



15 January 2021

To Debenture Holders

Banksia Securities Limited (Receivers and Managers Appointed) (In Liquidation) (Special Purpose Receivers Appointed) ACN 004 736 458 (Banksia)

The purpose of this circular is to provide an update on the status of the special purpose receivership of Banksia, foreshadow a further interim distribution to debenture holders and inform debenture holders of the further funding I require to conclude the special purpose receivership and take any limited and targeted enforcement steps for debenture holders arising from the Remitter.

1. Status of the Trial of the Remitter

Oral evidence in the Remitter concluded on 11 December 2020. The proceeding is next listed for the hearing of closing submissions on 16 March 2021. It is difficult to say how long the Honourable Justice Dixon will need to deliver his judgment, but in view of the length of the trial and complexity of the issues involved, it is reasonable to expect that Justice Dixon will not hand down his judgment until any earlier than the middle of 2021.

2. Further Interim Distribution

Given the timeline referred to above, it is my intention to make an application to facilitate a further interim distribution to debenture holders from the remaining proceeds of the settlement with Trust Co prior to judgment being delivered. Presently, the amount of funds held is approximately \$18.2 million.

I believe I should be in a position, subject to Court approval, to distribute at least \$10 - \$13 million to debenture holders prior to judgment being handed down. Funds totalling \$84 million have been realised from the Banksia Proceedings and debenture holders have already received approximately 89.5 cents in the dollar of outstanding principal. Assuming that the Court approves a further distribution along the lines summarised above, debenture holders will receive in the order of a further 1 to 2 cents in the dollar of outstanding principal.

Please notify any change of address or circumstances to Link Market Services on (02) 8767 1029 or by writing to banksia@linkmarketservices.com.au. If you know of any debenture holder who has changed address, please bring this letter to their attention.

In addition, subject to the outcome of the Remitter, potentially another 1.5 to 2.5 cents in the dollar may also be realised from any judgment requiring the defendants to compensate debenture-holders for losses arising from their alleged misconduct. I have expanded on the basis for further recoveries and my funding below.

3. Funding to conclude the special purpose receivership

Depending on the terms of the judgment delivered by Justice Dixon, it may be necessary to take steps to enforce any judgment on behalf of debenture holders to realise the economic benefit of that judgment. The quantum of the claims will depend on the findings made by Justice Dixon and there are numerous possible variations leading to different overall amounts. Broadly speaking, the overall quantum of the claims is likely to be in the order \$15 million to \$20 million.

Claims are made against numerous parties and many of those parties hold professional indemnity insurance that may respond to the claims made in the Remitter. It is difficult to comment on the prospects of successfully recovering any judgment for debenture holders at this stage. However, it is my view that some limited and targeted steps should be taken to pursue any favourable judgment for debenture holders. I am unable to expand on those steps further as they are based on legal advice that is the subject to legal professional privilege and doing so in an open circular (which will be available to the defendants) would be prejudicial to debenture holders.

I have previously received funding from the Receivers in accordance with orders made by the Supreme Court of New South Wales. The Receivers have provided the following amounts:

1. \$10 million, in accordance with orders made on 29 February 2016; and
2. \$6 million, in accordance with orders made on 19 February 2018.

I have subsequently incurred significant costs in conducting the Banksia Proceedings and, more particularly of late, participating in the Remitter. The Remitter has evolved since its commencement in November 2018 in a way which could not have been foreseen, and has been significantly more costly and time consuming than expected. As a result, the costs that I have incurred are significantly more than were expected in February 2018. In the Remitter, the Contradictor seeks orders requiring the defendants to reimburse debenture-holders for the costs I have incurred in the Remitter. Given what has transpired in the Remitter, I will be supporting the Contradictor on this matter.

The funding that I have previously received from the Receivers is now exhausted. I now require further funding to undertake the following:

1. finish the trial of the Remitter and potentially participate in any appeals;
2. facilitate the Further Interim Distribution; and
3. subject to the terms of the judgment delivered by Justice Dixon, to take some the limited enforcement steps to maximise the return for debenture holders.

To allow me to take these steps, I have applied to the Supreme Court of New South Wales seeking orders that the Receivers contribute a further \$1.2 million for my funding. I do not anticipate that all those funds will be necessary, but if there are complications such as appeals and difficulties in enforcing any judgment my costs may be as high as \$2 million. In the event that further funding beyond \$1.2 million is necessary, I anticipate that it would be sourced from further funds to be transferred to me by the Receivers on completion of the receivership in 2021.

If I did not take any enforcement steps these funds would be returned to debenture-holders upon the conclusion of the Remitter. However, that would also mean that the prospect of debenture-holders recovering up to \$15-\$20 million in further funds would be lost. It is my view that incurring the costs of some limited and targeted steps to enforce any favourable judgment are in the interests of debenture holders.

4. Views of debenture holders

On 12 January 2021, the Committee of debenture holders resolved to support my application to receive \$1.2 million from the funds held by the Receivers and to support me otherwise continuing to take appropriate steps to enforce any judgment ordered for the benefit of debenture holders in the Remitter. The views of the Committee and any debenture holders will form part of the material put before the Supreme Court of New South Wales.

My application for further funding is next before the Supreme Court of New South Wales on 1 February 2021. If any debenture holders wish to express any views in relation to my application, please send any comments to Ms Regine Imperial of this office by email to rimperial@kpmg.com.au.

Otherwise, should you have any general queries, please do not hesitate to contact Ms Imperial on 03 8663 8613.

Dated this 15th Day of January 2021



John Lindholm
Special Purpose Receiver