receipt (\$'000)
ASX (returned ETO collateral)	3,400
ADM Investor Services	1,515
CMC Markets	5
Saxo Capital Markets	207
BNZ recoveries	423
Total	5,550

The value of counterparty holdings as at 30 June 2017, yet to be recovered, totalled approximately \$21 million, including cash, stock and options. The value of stock and options moves daily in line with market movements. Further detail are set out in appendix A.

The Receivers hold \$0.5 million received from Halifax and, to date, have not complied with requests to hand these funds across. ABN AMRO also require the Receivers' consent to release approximately \$2 million in funds to the Liquidators.

Saxo Capital Markets hold approximately \$4 million of stock and Interactive Brokers hold cash of \$10 million and \$3 million in stock and option positions. Both Saxo and IB require directions of the Court in relation to the release of these positions.

7.3. Court directions

There are thousands of BBYL clients who potentially have an interest in the CSAs and recoveries. The unusual circumstances uncovered during our investigations and associated legal questions that arise means the matter of how competing clients entitlements are to be dealt with is extremely complex. The outcome for clients within various product pools will be heavily influenced by the manner in which the legal position is resolved. In August 2015 the Liquidators sought guidance of the Supreme Court of New South Wales as to how the client monies in the CSAs and other client related recoveries should be dealt with and ultimately distributed. Examples of issues where we sought a determination by the Court include:

- Whether or not CSAs should be grouped or pooled, and if so, how.
- Whether foreign currency held in the CSAs should be converted into Australian Dollars to facilitate distribution.
- How amounts recovered by BBYL since 17 May 2015, when the company went into administration, and amounts that may be recovered by the Liquidators in the future, are to be treated.
- Whether positive client positions should be set-off against negative client positions, including across different product lines in respect of the same client.
- Whether approximately 2,500 small client entitlements of less than \$100 can be disregarded (on the basis that the administrative costs of recovery and distribution would exceed the claims).
- Whether amounts deposited by clients after 17 May 2015, when the company went into administration, should be returned to clients, or treated as a deposit to the relevant CSA.
- Whether interest earned on the CSAs is owned beneficially by BBYL or is held on trust for clients.
- How the liquidators' remuneration, costs and expenses should be paid out of trust property.

The Court appointed 'Representative Defendants' to represent the respective interests of the different classes of BBYL clients.

The defendants include the following:

Court directions proceedings			
	Defendant	Representing	Lawyers
1st	J Mazzetti Pty Ltd as trustee for J Mazzetti Pty Ltd Staff Superannuation Fund and others	ETOs clients with open positions at 15 May 2015	Partners Legal
2nd	Peter & Bronwen Haywood as trustees for the Haywood Superannuation Fund	Equities & ETO clients without open positions at 15 May 2015	Mills Oakley
3rd	Clive Riseam	Futures, FX, Saxo and Other clients	Corrs Chambers Westgarth
4th	Securities Exchanges Guarantee Corporation Limited as trustee of the ASX National Guarantee Fund	Non-representative defendant	Clayton Utz
5th	David Nadin	Interactive Brokers clients	Arnold Bloch Leibler

7.4. Directions proceedings

Our previous annual report included a detailed chronology of the progress of the client monies Court directions proceedings from August 2015 to August 2016. Set out below is a short summary of proceedings subsequent to that report.

September 2016

On 27 September 2016, His Honour Justice Brereton of the Supreme Court of New South Wales delivered judgement on the 'separate question' considered at the previous hearing in March 2016, being whether clients with claims in respect of the Returned Collateral (\$3.4 million ETO collateral returned by the ASX) and the Erroneous Withdrawals (\$2.4 million) are entitled to be repaid in priority to any other claims. He ruled in the negative in respect of the question of Returned Collateral and in the affirmative in respect of the Erroneous Withdrawals.

The Court also ruled that the Liquidators were justified in closing out open derivative positions held on the Interactive Brokers trading platform upon termination of the underlying client agreement.

October 2016

On 12 October 2016, His Honour Justice Brereton of the Supreme Court of NSW made orders in respect of Erroneous Withdrawals and Erroneous Deposits clients, permitting the Liquidators to make distributions to such clients (except those with a claim of \$100 or less) after deduction of proportionate approved costs, expenses and remuneration payable from them.

Distributions in respect of Erroneous Deposits commenced in February 2017 after completion of a claims verification process. Distributions in respect of Erroneous Withdrawals were delayed to July 2017 as a consequence of objections from certain Representative Defendants about treatment of costs between the various classes of client funds.

November 2016

In November 2016 we prepared and finalised evidence in support of our application for Court directions relating to the following issues:

- The treatment of client accounts with low balances (that is, whether the Liquidators would be justified in disregarding client accounts with balances below a certain threshold);
- The conversion of the balances of CSAs denominated in foreign currency into Australian dollars; and
- The recovery of a fund held by ADM Investor Services International Limited.

We filed an affidavit in support of the directions sought, which together with the accompanying exhibit comprised 256 pages.

During the same period we, via Ashurst in conjunction with counsel, reviewed and responded to an application made by the First Defendant (Mazzetti) which sought orders permitting the First Defendant to file and serve further witness evidence in relation to the proceedings.

On 9 November 2016 we attended a directions hearing in relation to the above applications. Pursuant to the orders made following the directions hearing, the First Defendant served further evidence on the Liquidators and the other parties to the proceedings. We conducted a detailed review of that evidence and worked with Ashurst in preparing a detailed analysis which formed the basis of a written reply to the First Defendant and ultimately formed part of the Liquidators' detailed submissions in chief.

December 2016 to January 2017

On 5 December 2016, there was a directions hearing in relation to the proposed close out of open derivative positions held through IB, a financial services counterparty of BBYL;

Throughout November 2016, December 2016 and January 2017, we also performed extensive work in preparation for the main hearing of the proceedings, including:

- Working with Ashurst in preparing detailed submissions in chief, which culminated in the production of a 272 page document;
- Reviewing detailed submissions prepared by;
 - The First Defendant (consisting of 73 pages),
 - Second Defendant (Haywood) (34 pages),
 - Third Defendant (Riseam) (51pages) and
 - Fourth Defendant (Securities Exchanges Guarantee Corporation Limited) (53 pages)
- Working with Ashurst in preparing detailed submissions in reply, which culminated in the production of a 99 page document which was served on all parties;
- Reviewing submissions in reply prepared by each of the Second Defendant (consisting of 11 pages), the Third Defendant (42 pages) and the Fourth Defendant (17 pages).

February 2017

The directions proceedings culminated in a hearing in the Supreme Court of New South Wales over 4 days between 31 January and 3 February 2017.

Key issues before the Court included how client entitlements should be calculated and how funds in CSAs and recoveries should be distributed, including whether or not there should be pooling of some or all funds.

The majority of evidence in the proceedings is contained in the two client monies investigation reports we produced and other material and analysis we provided to assist the Court and Representative Defendants.

There was cross examination of one of the Liquidators as well as a former senior manager of BBYL and the parties made extensive submissions setting out their respective positions on matters before the Court.

The Court has reserved judgment in the proceedings. The legal and factual issues are complex and the Court will require time to make a final determination and hand down orders in relation to how client monies in the CSAs and other client related recoveries should be dealt with and ultimately distributed. It may be a number of months before there is a judgment and orders are made.

7.5. Costs of the Court proceedings

On 19 October 2015, the Court made orders in relation to the payment of costs and expenses to the effect that:

- The Liquidators' remuneration, costs and expenses of the proceedings and of administering the CSAs be paid out of the CSAs on a pro-rata basis.
- The Liquidators' remuneration, costs and expenses attributable to particular Recoveries be paid from those Recoveries.
- The Second and Third Defendants' legal costs be paid out of the CSAs and Recoveries (other than the Erroneous Withdrawals and the 'Returned Collateral', which total \$5.8 million referable to the ETO product line) on a pro rata basis. By subsequent orders made on 23 February 2016, the Court ordered that the Fifth Defendant's legal costs be paid in the same manner.
- The legal costs of the First Defendant (Mazzetti) be paid out of the Erroneous Withdrawals and the Returned Collateral on a pro rata basis.
- The legal costs of each of the Representative Defendants, and the legal costs, expenses and remuneration of the Liquidators must be examined and approved by a Registrar of the Court before they are paid.

This means that certain costs must be apportioned pro rata across all CSA accounts, some apportioned equally across all recovery accounts (holding recoveries), some must be apportioned to a specific recovery account and some must be apportioned pro rata across recovery accounts.

Process for payment of costs from CSAs

The process for reimbursement for costs for each party's legal costs in the proceedings was set out in our previous annual report.

Having regard to the nature of the Court orders and the large number of domestic and foreign currency accounts (most of which have now been converted to Australian Dollars), the process of making a payment from the CSAs against approved costs is complex and time consuming.

This necessitated building a complex model to assist in the calculation of the apportionment of costs between over 50 CSAs held with St George and National Australia Bank.

As noted earlier, minimal costs have been allocated to the IB product line (as the majority of assets are held with the IB counterparty). Certain representative defendants have indicated their intention to apply to Court to reallocate various costs between product lines. This will have to be addressed prior to any distributions.

The Liquidators are claiming GST input tax credits in relation to our own client monies remuneration and legal costs and we will reimburse these to the respective client segregated accounts to be distributed in accordance with Court directions when these are made.

Costs to date

Set out in the table below is a summary of costs that have been approved by the Court to date as well as applications presently before the Court for consideration.

BBYL – Court costs approved and lodged as at 31 August 2017			
\$'000 (excluding GST)	Approved	Pending	Total
Liquidators	2,931	443	3,374
Ashurst (on behalf of Liquidators)	2,300	-	2,300
1 st - Partners Legal (Mazzetti / ETO open positions)	992	-	992
2 nd - Mills Oakley (Haywood / Equities & ETO closed positions)	1,354	-	1,354
3 rd - Corrs Chambers Westgarth (Riseam / Futures, FX, Saxo & other)	772	-	772
5 th - Arnold Bloch Leibler (Nadin / Interactive Brokers clients)	346	-	346
Total	8,695	443	9,138

Note: costs exclude GST.

There is also Goods and Services Tax of approximately \$900,000. Approximately \$570,000 of this will be recoverable by the Liquidators and will be reimbursed to the CSAs. There may be further representative defendant costs that have not yet been submitted to Court.

Costs paid

Each time we pay Court approved costs of the directions proceedings we calculate the apportionment between CSAs and recoveries in compliance with Court orders, then sweep funds from the CSA accounts to a general liquidation account from which payments are made (as reflected in the account of receipts and payments for the general liquidation). Not all of the approved costs of \$8.7 million have been paid. In some instances, approved costs relate to work on counterparty recoveries that have not yet been realised.

As at 30 June 2017 we have made the following disbursements in Court approved costs of the directions proceedings:

BBYL - costs paid to 30 June 2017 (including GST)								
\$'000	Equity/ ETO	ETO Margin	Futures	FX	Saxo	IB	Other	Total
Cost paid from CSAs & recovery accounts								
Liquidators	1,121	300	138	114	29	0	16	1,718
Ashurst (on behalf of Liquidators)	1,181	234	152	123	52	0	17	1,760
1st - Partners Legal (Mazzetti / ETO open positions)	786	305	-	-	-	-	-	1,091
2nd - Mills Oakley (Haywood / Equities & ETO closed)	1,038	-	273	104	44	15	15	1,489
3rd - Corrs CW (Riseam / Futures, FX, Saxo & other)	577	-	171	58	25	10	9	850
5th - Arnold Bloch Leibler (Nadin / Interactive Brokers)	276	-	55	28	11	2	4	377
Total costs paid from CSAs & Recovery accounts	4,980	838	789	427	161	28	61	7,285

7.6. Adjudication and distribution of client entitlements

Erroneous Withdrawal and Erroneous Deposit clients

Following the court orders on 12 October 2016, we invited clients with claims in respect of Erroneous Deposits and Erroneous withdrawals to verify their entitlements and provide other details to facilitate distributions. We utilised the services of Link Market Services, including its call centre, mailing and emailing facilities and banking functions.

To date the Liquidators have paid distributions totalling approximately \$1.7 million to 95 clients:

- In February 2017, the Liquidators commenced distributions to Erroneous Deposit clients and have paid out \$362,000 to 14 clients net of costs.
- In July 2017, after resolution of objections from certain representative defendants in the Court proceedings regarding apportionment of costs, the Liquidators commenced distributions in respect of Erroneous withdrawals, and have paid out \$1.3 million to 81 clients net of costs. These distributions are not reflected in the earlier 'Estimated Surplus/Shortfall Calculation' table in Section 7.1 of this report as they were after 30 June 2017, the date of the table.

Distribution of other Client funds

The Liquidators wish to be in a position to distribute available client monies to the wider client base as soon as possible. This will be subject to the proceedings and the processing of claims, as well as the recovery of counterparty funds.

A process will still ultimately be required to confirm and verify the accuracy of all individual claims (which number in the thousands) and provide for resolution of any disputed claims prior to distributions of funds.

The actual approach to the adjudication process will be influenced by the nature of orders of the Court. In the meantime, we have carried out planning for this process with a view to how it may be streamlined to cost effectively process the large volume of claims. We have worked with Link Market Services in relation to the development of an internet client portal to facilitate the verification and adjudication process, with a view to reducing processing effort, time and costs.

Assuming that Court orders are delivered before the end of 2017, the earliest date for an initial distribution is likely to be in mid to late 2018.

At a later stage in the liquidation, assuming there are sufficient general (non-client trust related) recoveries, there could also be a wider creditor related process for submission and adjudication of claims. Clients would be entitled to participate to claim as general creditors in relation to shortfalls in return of client funds. They would not need to prove debts again in respect of shortfalls and they would participate equally with other creditors in any additional general creditor dividends.

8. Creditors

Total creditor claims in the liquidation of BBYH, BBYL, BSA and BBYAS could exceed \$40 million excluding intercompany liabilities. Details of claims by company were set out in our previous annual report. We provide an update below.

8.1. Secured creditors

St George holds a security interest over property of BBYL and other group companies including BBYH, BSA, BBYAS, and BBYPN.

The Receivers & Managers from PPB remain in place on behalf of St George Bank. In May 2017, Brett Lord was replaced as one of the Receivers by Mark Robinson as a co appointee with Stephen Parbery.

Our understanding is that St George is likely to suffer a shortfall in excess of \$9 million after realisation of assets subject to security. To this extent it could rank along with unsecured creditors in respect of any recoveries from liquidator actions.

There were a number of other suppliers holding security interests registered on the Personal Property Securities Register relating to asset leases and other financial arrangements.

8.2. Employees

As outlined in earlier sections of this report, BSA was the employment company within the BBY business which dealt with most employee and contractors. Where FEG meets a claim it has a subrogated right in the liquidation in respect of any recoveries.

We processed 12 distributions on behalf of FEG to 87 former employees for a gross amount of \$1.75 million.

Since 1 July 2016 all claims approved by FEG are now paid directly by the Department of Employment. As at the date of this report, FEG had advanced \$1.87 million in total.

8.3. Adjudication of proofs of debt

If there are funds left over after payment of the costs of the liquidation, and payments to other priority creditors, including employees, the liquidator will pay these to unsecured creditors as a dividend where their claims have been admitted.

Claims are normally made in the form of a 'proof of debt'. The Liquidators undertake a formal process of adjudicating upon each proof before admitting creditor claims to participate in dividends.

The Liquidators are not calling for submission of proofs of debt at this time. We will notify creditors if there are likely to be funds available for distribution and, in that case, will call for formal proof of debt forms to be lodged.

8.4. Dividend process

Generally, the order in which funds are distributed is:

- costs and expenses of the liquidation including liquidators' fees
- outstanding employee wages and superannuation
- outstanding employee leave of absence (including annual leave, sick leave where applicable and long service leave)
- employee retrenchment pay, and
- unsecured creditors.

Each category is paid in full before the next category is paid. If there are insufficient funds to pay a category in full, the available funds are paid on a pro rata basis.

It is too soon to estimate whether there will be funds available for a dividend.

9. Asset realisation

9.1. Conduct of Receivership

The Receivers assumed control of BBYL and the wider BBY business and assets on behalf of the secured creditor of BBYL, St George. The Receivers' primary role is to collect, sell and otherwise deal with all assets which are subject to the secured creditors' security to repay the debt owed to the secured creditor. The Receivers have no obligation to report to unsecured creditors about the receivership. However they are required to lodge various statutory accounts and they have also provided various information to the Liquidators in response to our requests.

The latest statutory accounts lodged by the Receivers with ASIC, for the period to 17 May 2017 indicate that:

- Receiver recoveries have totalled approximately \$10 million
- Key receipts included \$5.3 million in margin from the ASX and \$2.5 million from debtors
- Total costs have been \$4.7 million
- Recovery costs included \$1.7 million in Receivers' fees and \$1 million in legal fees
- The secured creditor, St George, has received net returns of approximately \$5 million

We understand St George commenced proceedings against Glenn Rosewall in the Supreme Court of NSW seeking a judgment against him under a personal guarantee and indemnity he provided as surety for the facilities provided by St George to BBY. According to a media article in June 2017, the Bank was claiming \$9.3 million and Glenn Rosewall was defending the claim.

10. Client monies investigations

The investigations we conducted during 2015 and 2016, culminating in our investigation report in December 2015 and supplementary investigation report in June 2016, provided evidence for the Court directions proceedings as to how BBY managed client monies.

Those investigations included:

- Establishment of a voluntary disclosure 'hotline' for former BBY employees
- Numerous formal interviews of former BBY officers and other parties
- Obtaining information from multiple banks
- Examination of accounting and client records
- Analysis of over 155,000 bank transactions, including 10,000 internal funds transfers totalling \$8 billion
- Examination of 10 terabytes of company electronic information
- Processing of over 16 million emails across over 800 email directories
- Detailed analysis of key events and transactions and tracing of convoluted funds flows

We identified transactions between CSAs within and across different product lines and between CSAs and 'House' accounts that we considered to be outside of the ordinary course of business and may of which led to the depletion of CSAs and shortfalls against client obligations.

11. Public examinations

As Liquidators, we have statutory powers to conduct public examinations into the examinable affairs of BBYL and the BBY Group.

In our annual report to creditors dated 9 September 2016 we provided information on the public examination process. Please refer to this report for more detail.

Public examinations were held in the Supreme Court of New South Wales between 12 and 23 September 2016. The examinations were held in open court and were open to interested parties to attend.

We served subpoenas on over 20 parties to produce documents in their possession and served summonses for examination on a number of these parties.

We received approximately 30,000 subpoenaed documents which were collated and reviewed as part of the investigations.

We examined 11 former officers and other individuals over 2 weeks in September 2016:

- Jason Battistessa, Head of FX & Futures
- Amy Fung, Financial Controller
- Fiona Bilton, Head of Clearing (Melbourne)
- Peter Clavin, Head of Risk & Compliance
- April Yuen, Strategy Manager (former Finance Manager)
- Arun Maharaj, CEO & Company Secretary
- Nevine Rottinger, Essential Energies
- David Perkins, Non-Executive Director
- Ken Rosewall, Non-Executive Director & owner
- Glenn Rosewall, Executive Chairman & owner
- Tim Sydenham, former auditor (BDO)

Focus of examinations and associated investigations

The examinations focussed on a series of key events and transactions that we consider contributed to depletion of client funds and the ultimate demise of BBY. These included, but were not limited to, the following:

- The financial performance and position from 2011 to 2015, including the ongoing underlying losses, inaccurate forecasting, unsuccessful cost cutting measures and dependency on shareholder funding as well as how trading activity and working capital was funded.
- The structure of the Board, the management team, the internal audit and risk committee, the role of Mr Perkins as an independent director, the relationship with the external auditor, reporting lines and access to bank accounts.
- Reliance on a 'professional intuitive' in relation to key business issues and decisions.
- The ill-fated underwriting in 2009 of \$25 million in convertible notes in Firestone Energy Limited and its overshadowing impact on the future financial position of the BBY business.
- The 2011 acquisition of Stonebridge Securities (the former Tricom Securities business) including taking control over \$40 million in Saxo client monies. This was one of a number of acquisitions and significantly increased the size and complexity of the BBY business and associated risk management challenges.
- Becoming a self-clearing participant in 2011. Self-clearing participants earn larger profits on each trade because they do not have to pay clearing fees to third party clearers. The opportunity for greater profits however comes at significant risk given self-clearing participants are required by ASX to have adequate capital to meet client obligations and margin calls by ASX as principal. BBYL did not have significant cash or equity reserves following its failed Firestone underwriting.

- The circumstances and reasons behind a series of transactions within a few days in May 2012, totalling \$12 million to an account in the name of Smartrader Limited, an Australian Financial Services Licensee in relation to the Saxo 'Protection Trust' before a bank statement was provided in response to a request from the ASIC.
- The 'Aquila' transaction in June 2014 when BBY, on behalf of a client, Mineral Resources Limited, contracted to acquire 12% of shares in Aquila Resources Limited (AQA), with a market value \$192 million. According to BBY's media release at the time, this was "Largest ever single on-market order ever executed on the Chi-X". A clearing participant, such as BBY, is not permitted to make client margin calls or use client cash to fund margin obligations to the ASX. This transaction was clearly beyond the financial means of BBY to support. AQA share price fell and the ASX made initial, variation and capital based position limit margin calls totalling \$40 million.
- The circumstances and reasons behind sweeping of funds during 2014 and 2015 from dormant Saxo client accounts.
- The circumstances and reasons behind a series of transactions in December 2014 involving transfers of funds from various internal 'bucket' accounts and from FX to the Saxo account before a bank statement was provided in response to a request from the ASX.
- Termination of the Saxo relationship in December 2014 after BBY failed to make final repayment instalments of \$16 million. Following termination of the BBY / Saxo relationship clients could become clients of Saxo pursuant to an "introducing broker" arrangement, withdraw their Saxo monies or transfer their Saxo monies to another BBY product. Over \$50 million was returned by Saxo to BBY as a result of withdrawals requested by BBY's underlying clients, the majority of which appears to have been returned to clients, however over \$6 million was paid to a variety of non Saxo accounts including Futures, FX, payments to clients in other product lines and to BBY 'House' accounts.
- The conduct of external audits for the financial years from 2012, 2013 and 2014.

Evidence was obtained during the public examinations that confirmed the accuracy of the findings in our investigation reports and provided further insight into the reasons for various transactions and who was involved.

We are obliged to report various matters, including possible breaches of the Corporations Act and other laws to the Australian Securities and Investments Commission. Evidence from these proceedings has been provided to ASIC.

12. Recovery initiatives

The Receivers took possession of and realised assets subject to the St George security. There are no material assets available in the liquidations. There are no prospects of any return to creditors (other than former clients) except from possible recoveries resulting from potential causes of action available to the Liquidators. This is discussed in more detail in our previous annual report.

In April 2016 the BBYL Committee of Inspection approved a litigation funding arrangement with IMF Bentham Limited to support additional investigations and possible recovery actions. This included the public examinations. In February 2017, the litigation funding agreement with IMF was amended in order to include BBYH and BSA.

12.1. Insolvent trading claim

Directors have statutory duties under section 588G of the Corporations Act to prevent trading whilst insolvent. Liquidators have the ability to seek damages from directors who allow companies to trade whilst insolvent. There are various statutory defences against a claim for insolvent trading. This is discussed in our previous annual report.

Investigation

During the second half of 2016 we carried out an analysis of the solvency of the BBY group to support a claim against the Directors for insolvent trading. This was a complex task given the complexity of the BBY business. In preparing the report we reviewed and analysed financial information, company records and external material sourced from other parties and we quantified losses sustained by creditors as a result of the insolvent trading.

We prepared a confidential solvency report detailing our findings. The report focussed on the period between 1 July 2014 and 17 May 2015 and concluded that the BBY group was insolvent during this time and that it incurred debts to creditors during this period in the sum of \$31.8 million (\$25 million of which was incurred between December 2014 and May 2015). This comprised \$28.2 million in respect of BBYL, \$3.4 million in respect of BSA and \$0.3 million in respect of BBYH.

Statement of claim

Upon completion of the public examinations and solvency report, with assistance of our lawyers, Ashurst, we issued to the Directors and their insurers a draft originating process and points of claim on behalf of BBYL, BBYH and BSA.

Mediation

A formal mediation of our insolvent trading claim was held on 4 April 2017. Mediation is a structured negotiation process in which an independent person, known as a mediator, assists the parties to identify and assess options and negotiate an agreement to resolve their dispute. Mediation is an alternative to litigation of a disputed claim through the Courts. Mediation offers various benefits including:

- Time: ordinarily a dispute can be resolved more quickly through mediation than through a trial.
- Cost: if a dispute can be resolved through mediation, the costs of preparing and running a trial can be avoided. Additionally, after a trial the unsuccessful party may be ordered to pay the legal costs of the successful party.
- Flexibility: mediation offers parties more control over the outcome.
- Confidentiality: mediation is usually conducted in private and the outcome is usually kept private.
- Finality: a formal settlement agreement is usually prepared to document the outcome.

Prior to mediation various position papers were exchanged and we briefed and obtained advice of a Senior Counsel.

The mediation was held at the offices of our legal advisors, Ashurst Australia, with Anthony Lo Surdo SC acting as mediator. Mr Lo Surdo is a Nationally Accredited and advanced mediator (Resolution Institute) with significant experience in mediations.

During the mediation the parties were represented as follows:

Parties who attended the mediation		
Party	Solicitors	Counsel
Liquidators	Ashurst Australia	Matthew Darke SC
Insurer	Wotton & Kearney	Michael Jones SC
Ken Rosewall (Director)	Bridges Lawyers	Jeremy Stoljar SC
Glenn Rosewall (Director)	Resolve Litigation Lawyers	Robert Newlinds SC
David Perkins (Director)	Self-represented	

There were over 20 people, including lawyers and counsel, in the mediation, which ran throughout the day and into the early evening. Concurrent negotiations were conducted with each of the directors that also entailed discussions around their financial ability to contribute to a settlement.

We weighed up a final settlement offer with reference to the various criteria that we had previously discussed with the BBYL Committee of Inspection.

An in principle agreement was reached where the Directors and the insurer were prepared, subject to a number of conditions, to pay a sum to settle all claims.

It was proposed that a Heads of Agreement document be signed shortly after the mediation concluded. The agreement was drafted and circulated among the parties however for various reasons, including meeting of conditions, it has not been executed.

Discussions are ongoing between the parties and the outcome of the proposed settlement remains uncertain.

Given the confidential nature of the matters discussed in the mediation and the terms of the proposed settlement, we cannot disclose any further information at this stage. We will provide further information when we are in a position to do so.

In the event an outcome cannot be reached, the Liquidators will consider their options which include commencing legal proceedings against the Directors.

12.2. Possible claim against external auditor

BDO East Coast Partnership (and prior to that PKF, which BDO acquired in 2012) had been the auditor of BBY since at least 2003. Mr Tim Sydenham worked each year on the audit and led the audit from at least 2005.

BDO undertook audits of the general purpose financial statements, the ASX annual returns and for the AFS Licensee obligations for ASIC.

In the audits for each of 2012, 2013 and 2014 BDO issued unqualified audit opinions that the financial reports prepared by BBYL had been prepared in accordance with the Corporations Act, complied with the Australian Accounting Standards and gave a true and fair view of BBYL's financial position and performance. Mr Sydenham also lodged Form FS71 AFSL Audit Reports with ASIC in which he gave ASIC an unqualified opinion that the internal controls used by BBYL to comply with Part 7.8 of the Corporations Act were effective; that BBYL had operated and controlled client trust accounts in accordance with the Act and that BBYL had provided all necessary records, information and explanations to BDO for the purposes of the AFSL Audit Reports. There were no exceptions to indicate that BBY was not in compliance with relevant sections of the Act or ASX rules.

In its interim review report in February 2015, the ASX formed the view that BBY should consider appointing a new auditor to conduct its annual statutory audit and required that BBY give consideration to appointing an alternate auditor by no later than 31 March 2015.

We reviewed the conduct of the audits for these 3 years prior to the BBY collapse. We inspected over 13,000 documents and examined Mr Sydenham of BDO during the public examinations.

We consider there are possible causes of action available to BBY against Mr Sydenham and BDO for various consequential losses. This falls within the scope of the secured charge held by St George Bank and it therefore has a right of priority in respect of any recovery ahead of unsecured creditors. As noted earlier, St George is still owed approximately \$9 million.

This possible cause of action is presently under consideration.

12.3. Other claims

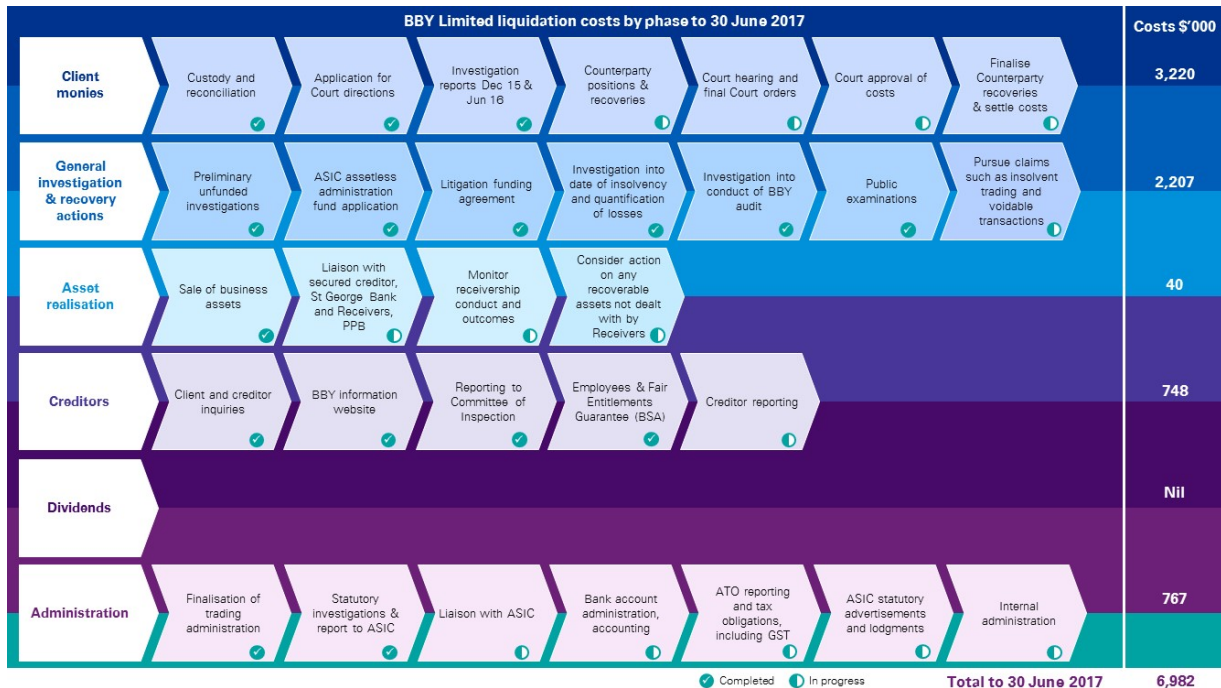
A Liquidator has statutory rights to set aside or void certain types of transactions including unfair preferential payments, uncommercial transactions and unreasonable director related transactions.

During the course of our investigations into BBYL, BBYH and BSA we identified and are pursuing a number of potential related and third party voidable transactions.

13. Liquidation expenses

13.1. BBYL fees to 30 June 2017 by work phase

Set out below is a snapshot of total liquidation fees over 2 years to 30 June 2017 by phase of work across the client monies and general liquidation.



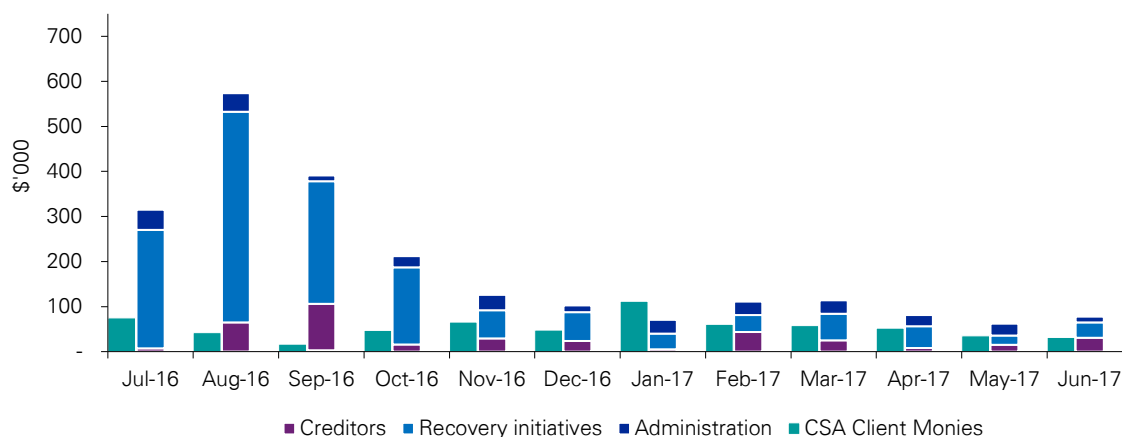
BBYL creditors and the Committee of Inspection have approved \$6.12 million in Liquidators' remuneration for the 18 month period from 22 June 2015 to 31 December 2016, encompassing the early period of the liquidation, seeking funding for recoveries, commencement of the directions proceedings, investigations and reporting in relation to client monies and recovery actions undertaken.

Remuneration actually paid to the Liquidators totals \$2.4 million.

Our unpaid fees total \$4.6 million. Some of this will be paid from client asset realisations and a portion will only be recovered in the event there are sufficient recoveries from the general estate.

Set out below is an analysis by month showing where effort has been directed during the last 12 months of the liquidation from July 2016 to June 2017, reflecting the decreasing activity in relation to client monies as our investigations were completed, and the increased recovery work.

Monthly breakdown of Liquidators' fees incurred



13.2. BBYL July & August 2017 estimate

In the period from July to August 2017, the Liquidators carried out approximately \$171,000 of work including in relation to client monies, unfunded recovery actions work and general unfunded work.

We will complete a detailed review of costs including phase allocations before reporting to the Committee or seeking approval of fees for this period.

13.3. BBYL client monies related expenses to 30 June 2017

Total time costs for the liquidation period from 22 June 2015 to 30 June 2017 have been \$7 million, including \$3.2 million in respect of client monies and \$3.8 million in the general liquidation.

Costs in respect to client monies relate to managing client monies, recovering counterparty assets, conducting the client monies investigations and producing evidence for and managing the Court directions proceedings. Most of these time costs were incurred during late 2015 whilst preparing the first client monies investigation report, in early 2016 preparing the supplementary report and in December 2016 and January 2017 preparing for the final hearing.

An analysis of these costs by grade of staff is set out below for the period to 30 June 2017.

BBYL Liquidators' Client monies fees to 30 June 2017		
Position	Hours	\$'000
Appointee	798	519
Partner	12	8
Director	15	9
Associate Director	1,237	680
Manager	2,245	1,122
Executive	776	271
Senior Analyst	75	19
Analyst	1,609	322
Administration & Other	1,928	270
Total	8,695	3,220

The Committee have approved the Liquidators fees to 31 December 2016 including client monies related fees. Pursuant to the existing costs regime, the Liquidators remuneration in relation to client monies is subject to the approval of the Court.

We have submitted applications to the Court for our remuneration, costs and expenses to 31 October 2015, 31 January 2016, 30 September 2016 and 30 April 2017 respectively. The first application was lodged in May 2016 and approved and paid in June 2016. The second application was lodged in August 2016 and approved and paid in October 2016. The third application was lodged in late December 2016 and was heard and approved in May 2017. We have not yet paid this approved amount however. The fourth application was lodged in August 2017 and is yet to be heard by the Registrar.

13.4. BBYL legal expenses to 30 June 2017

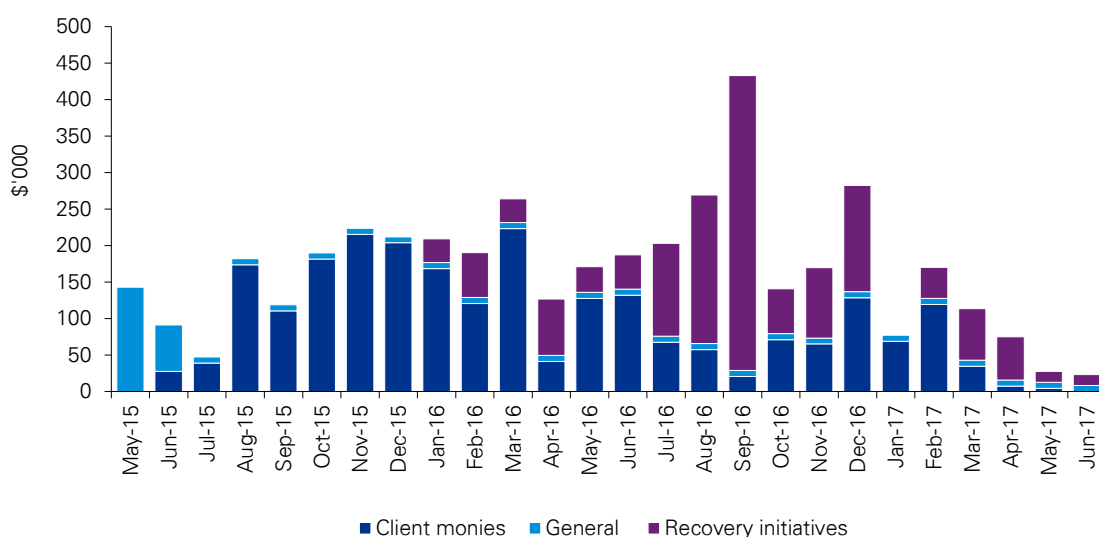
Ashurst and counsel provide services in relation to a wide range of matters including the client monies proceedings, counterparty recoveries, recovery investigations including the public examinations and solvency review as well as general liquidator's recoveries.

Set out below is a summary of the accrued legal costs of Ashurst and counsel to 30 June 2017 for BBYL. Total legal costs to 30 June 2017 are approximately \$4.3 million excluding GST.

BBY legal costs to 30 June 2017									
\$m	Ashurst			Counsel			Total		
	Client	General	Total	Client	General	Total	Client	General	Total
General Liquidation									
Voluntary Administration	-	0.2	0.2	-	-	-	-	0.2	0.2
Liquidation	2.1	1.5	3.6	0.3	0.2	0.5	2.4	1.7	4.1
Total fees	2.1	1.7	3.8	0.3	0.2	0.5	2.4	1.9	4.3

Set out below is an analysis by month of legal fees, reflecting the decreasing activity in relation to client monies, and the increased activity of recovery investigations since July 2016.

Monthly breakdown of Legal fees incurred



Work funded by IMF

A portion of the time costs for the period to 30 June 2017 include \$0.8 million relating to IMF funded investigations, including the public examinations, solvency analysis and mediation. We have billed IMF \$0.5 million to date which has been paid into the liquidation account and drawn.

To the extent that there costs beyond the amount of litigation funding, we have continued this work on a contingency basis against the prospect of future recoveries.

13.5. BBYH

At the second meeting of creditors, the creditors approved the Liquidators fees up to \$50,000. For the period 22 June 2015 to 30 June 2017 the time and costs incurred have exceeded the cap approved by creditors, although the Liquidators have not drawn fees or costs as no funding is available to do so.

13.6. BBYAS

At the second meeting of creditors, the creditors approved the Liquidators fees up to \$50,000. For the period 22 June 2015 to 30 June 2017 the time costs incurred were \$24,505 although the Liquidators have not drawn fees or costs as no funding is available to do so.

13.7. BSA

At the second meeting of creditors, the creditors approved the Liquidators fees up to \$100,000. To date, no fees have been drawn, although \$30,000 of fees will be drawn in due course which was received from the FEG in relation to fees for the distribution of employee entitlements. For the period 22 June 2015 to 30 June 2017 the time costs incurred have been \$243,889.

14. Receipts and payments

14.1. BBYL general liquidation

Liquidators normally maintain accounts and report to creditors and to ASIC on a cash receipts and payments basis.

Set out below is a summary of receipts and payments in the administration and liquidation for the 24 month reporting period from 22 June 2015 to 30 June 2017 for BBYL, BSA, BBYH and BBYAS.

This analysis excludes client monies accounts, which are discussed further below and have been separated for illustration purposes.

Liquidators' Receipts and Payments for the period 22 June 2015 to 30 June 2017					
\$'000	BBYL	BSA	BBYH	BBYAS	Total
Receipts					
Transfer from client monies for costs	7,285	-	-	-	7,285
Transfer from client monies for client distributions	27	-	-	-	27
Transfer of pre appointment cash	-	10	-	-	10
Working capital & contribution to costs by AIMS	500	-	-	-	500
Asset sales - share of proceeds (balance to St George)	263	-	-	-	263
FEG advances for Liquidators fees	-	23	-	-	23
Advances from FEG for distribution	-	1,746	-	-	1,746
Tax Business activity statement refunds	44	-	-	-	44
Insurance refund	-	1	-	-	1
Litigation funding - IMF Bentham Ltd	523	-	-	-	523
Subpoena costs reimbursements (various)	17	-	-	-	17
Total Receipts	8,658	1,780	-	-	10,438
Payments					
Court approved costs - client monies					
Liquidators	(1,718)	-	-	-	(1,718)
Legal fees - Ashurst and Counsel	(1,760)	-	-	-	(1,760)
Representative defendants					
1st defendant - legal fees - Partners Legal	(1,091)	-	-	-	(1,091)
2nd defendant - legal fees - Mills Oakley	(1,489)	-	-	-	(1,489)
3rd defendant - legal fees - Corrs Chambers	(850)	-	-	-	(850)
5th defendant - legal fees - ABL	(377)	-	-	-	(377)
Distributions to Erroneous Deposit clients	(27)	-	-	-	(27)
Link Market Services - client monies	(11)	-	-	-	(11)
Voluntary Administrators' remuneration	(88)	-	-	-	(88)
Liquidators' remuneration (general estate)	(533)	-	-	-	(533)
Legal fees - Ashurst & Counsel (general estate)	(117)	-	-	-	(117)
Net FEG Distributions to employees	-	(1,340)	-	-	(1,340)
Link Market Services (inc printing & mailing costs)	(191)	-	-	-	(191)
Reimbursement of AIMS working capital funds	(100)	-	-	-	(100)
GST & PAYG taxes	(79)	(406)	-	-	(485)
Employees	(72)	-	-	-	(72)
Venue hire - creditors meetings	(12)	-	-	-	(12)
Other	(34)	(6)	-	-	(40)
Total payments	(8,549)	(1,752)	-	-	(10,301)
Funds on hand at 30 June 2017	109	28	-	-	137

14.2. BBYL client monies

The Liquidators took custody of approximately 50 client trust accounts held with St George, NAB and BNZ in a variety of currencies. The client monies accounts earn interest and bank charges are applied to maintenance of the accounts.

Set out below is a summary of receipts and payments relating to the client segregated accounts from 22 June 2015 to 30 June 2017.

BBYL – Client Segregated Accounts - Receipts & Payments from 22 June 2015 to 30 June 2017			
\$'000 (AUD)	21-Jun-16	Movement	30-Jun-17
Receipts			
Opening CSA cash balance	14,283	0	14,283
Post appointment client receipts	216	28	244
Interest income	65	138	203
Dividend income	21	0	21
Counterparty recoveries	3,612	1,904	5,516
Other	45	2	47
Total receipts	18,243	2,072	20,314
Payments			
Court approved costs	(551)	(6,734)	(7,285)
Bank charges	(1)	(2)	(3)
Client distributions	0	(362)	(362)
Foreign currency gain/(loss)	(295)	(95)	(390)
Total payments	(846)	(7,193)	(8,040)
Closing CSA cash balance at 30 June 2017	17,396		12,275

14.3. BBYH

There have been no receipts and payments in this company since the date of appointment.

14.4. BBYAS

There have been no receipts and payments in this company since the date of appointment.

14.5. BSA

At the date of appointment there was \$10,300 in the BSA bank account, which was transferred into the liquidators account. We have received \$23,000 in receipts from FEG for services performed assisting with the employee claim process and transfer of monies to former employees. The majority of transactions in BSA during the period to 30 June 2017 have related to advances received from FEG in order to make net distributions of \$1.3 million, and PAYG withholding tax remitted to the ATO of \$0.4 million.

15. Estimated outcome for creditors

Our previous annual report included high level guidance as to the process for treatment of liquidation recoveries (excluding client monies), expenses and calculation of funds available for distribution to creditors.

The estimated outcomes for clients and other creditors in the liquidation will differ given the different treatment of claims to client monies and other liquidation realisations.

Given uncertainty around future orders of the Court in relation to client monies, the amount of possible client losses, the quantum of creditor claims and the amount of any recoveries from liquidator actions it is not yet possible to provide any meaningful estimate of returns to creditors from the BBYL liquidation.

At this stage, we do not estimate that funding will become available for a distribution to the unsecured creditors of BBYH and BBYAS. In the event there are successful recoveries in BSA, a dividend to unsecured creditors is likely, although we cannot provide an estimated return given there are still a number of uncertainties which could have a material impact on any returns.

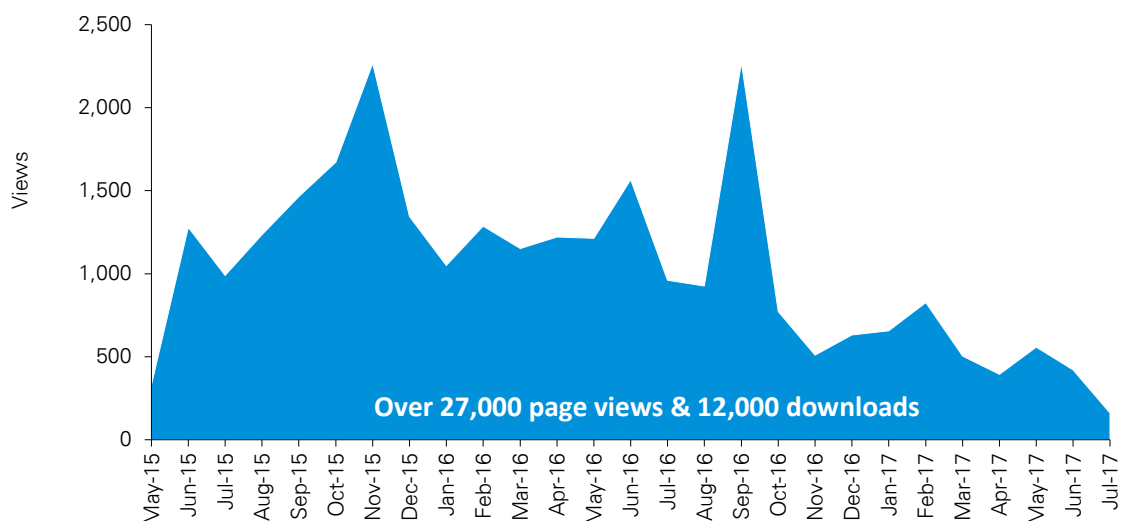
16. Communications

Information website

Upon our appointment we established an information website www.kpmg.com/AU/bby to facilitate communications with former clients and creditors. The website contains copies of notices and reports to creditors, our initial and supplementary client monies investigation reports, key court documents, answers to frequently asked questions and other material. The website is updated on a periodic basis for material developments of interest to clients and creditors.

During the 26 months from May 2015 to June 2017 there have been over 27,000 page views and over 12,000 document downloads for viewing.

Monthly page views of KPMG's BBY website



Email

We established a dedicated email hotline AU-FMBBY@kpmg.com.au to assist in responding to inquiries.

During the 26 month period to 30 June 2017 we have responded to over 2,000 email inquiries.

17. Statutory matters

Supplementary reporting to ASIC

External administrators have a range of obligations to report to, and lodge documents with, ASIC under the Act. This includes confidential reporting under Section 533 of the Act if it appears to the external administrator that there have been breaches of the Corporations Act. We have reported a number of matters to ASIC and have provided various assistance.

Lodgements

As part of our statutory obligations we are required to attend to various tasks during the period of appointment. In the 12 month reporting period from 22 June 2016 to 21 June 2017 we have completed the following:

- Lodged with ASIC minutes for the five meetings of the Committee of Inspection for BBYL and one meeting for BSA, held on 8 September 2016, 18 October 2016, 30 November 2016, 22 February 2017, 23 February 2017 and 17 March 2017.
- Lodged an account of our receipts and payments (Form 524) with ASIC for the 6 month period ending from 22 June 2016 to 21 December 2016 and 22 December 2016 to 21 June 2017.
- Completed the first annual report to creditors for BBYL, BBYH, BSA and BBYAS on 9 September 2016
- Submitted BAS lodgements to the ATO

18. How to keep up to date

The most convenient way to keep up to date with developments in the liquidations is to periodically check the BBY creditor information website where we publish significant news.

This information can be obtained at www.kpmg.com/AU/bby

END OF REPORT

Appendix A - Client surplus/ shortfall 30 June 2017

BBYL - Estimated Surplus/Shortfall Calculation by Product Line as at 30 June 2017 (excludes various future costs as noted)										
\$m	Equities	ETO	ETO Margin	Futures	FX	Saxo	Carbon	IB	Other	Total
Client Segregated Accounts										
Client Segregated Account balances at 17 May 2015	8.3	0.4	-	0.5	1.3	0.2	-	0.0	0.1	10.8
Receipts post Administration & Receivership	2.4	-	-	0.6	0.2	-	-	-	-	3.2
Transfer between Product Lines (by Receivers)	0.5	-	-	-	(0.5)	-	-	-	-	(0.0)
Reclassification - ETO margin (margin called by Receivers)	(2.4)	-	2.4	-	-	-	-	-	-	-
Receivers' claim to Debtors held in CSAs	(0.2)	-	-	-	-	-	-	-	-	(0.2)
Accounting adjustments	-	0.1	(0.1)	-	-	-	-	-	-	-
FX gain/(loss) on CSA currency accounts prior to conversion to AUD	-	-	-	0.1	(0.0)	0.0	-	-	-	0.1
CSA Total	8.8	0.5	2.3	1.2	0.9	0.2	-	0.0	0.1	13.8
Counterparty Recoveries to date										
Australian Stock Exchange (ETO)	-	3.4	-	-	-	-	-	-	-	3.4
Saxo Capital Markets Australia (Saxo)	-	-	-	-	-	0.2	-	-	-	0.2
ADM Investor Services International (Futures)	-	-	-	1.5	-	-	-	-	-	1.5
CMC Markets (Futures)	-	-	-	0.0	-	-	-	-	-	0.0
Bank of New Zealand (various product lines)	0.0	-	-	0.1	0.1	0.0	-	0.2	-	0.4
Total actual recoveries	0.0	3.4	-	1.7	0.1	0.2	-	0.2	-	5.6
Future counterparty recoveries										
Interactive Brokers (cash)	-	-	-	-	-	-	-	10.2	-	10.2
Halifax Investment Services (FX)	-	-	-	-	0.5	-	-	-	-	0.5
ABN AMRO (Futures)	-	-	-	2.0	-	-	-	-	-	2.0
Interactive Brokers (stock & options)	-	-	-	-	-	-	-	3.5	-	3.5
Saxo Capital Markets (stock)	-	-	-	-	-	4.4	-	-	-	4.4
Expected GST refund on Liquidator & Ashurst costs	0.3	0.0	0.1	0.1	0.0	0.0	-	0.0	0.0	0.6
Total estimated future counterparty recoveries	0.3	0.0	0.1	2.0	0.5	4.4	-	13.6	0.0	21.0
Other										
Interest income	0.2	0.0	-	0.0	0.0	0.0	-	-	0.0	0.2
GST receipts	-	-	-	-	-	-	-	-	-	-
Other	-	-	-	-	-	-	-	-	-	-
Total other recoveries	0.2	0.0	-	0.0	0.0	0.0	-	-	0.0	0.2
Total estimated gross assets	9.3	4.0	2.4	4.8	1.5	4.8	-	13.8	0.1	40.7
Expenses										
Court directions proceedings & recovery costs (approved & paid)										
Liquidators	(1.1)	(0.1)	(0.3)	(0.1)	(0.1)	(0.0)	-	(0.0)	(0.0)	(1.7)
Ashurst (on behalf of Liquidators)	(1.1)	(0.1)	(0.2)	(0.2)	(0.1)	(0.1)	-	(0.0)	(0.0)	(1.8)
Partners Legal (Mazzetti / ETO open positions)	-	(0.8)	(0.3)	-	-	-	-	-	-	(1.1)
Mills Oakley (Haywood / Equities & ETO closed positions)	(1.0)	(0.1)	-	(0.3)	(0.1)	(0.0)	-	(0.0)	(0.0)	(1.5)
Corrs Chambers Westgarth (Riseam / Futures, FX, Saxo & other)	(0.5)	(0.0)	-	(0.2)	(0.1)	(0.0)	-	(0.0)	(0.0)	(0.8)
Arnold Bloch Leibler (Nadin / Interactive Brokers clients)	(0.3)	(0.0)	-	(0.1)	(0.0)	(0.0)	-	(0.0)	(0.0)	(0.4)
Total	(4.0)	(1.0)	(0.8)	(0.8)	(0.4)	(0.2)	-	(0.0)	(0.1)	(7.3)
Court proceedings & recovery costs (submitted or approved, not yet paid)										
Liquidators (approved, not yet paid)	(0.8)	(0.2)	(0.2)	(0.2)	(0.1)	(0.0)	-	(0.0)	(0.0)	(1.5)
Ashurst (on behalf of Liquidators, approved, not yet paid)	(0.4)	(0.1)	(0.1)	(0.1)	(0.0)	(0.0)	-	(0.0)	(0.0)	(0.8)
Liquidators (submitted to Court, not yet approved or paid)	(0.3)	(0.1)	(0.1)	(0.1)	(0.0)	(0.0)	-	(0.0)	(0.0)	(0.5)
Total	(1.5)	(0.4)	(0.3)	(0.3)	(0.2)	(0.1)	-	(0.0)	(0.0)	(2.8)
Other realisation, preservation, adjudication & distribution costs										
Liquidators future remuneration (not yet estimated due to material uncertainties)										
Recovery costs (remaining counterparty recoveries & managing CSAs)	-	-	-	-	-	-	-	-	-	-
Verification costs (client claims registration & verification)	-	-	-	-	-	-	-	-	-	-
Adjudication costs (claims acceptance, dealing with discrepancies & disputes)	-	-	-	-	-	-	-	-	-	-
Distribution costs (calculating, paying and notifying clients)	-	-	-	-	-	-	-	-	-	-
Legal costs (client related - general)	-	-	-	-	-	-	-	-	-	-
Link Market Services (client claims & distributions processing)	-	-	-	-	-	-	-	-	-	-
Bank charges	(0.0)	(0.0)	-	(0.0)	(0.0)	(0.0)	-	(0.0)	(0.0)	(0.0)
Other	-	-	-	-	-	-	-	-	-	-
Total	(0.0)	(0.0)	-	(0.0)	(0.0)	(0.0)	-	(0.0)	(0.0)	(0.0)
Total expenses	(5.5)	(1.4)	(1.2)	(1.1)	(0.6)	(0.2)	-	(0.0)	(0.1)	(10.0)
Net recoveries	3.8	2.6	1.2	3.8	0.9	4.6	-	13.8	0.1	30.7
Client Claims										
Client Cash Claims	(6.2)	(0.3)	(2.4)	(13.5)	(2.8)	(7.5)	(0.0)	(5.5)	-	(38.3)
Unpresented Cheques	(1.0)	-	-	-	-	-	-	-	-	(1.0)
Client position claims (market value of stock & option positions at 15 May 2015)	-	-	-	-	-	(4.8)	-	(12.8)	-	(17.6)
Other client claims (claims not recorded in client ledgers)	(1.2)	(3.4)	-	(0.1)	(0.2)	(0.0)	-	(0.0)	-	(4.9)
Total Client Claims	(8.4)	(3.7)	(2.4)	(13.6)	(3.0)	(12.3)	(0.0)	(18.3)	-	(61.8)
Estimated surplus/(shortfall) (excludes future costs not yet estimated)	(4.5)	(1.1)	(1.2)	(9.8)	(2.1)	(7.8)	(0.0)	(4.5)	0.1	(31.1)
Cents in the dollar recovery	0.46	0.69	0.50	0.28	0.30	0.37	-	0.75	1.00	0.50
Distributions paid to clients (excludes payments since June 2017)										
Erroneous Deposits	(0.2)	-	-	(0.1)	(0.1)	-	-	(0.0)	-	(0.4)
Erroneous Withdrawals	-	-	-	-	-	-	-	-	-	-
Total distributions to clients	(0.2)	-	-	(0.1)	(0.1)	-	-	(0.0)	-	(0.4)

This table is for illustrative purposes only and includes calculation rounding

Estimates are based on a number of assumptions. There will usually be differences between estimated and actual results



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