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Details of Filing

Document Lodged:	Affidavit - Form 59 - Rule 29.02(1)
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File Title:	IN THE MATTER OF HALIFAX INVESTMENT SERVICES PTY LTD (ADMINISTRATORS APPOINTED) ACN 096 980 522
Registry:	NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA



A handwritten signature in blue ink, reading "Warwick Soden".

Dated: 31/07/2019 2:53:23 PM AEST

Registrar

Important Information

As required by the Court's Rules, this Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

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Affidavit

No. NSD 2191 of 2018

Federal Court of Australia
District Registry: New South Wales
Division: General

**IN THE MATTER OF HALIFAX INVESTMENT SERVICES PTY LTD (IN LIQUIDATION) ACN
096 980 522**

**PHILIP ALEXANDER QUINLAN, MORGAN JOHN KELLY AND STEWART McCALLUM IN
THEIR CAPACITIES AS JOINT AND SEVERAL LIQUIDATORS OF HALIFAX INVESTMENT
SERVICES PTY LTD (IN LIQUIDATION) ACN 096 980 522**

Plaintiffs

Affidavit of: **Morgan John Kelly**
Address: Tower Three, International Towers Sydney, 300 Barangaroo Avenue, Sydney
NSW 2000
Occupation: Registered Liquidator
Date: 26 June 2019

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Filed on behalf of **Philip Alexander Quinlan, Morgan John Kelly and Stewart McCallum,**
Prepared by **Plaintiffs**
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[Form approved 01/08/2011]

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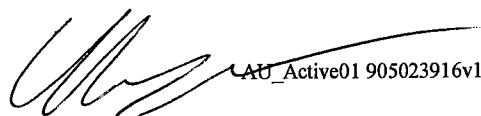
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I, Morgan John Kelly of Tower Three, International Towers Sydney, 300 Barangaroo Avenue, Sydney NSW 2000, Registered Liquidator, affirm:

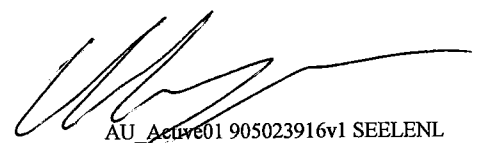
1. I am a joint and several liquidator of Halifax Investment Services Pty Ltd (In Liquidation) ACN 096 980 522 (**Halifax AU**) together with Philip Alexander Quinlan (the **Liquidators**). The Third Plaintiff, Stewart McCallum, resigned as a liquidator of Halifax AU on 13 May 2019. An application is therefore made to have him removed as a plaintiff.
2. I affirm this affidavit in support of the Interlocutory Process seeking a range of orders, particularly directions and/or judicial advice relating to issues concerning the money held on trust by Halifax AU for its clients, and also an order that a letter of request be issued by the Federal Court to the High Court of New Zealand with a view to ensuring, so far as possible, an efficacious and co-ordinated resolution of the application in Australia and of a closely related application to be made to the High Court of New Zealand by a subsidiary of Halifax AU, Halifax New Zealand Limited (In Liquidation) (NZCN 2130897) (**Halifax NZ**).
3. I am one of the joint and several liquidators of Halifax NZ together with Philip Alexander Quinlan.

4. Since being appointed to Halifax AU and Halifax NZ as a liquidator (and previously as an administrator) I, along with Mr Quinlan (and, until his removal, Mr McCallum), have undertaken investigations into the affairs of Halifax AU and Halifax NZ. Mr Quinlan and I have also caused extensive investigations into the affairs of Halifax AU and of Halifax NZ to be conducted by employees of Ferrier Hodgson (which, on 17 June 2019, merged with KPMG and is now called KPMG). I base this affidavit on information that I have obtained as a liquidator by way of these investigations, which I believe it to be true.
5. Shown to me at the time of swearing this affidavit are:
 - (a) folders of documents marked "**Exhibit MJK-1**" (**Exhibit**); and
 - (b) a folder of documents marked "**Confidential Exhibit MJK-1**" (**Confidential Exhibit**) which contains Confidential Exhibits referred to in this affidavit.
6. References in this affidavit to:
 - (a) page numbers in the "**Exhibit**" are to the corresponding pages of the Exhibit, unless indicated otherwise; and
 - (b) "**CE**" numbers are references to the corresponding pages of the Confidential Exhibit.
7. The Confidential Exhibit contains material which identifies individual employees of Halifax AU, or which identifies individual clients of Halifax AU and Halifax NZ or which reveals assets acquired or positions entered into by individual clients.

Professional Experience

8. I am a registered liquidator and partner of KPMG (which, as I said above, on 17 June 2019 Ferrier Hodgson, of which I was a partner, merged with KPMG and is no longer called Ferrier Hodgson). I have had over 20 years of experience in restructuring and financial investigation. Exhibited at pages 1-4 of the **Exhibit** is a copy of my curriculum vitae which outlines my relevant professional qualifications and experience.
9. Philip Quinlan is a registered liquidator and a partner of KPMG (also formerly a partner of Ferrier Hodgson). Mr Quinlan has over 14 years of experience in restructuring and financial investigation. Exhibited at pages 5-6 of the **Exhibit** is a copy of Mr Quinlan's curriculum vitae which outlines his relevant professional qualifications and experience.
10. I have been actively involved in the day to day conduct of the external administration of Halifax AU, along with Mr Quinlan. I regularly consult with Mr Quinlan to ensure that I keep abreast of the main issues arising in the liquidation of Halifax AU.

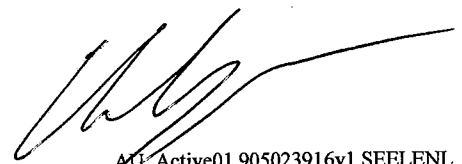
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Halifax AU

11. Halifax AU was incorporated on 30 May 2001. A copy of a search from the Australian Securities and Investments Commission (**ASIC**) in respect of Halifax AU is at pages 7 to 20 of the **Exhibit**.
12. Prior to our appointment as administrators, Halifax AU was a financial services provider which dealt in financial products on behalf of its clients.
13. On 23 November 2018, the Liquidators and Mr McCallum were appointed to act as the joint and several voluntary administrators of Halifax AU pursuant to section 436A(1) of the *Corporations Act 2001* (Cth) (**Act**).
14. On 20 March 2019, the Liquidators and Mr McCallum were appointed as liquidators of Halifax AU pursuant to sections 439C(c) and 446A of the Act.

Halifax NZ

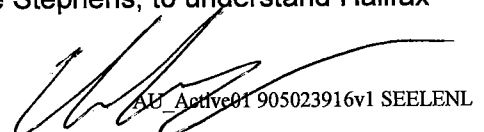
15. Halifax NZ is an Auckland, New Zealand, based company incorporated on 21 May 2008. In 2013, Halifax AU purchased a controlling interest in Halifax NZ. Halifax AU owns 70% of the shares in Halifax NZ. The remaining 30% shareholding is owned by Andrew Gibbs, the director of Halifax NZ, and Kaye Williams (a copy of a company search for Halifax NZ is at page 21 to 22 of the **Exhibit**).
16. Prior to our appointment as administrators, Halifax NZ was a financial services provider which dealt in financial products on behalf of its clients.
17. On 27 November 2018, the Liquidators and Mr McCallum were appointed to act as the joint and several voluntary administrators of Halifax NZ pursuant to section 239(l) of the *Companies Act 1993* (NZ).
18. On 22 March 2019, the Liquidators and Mr McCallum were appointed as liquidators of Halifax NZ pursuant to section 241(2)(d) of the *Companies Act 1993* (NZ).
19. On 9 May 2019, Mr McCallum resigned from his appointment as a liquidator of Halifax NZ.
20. Halifax AU and Halifax NZ operated in conjunction with each other and Halifax AU provided administrative and treasury functions to Halifax NZ. These matters are discussed in more detail in paragraphs 40 to 50 below.

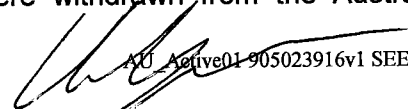
Investigations by the Liquidators

21. Since the appointment of the Liquidators to Halifax AU and Halifax NZ (collectively the **Halifax Group**), the Liquidators have made certain investigations into the affairs of the Halifax Group, including by taking the following steps:

- (a) Freezing all bank accounts and securing the assets of the Halifax Group;
- (b) Suspending all trading (other than closing out positions);
- (c) Forensically imaging all of the Halifax Group's electronic books and records;
- (d) Corresponding with the directors of the Halifax Group, including interviewing Jeffrey Worboys, the director of Halifax AU;
- (e) Interviewing the employees of the Halifax Group and restructuring the head office of Halifax AU by terminating the employment of eleven employees that remained employed at the time of the appointment of the voluntary administrators to Halifax AU (with there now being 5 employees remaining);
- (f) Engaging in correspondence with ASIC and Financial Markets Authority (New Zealand) in relation to the ongoing operations of the business, the Australian Financial Services Licence no. 225973 (**AFSL**) held by Halifax AU and the Financial Service Provider's Licence No. 146605 (**FSP**) held by Halifax NZ;
- (g) Holding the first meeting of creditors and the second meeting of creditors of Halifax AU;
- (h) Holding the first meeting of creditors and the watershed meeting of creditors of Halifax NZ;
- (i) Obtaining Court orders in the Federal Court of Australia in relation to:
 - (i) circulating notice of the first meeting of creditors by email;
 - (ii) an extension of the convening period;
 - (iii) accessing funds held in certain accounts of Halifax AU in order to pay the expenses of Halifax AU and certain expenses incurred in the administration of Halifax AU; and
 - (iv) circulating notices to be issued during the course of the liquidation electronically;
- (j) Obtaining Court orders in the High Court of New Zealand in relation to an extension of the convening period;
- (k) Meeting with Halifax AU's accountants, Moore Stephens, to understand Halifax AU's financial position;

- (l) Undertaking investigations into the affairs of the Halifax Group, the events leading up to the appointment of the Liquidators and the reasons for the failure of the Halifax Group;
 - (m) Preparing an analysis of the data from each trading platform to understand the quantity and quantum of client claims and deficiency of funds;
 - (n) Undertaking a review of over 30,000 transactions between bank accounts operated by the Halifax Group;
 - (o) Undertaking a detailed review of a sample of client portfolios, which is further discussed at paragraphs 195 to 199 below;
 - (p) Responding to substantial correspondence received from the Halifax Group's clients;
 - (q) Writing to the Halifax Group's insurer to notify the insurer of circumstances that may give rise to claims;
 - (r) Undertaking investigations into potentially voidable transactions;
 - (s) Preparing a report to creditors of Halifax AU pursuant to section 75-225(3)(a) of the *Insolvency Practice Rules (Corporations) 2016* (the **Australian Report to Creditors**);
 - (t) Preparing a report to creditors of Halifax NZ pursuant to section 239AU(3) of the *Companies Act 1993 (NZ)* (the **New Zealand Report to Creditors**); and
 - (u) Liaising regularly with the Liquidators' lawyers (in both Australia and New Zealand) in relation to a multitude of complex issues in relation to the Liquidation of the Halifax Group.
22. Exhibited at pages **23** to **155** of the **Exhibit** is a copy of the Australian Report to Creditors which the Liquidators published and circulated to all creditors of Halifax AU.
23. Exhibited at pages **156** to **246** of the **Exhibit** is a copy of the New Zealand Report to Creditors which the Liquidators published and circulated to all creditors of Halifax NZ.
24. Based on my investigations into Halifax AU and Halifax NZ, the total amount of assets held on trust for clients of Halifax AU and clients of Halifax NZ (**Client Moneys**) as at 23 November 2018, should have been the amount of approximately AU\$211.6 million. However, the total amount of Client Moneys actually held on trust for clients of Halifax AU and Halifax NZ as at 23 November 2018 was approximately AU\$192.6 million. There was therefore a deficiency in the Client Moneys of approximately AU\$19.0 million (**Deficiency**). The Liquidators' view is that the Deficiency arose because funds that should have been held on trust for the clients were withdrawn from the Australian

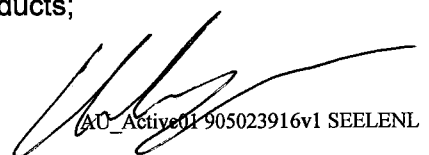
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Statutory Trusts and the New Zealand Statutory Trusts referred to below and applied to operating expenses of Halifax AU and Halifax NZ, and for other purposes unrelated to the clients, between about January 2017 and November 2018.

25. The Client Moneys are held in various currencies. Where in this affidavit a value is given in Australian Dollars then, for the purpose of this affidavit, unless that value relates to moneys or an asset that is actually held in Australian Dollars a conversion has been made from the foreign currency to Australian Dollars calculated as at close of business on 22 November 2018 (start of 23 November 2018).
26. The Client Moneys are not all held in the form of funds in accounts. The majority of the Client Moneys were at the time Halifax AU and Halifax NZ went into administration, and still are, in the form of investments in stocks, with the next largest asset class being moneys (or "cash") in accounts and a small percentage being invested in open derivative positions.
27. By way of summary, the breakdown of assets held by Halifax AU as at 23 November 2018 is as follows:
 - (a) Total funds on deposit in Halifax AU's accounts that were described and/or designated as statutory trust accounts of AU\$1,384,513.15; and
 - (b) Total amounts held by third parties on behalf of Halifax AU as deposits or unrealised investments of AU\$143,892,475.43 with AU\$112,534,311 of that amount being the value of stock positions held:
28. By way of summary, the breakdown of assets held by Halifax NZ as at 27 November 2018 is as follows:
 - (a) Total funds on deposit in Halifax NZ's accounts that were held and/or designated as statutory trust accounts of NZ\$1,756,944.68; and
 - (b) Total amounts held by third parties on behalf of Halifax NZ as deposits or unrealised investments of NZ\$48,704,701.69 with NZ\$31,862,689.15 of that amount being the value of stock positions held.
29. A detailed breakdown of the asset classes that make up the Client Moneys, as at 23 November 2018 (in relation to Halifax AU) and 27 November 2018 (in relation to Halifax NZ), is in paragraphs 90 to 138 below.

The business of Halifax AU

30. Halifax AU held an AFSL, which authorised Halifax AU to:
 - (a) provide financial product advice on a range of products;
 - (b) deal in financial products; and

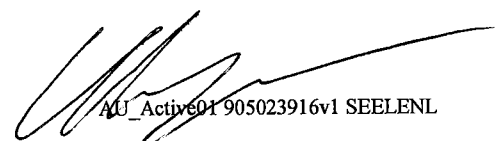



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- (c) make a market for foreign exchange contracts and derivatives.
31. A copy of the AFSL is at pages **247** to **267** of the **Exhibit**.
32. Halifax AU conducted its business by way of the following trading platforms:
- (a) Trader Workstation (**IB Platform**) (Halifax AU's IB Platform also being known as **Interactive Broker AU**). Halifax AU also facilitated clients trading on Halifax NZ's IB Platform (also referred to as **Interactive Broker NZ**);
 - (b) MetaTrader 4 (also known as Halifax Pro) (**MT4**); and
 - (c) MetaTrader 5 (also known as Halifax Plus) (**MT5**).
33. The IB Platform is the Trader Workstation global online platform offered and provided by Interactive Brokers LLC (**Interactive Brokers**) to Halifax AU and Halifax NZ and which Halifax AU and Halifax NZ then provided their own clients access to for trading. The IB Platform is a single trading platform provided by Interactive Brokers, and each of Halifax AU and Halifax NZ separately contracted with Interactive Brokers to access and utilise the IB Platform. Being a single trading platform, when I refer below to the "IB Platform" I refer to both Interactive Broker AU and Interactive Broker NZ.
34. The trading platforms are discussed in paragraphs 51 to 80 below.
35. Halifax AU was not a market participant on the Australian Securities Exchange (**ASX**). Clients with accounts on the trading platforms accessed the trading platforms and placed trades at their own discretion.

The business of Halifax NZ

36. Halifax NZ held a FSP licence, which:
- (a) authorised Halifax NZ to sell derivatives, including contracts for difference (**CFDs**), options, futures, margin foreign exchange and non-derivative products including warrants and margin foreign exchange, equities and exchanged traded funds; and
 - (b) required Halifax NZ:
 - (i) to fully hedge positions of all Halifax NZ retail clients at all times;
 - (ii) not to undertake any proprietary risk, or market making activities;
 - (iii) to perform daily reconciliations;
 - (iv) to segregate client funds; and
 - (v) not to offer a white labelling service (explained in paragraphs 74 to 76 below).

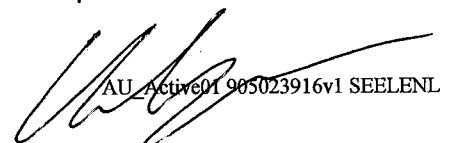



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37. A copy of the FSP is at pages **268** to **285** of the **Exhibit**.
38. Halifax NZ also conducted its business by way of:
- (a) MT4, by facilitating access to Halifax AU's MT4 platform;
 - (b) MT5, by facilitating access to Halifax AU's MT5 platform;
 - (c) Interactive Broker NZ; and
 - (d) facilitating clients accessing trading on Interactive Broker AU.
39. Halifax NZ was not a market participant on the New Zealand Stock Exchange and therefore could not place trades directly for its clients on that Exchange. Clients in New Zealand accessed the platforms available to them and placed trades themselves at their discretion.

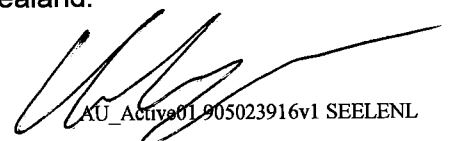
Halifax NZ relied upon Halifax AU to operate its business

40. Clients invested through Halifax AU or Halifax NZ in a range of different financial products, which may be classified broadly as:
- (a) exchange-traded financial products, which are financial products which are, or which are benchmarked to, a wide range of equities, futures or options, and investments which were made through the exchange on which they were traded. Exchange traded products trade on exchanges (for example the ASX) with the consequence that the price of the products fluctuate; and
 - (b) "over-the-counter" (OTC) financial products, including OTC derivatives, which are financial products which are not listed on a regulated exchange such as the ASX but are traded via private contracts between two parties. OTCs included derivatives such as CFDs (on stocks, indexes, metals and commodities), options, futures and margin foreign exchange products.
41. The exchange-traded financial products were available for trading through the Interactive Broker AU, Interactive Broker NZ, MT4 and MT5 platforms. OTC products were available for trading through MT4 and MT5 and the Interactive Broker NZ platform.
42. The business of Halifax AU and the business of Halifax NZ operated in conjunction with one another in the sense described immediately below.
43. The trading platforms of Halifax AU and Halifax NZ were all operated in Australia by Halifax AU. Clients of Halifax AU and clients of Halifax NZ were able to trade on all of the platforms regardless of whether they had executed a client service agreement (**CSA**) with Halifax AU or Halifax NZ, although it was necessary for a client to first have an account set-up and funded in connection with the relevant platform for the client to be able to trade on that platform.

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44. Each of Halifax AU and Halifax NZ held their own consolidated account with the USA-based entity, Interactive Brokers. The accounts and trading platforms with Interactive Brokers are referred to further in paragraphs 69 to 80 below.
45. Halifax NZ was also an introducing broker to Halifax AU. As an introducing broker, Halifax NZ introduced clients onto Halifax AU's trading platforms and received commissions in connection with those introductions. At pages 286 to 292 of the **Exhibit** is a Clearing and Settlement Program Agreement entered into between Halifax AU and Halifax NZ dated 1 July 2013 which sets out the arrangement between those companies.
46. Halifax NZ's main source of revenue was commissions earned from trades placed by clients of Halifax NZ, either on the Interactive Broker NZ platform or as a result of clients being introduced to the Interactive Broker AU, MT4 or MT5 platforms operated by Halifax AU.
47. As at 27 November 2018, immediately prior to Halifax NZ going into administration, Halifax NZ had a total of only 4 employees, whose roles were predominantly sales-based. None of the Halifax NZ employees, with the exception of its company director, had access to or authority to transact on any bank accounts of Halifax AU or Halifax NZ. The company director of Halifax NZ had access to some Halifax NZ accounts only.
48. On 23 November 2018, immediately prior to Halifax AU going into administration, Halifax AU had a total of 16 employees. Halifax AU provided administrative functions and the treasury functions for Halifax NZ and Halifax AU. Those treasury functions included:
- (a) conducting a daily review of the bank accounts of Halifax AU and Halifax NZ for the purpose of identifying and allocating deposits made by clients;
 - (b) causing deposited funds to be transferred to the appropriate bank account relating to the specific trading platform used by the client;
 - (c) causing a client's account on a relevant trading platform to be credited with an amount reflecting the funds deposited by the client so that the client could commence trading; and
 - (d) actioning redemption requests from clients of Halifax NZ, including by transferring funds from accounts to external accounts nominated by clients.
49. Halifax NZ had a limited administrative function which included:
- (a) limited account opening procedures;
 - (b) introducing new clients to the Halifax NZ and Halifax AU platforms; and
 - (c) liaising with clients predominately based in New Zealand.



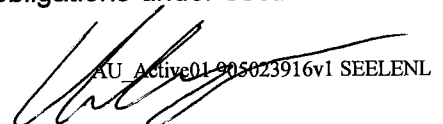
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50. As at the date of swearing this affidavit, there are no full-time employees of Halifax NZ. Halifax AU still has 5 employees, who continue to assist the Liquidators.

The Trading Platforms

MT4 and MT5 platform

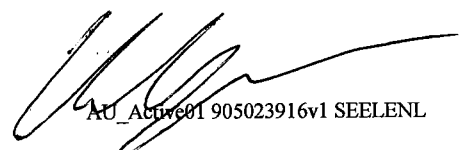
51. The MT4 and MT5 software is owned by MetaQuotes Software Corp (**MetaQuotes**), an offshore entity which licenses the trading platforms to Halifax Capital Markets, a related entity to Halifax AU. The software is licensed to Halifax Capital Markets who provide the software to Halifax AU. The software consisted of both a client and server component. The server component was run by Halifax AU and the client software was made available to clients, who used it to see live streaming prices and charts, to place orders, and to manage their accounts.
52. Halifax AU was previously the licensee of the MT4 and MT5 software (and was the licensee as at the time the voluntary administrators were appointed). The licence was transferred to Halifax Capital Markets shortly following the appointment of the voluntary administrators to Halifax AU (in line with a transfer agreement signed prior to the appointment of voluntary administrators to Halifax AU). Halifax AU continues to pay the ongoing licence fees to MetaQuotes even after the licence was transferred to Halifax Capital Markets.
53. The entity oneZero hosts the servers in relation to MT4 and MT5 and provides IT infrastructure to connect MT4 and MT5 to the IB Platform and to Invast Financial Services Pty Ltd (**Invast**) or Gain Capital (**Gain**) (both of which are hedging counterparties). Halifax AU pays an ongoing service fee to oneZero.
54. The MT4 platform has been operational within the Halifax Group since at least April 2016 and the MT5 platform has been operational within the Halifax Group from around 8 August 2016.
55. On about 30 June 2016 Saxo Capital Markets Australia (**Saxo**) terminated an agreement with Halifax AU pursuant to which Saxo had been providing a client trading platform. Halifax AU commenced using MT5 soon thereafter, and the majority of clients of Halifax AU on the Saxo platform were migrated from the Saxo trading platform to MT5.
56. The MT4 and MT5 platforms are virtual trading platforms that are not cash-backed. This means that, when a trade was placed, Halifax AU did not necessarily buy the asset but rather held the moneys paid by the client and recorded the profit or loss in the client's account based on the movement in value of the asset. Consequently, no cash movement occurred in or out of the MT4 or MT5 platform, but rather the funds were, or should have been (in accordance with Halifax AU's obligations under section 981B of

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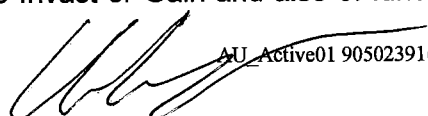
the Act), held by Halifax AU in statutory trust accounts (the details of which are discussed further below).

57. The MT4 platform enabled clients to engage in virtual trading in foreign exchange derivatives and CFDs on indexes, metals and commodities.
58. The MT5 platform enabled clients to engage in virtual trading in stocks, foreign exchange derivatives and CFDs on stocks, indexes, metals and commodities.
59. Moneys paid by clients that were trading on the MT4 or MT5 platforms (**MT4 or MT5 Clients**) should have been (in accordance with Halifax AU's obligations under section 981B of the Act) transferred into a statutory trust account controlled by Halifax AU (most often the Halifax Pro Allocated Account). However, it has become apparent following our investigations that this process in relation to Client Moneys was not always followed by Halifax AU.
60. In relation to moneys paid by New Zealand clients for trading on MT4 or MT5, the client could transfer the moneys into a New Zealand statutory trust account maintained by Halifax NZ or a statutory trust account maintained by Halifax AU (being accounts that are referred to further in paragraph 90 below).
61. Clients using MT4 or MT5 were split into two categories, being "A-Book" clients and "B-Book" clients. The client was not informed of their status as A-Book or B-Book. A client could be both an A-Book client and a B-Book client. The classification depended on the nature of each investment, and certain investments in a client's account could be treated as A-Book and others as B-Book.
62. A-Book clients were identified by Halifax AU as being sophisticated clients. The A-Book clients generally were professional clients, or invested large sums and/or had a history of making a profit on their trades. All clients who traded in stocks on MT4 and MT5 were classified as A-Book clients with respect to those stocks. Halifax AU placed an automatic hedge in relation to all A-Book client trades and was, therefore, not exposed to profits or losses with respect to those clients. For all trades made on MT4 or MT5, Halifax AU earned revenue through either commissions or margin spreads. In relation to B-Book clients, Halifax AU also earned profits though clients making losses on trades.
63. Halifax AU did not hedge the virtual trades entered into by B-Book clients.
64. In relation to B-Book clients:
 - (a) They only made trades in foreign exchange, index CFDs, metals and commodities;

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- (b) When a trade was made, Halifax AU did not execute the trade in the market, but rather held the cash and distributed the proceeds to the client depending on the outcome of the trades;
 - (c) The client placed a trade on the relevant platform (either MT4 or MT5) themselves. Once the trade was closed out, the client saw either a profit or loss in the trading platform depending on how the value of the underlying asset has moved. Their virtual balance on the platform was updated to reflect the profit or loss on the position; and
 - (d) Once the trade closed, Halifax AU recognised either a profit or a loss on the trade net of any margins or commissions (from the company's point of view).
65. In relation to the hedging of virtual trades of A-Book clients and the virtual trades through the MT5 platform in stocks and in CFDs relating to stocks:
- (a) Virtual trades in stocks were hedged by Halifax AU through the process of acquiring or selling stocks in Halifax AU's "IB Australia Prop Account" held with Interactive Brokers (account No. [REDACTED] **(IB AU Prop Account)**). The MT5 platform then showed the client the balance of their stocks held and the remaining balance of their funds;
 - (b) Virtual trades in CFDs relating to stocks traded through the MT5 platform were hedged by Halifax AU purchasing the underlying stocks through the IB AU Prop Account using cash held with Interactive Brokers. The trade appeared to the client as a CFD trade in the MT5 platform; and
 - (c) The virtual trades by A-Book clients in other OTC derivatives (that is, other than CFDs relating to stocks) were hedged by Halifax AU through the process of replicating the trade with Invast or Gain.
66. The stocks acquired with cash held in the IB AU Prop Account were not held in an account with Interactive Brokers in the name of any specific client of Halifax AU, but rather were held as part of a pool of stocks in the IB Prop Account.
67. Halifax NZ also had with Interactive Brokers an IB NZ Prop Account (account No. [REDACTED] **(IB NZ Prop Account)**). There were no stocks held in the IB NZ Prop Account at the time of the appointment of voluntary administrators. The IB NZ Prop Account only contained moneys relating to rebates received and interest earned from Interactive Brokers. The rebates were commissions that Halifax NZ was entitled to be paid from its clients.
68. Invast and Gain held a pool of money as collateral for the hedged trades by Halifax AU, made up of funds transferred by Halifax AU to Invast or Gain and also of funds realised

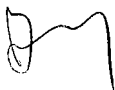



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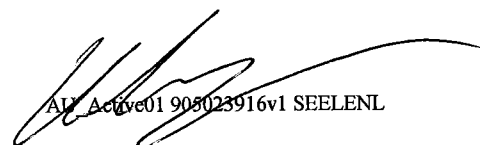
from Halifax AU's positions on its hedged trades. At various points in time, depending on the movement of the trades, funds were transferred to or from Halifax AU to maintain an appropriate collateral level.

IB Platform

69. Interactive Brokers is a brokerage firm listed on the Investors Exchange in the United States and is the largest subsidiary of the brokerage group Interactive Brokers Group Inc. Interactive Brokers operates one of the largest electronic trading platforms in the United States (by number of daily average revenue trades). It is the largest broker on the foreign exchange market and facilitates investment in stocks, options, futures, foreign exchange investments, bonds, funds and CFDs.
70. Interactive Brokers operates an online trading platform across a range of jurisdictions and provides access to multiple markets in approximately 24 different countries. The Trader Workstation is one of the platforms offered by Interactive Brokers.
71. Halifax AU had an account with Interactive Brokers, being Account Number [REDACTED] (**IB AU Consolidated Account**). This account was held pursuant to a contract between Interactive Brokers and Halifax AU pursuant to which Halifax AU could access Trader Workstation (being the Interactive Broker AU platform). That contractual relationship still exists. Clients of Halifax AU could also access the Interactive Broker AU platform.
72. Halifax NZ had an account with Interactive Brokers, being Account Number [REDACTED] (**IB NZ Consolidated Account**). This account was held pursuant to a contract between Interactive Brokers and Halifax NZ pursuant to which Halifax NZ could access Trader Workstation (being the Interactive Broker NZ platform). That contractual relationship also still exists. Clients of Halifax NZ could also access the Interactive Broker NZ platform.
73. Clients of Halifax AU and Halifax NZ did not have a direct contractual relationship with Interactive Brokers, but rather a contractual relationship with either Halifax AU or Halifax NZ.
74. Halifax AU and Halifax NZ operated a 'white label system' with Interactive Brokers whereby all trades and data in relation to the Interactive Broker AU and the Interactive Broker NZ platforms were recorded as being held by Interactive Brokers for Halifax AU or Halifax NZ and not for the individual clients.
75. A copy of the white label agreement between Halifax AU and Interactive Brokers is at pages **1 to 11** of the **Confidential Exhibit**.
76. A copy of the white label agreement between Halifax NZ and Interactive Brokers is at pages **12 to 25** of the **Confidential Exhibit**.



77. In relation to trades undertaken through the Interactive Broker AU and Interactive Broker NZ platforms:
- (a) Interactive Brokers charged a commission to Halifax AU or Halifax NZ (depending on which platform the trade was undertaken), which Halifax AU or Halifax NZ then on-charged, with a mark-up or commission, to the respective client undertaking the trade. The commission was automatically deducted for each trade. Some clients also paid for live data through subscriptions with Interactive Brokers, which deducted an amount for that service;
 - (b) Interactive Brokers provided a range of reports to Halifax AU, Halifax NZ, and clients of Halifax AU or Halifax NZ;
 - (c) Interactive Brokers used custodians and clearing brokers for trading stocks, options and futures in different countries; and
 - (d) The platform was not a virtual platform. All positions were exchange-traded, with the purchase of stocks or other financial products supported on a 1:1 basis by cash, stocks or other financial products.
78. Interactive Brokers provided at least two ways in which a client could engage with it:
- (a) "Non-Disclosed" accounts, where Interactive Brokers did not know the full identity of the underlying client and, instead, the relevant broker (such as Halifax AU or Halifax NZ) had a consolidated account comprising a sub-account for each client (**IB Client Sub-Accounts**); or
 - (b) "Disclosed Accounts", where Interactive Brokers knew the underlying client's identity and set the client up with their own account directly.
79. The IB AU Prop Account was one of the many accounts that were consolidated under the IB AU Consolidated Account. The IB NZ Prop Account was one of the many accounts that were consolidated under the IB NZ Consolidated Account.
80. Interactive Brokers has stated to the Liquidators that it will only deal with the Liquidators of Halifax AU and Halifax NZ in relation to the funds in the IB AU Consolidated Account and the IB NZ Consolidated Account.
81. At the time of the appointment of the voluntary administrators to Halifax AU and Halifax NZ in November 2018, in addition to the IB AU Consolidated Account and the IB NZ Consolidated Account there were a number of other accounts between Interactive Brokers and Halifax AU or Halifax NZ (**Old IB Accounts**). Each of the Old IB Accounts:
- (a) are described in further detail in paragraphs 121 and 125 below;

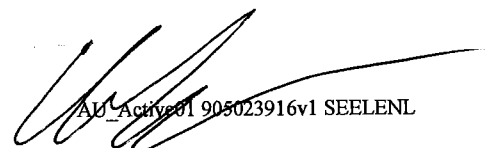



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- (b) consisted of a "master" account, with some master accounts having a linked "prop" account;
- (c) held small balances as at 23 November 2018 (with one account having a negative balance);
- (d) do not hold any open positions such as stocks or derivatives;
- (e) are a mix of Disclosed Accounts and Non-Disclosed accounts; and
- (f) do not have any linked IB Client Sub-Accounts.

Clients of Halifax AU and Halifax NZ

82. Halifax AU employed an IT team as part of its day to day operations. Part of that IT team has continued to be employed during the administration and liquidation of Halifax AU.
83. That IT team has, on my staff's instructions, downloaded data in relation to the Halifax Group's active client accounts. As at 23 November 2018 it appears that the Halifax Group has a total of 11,938 active client accounts on the trading platforms as follows:
 - (a) IB AU Platform – 2,025 client accounts;
 - (b) IB NZ Platform - 2,048 client accounts;
 - (c) MT4 – 5,303 client accounts; and
 - (d) MT5 – 2,562 client accounts.
84. Based on my investigations, there are 9,890 clients who invested through MT4, MT5 or Interactive Broker AU and 2,048 clients who invested through Interactive Broker NZ. There are 9,859 clients that signed a CSA with Halifax AU and 1,777 clients that signed a CSA with Halifax NZ.
85. There are also approximately 302 active clients who hold accounts within the Halifax Group but have not signed a CSA. These are clients who held accounts with Forex Capital Markets (also known as FXCM) and who were transferred to the Halifax Group in 2016.
86. The data obtained shows that the clients are located in the following geographical areas:
 - (a) 6,772 clients in Australia;
 - (b) 1,351 clients in China;
 - (c) 499 clients in New Zealand;
 - (d) 1,121 in other countries; and
 - (e) 2,195 clients that the Liquidators cannot determine a place of residence for.

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87. The Liquidators have not been able to locate in Halifax AU's or Halifax NZ's books and records the geographical location for those 2,195 clients whose place of residence cannot be determined. Despite being unable to locate the investor's geographic location, the Liquidators have taken extensive steps to make contact with as many investors as possible as required by orders of this Court.

How a client was assigned to a specific trading platform

88. The selection of the trading platform made by each client was made either by:
- (a) the client picking an option on the Halifax website when performing the set-up of a trading account; or
 - (b) employees of Halifax AU or the client's account manager directly contacting the client and assessing the client's preference for trading.
89. Once a trading platform had been selected for a client and when the client's account was in operation and funded, the client could trade directly through the selected trading platform.

Accounts held by Halifax AU and Halifax NZ

Accounts operated by Halifax AU prior to the appointment of the Liquidators

90. The table below shows all of the accounts operated by Halifax AU on 23 November 2018 (**AU Accounts**), together with the balance in each account as at 23 November 2018. Some of the accounts are foreign currency accounts and the table shows the Australian Dollar equivalent of the balance as at 23 November 2018 as well as the base currency figures on the same date.

	Bank	Account Number	Account Name	Description / Primary Purpose	Balance (AUD)	Balance (account currency)	Described or treated by Halifax AU as statutory trust account (Y/N)
Company Accounts							
1.	NAB	820579 6205445	HALIFAX INVESTMENT SERVICES LTD (NAB Company Account)	Company transaction account. Used to pay company expenses such as wages and to receipt revenue	517,193.94	AUD 517,193.94	N
2.	NAB	820579 46562768	2ND ACCT	Company transaction account used	20,617.19	AUD 20,617.19	N

				to pay expenses			
3.	NAB	820573 08580742	HALIFAX INVESTMENT SERVICES LTD (Third NAB Company Account)	Company transaction account used to pay expenses. Not frequently used.	82,645.47	AUD 82,645.47	N
4.	Bankwest	4646460	Bankwest term deposit (AU Term Deposit)	Term deposit held security for purposes of Australian Financial Services Licence requirements	1,610,326.16	AUD 1,610,326.16	N
5.	ANZ		ANZ bank account	Company transaction account used to pay expenses. Not frequently used.	77.93	AUD 77.93	N
IB accounts							
6.	Bankwest	302100 9023952	IB SUSPENSE [s981B Trust A/c] (IB Suspense Account)	Clients on IB Platform deposit funds into this account which is then swept on a daily basis to IB Allocated Account. Holds Unallocated Moneys.	8,490.44	AUD 8,490.44	Y
7.	Bankwest	302100 9023944	IB ALLOCATED [s981B Trust A/c] (IB Allocated Account)	The funds in the IB Suspense Account are transferred to this account once the deposit has been allocated to a client	148,100.26	AUD 148,100.26	Y
MT4 and MT5 accounts							
8.	Bankwest	302100 9066457	HLFX PRO SUS [s981B Trust A/c] (Halifax Pro Suspense Account)	In connection with using MT4 and MT5, clients deposit funds into this account which is then	57,200.00	AUD 57,200.00	Y

				swept on a daily basis to the Halifax Pro Allocated Account. Holds Unallocated Moneys.			
9.	Bankwest	302100 9066473	HLFX PRO ALL [s981B Trust A/c] (Halifax Pro Allocated Account)	The funds in the Halifax Pro Suspense Account flow to this account once the deposit has been allocated to an individual client	162,637.73	AUD 162,637.73	Y
Merchant facility account							
10.	Bankwest	302985 0402377	BUSINESS ZERO TRANSACTION ACCT (Merchant Account)	Account to which clients on Interactive Broker AU, Interactive Broker NZ and MT4 or MT5 platforms deposited funds via credit card. Holds Unallocated Moneys	55,118.05	AUD 55,118.05	Y
Foreign Currency Accounts							
11.	NAB	HAFAXC HF01	HALIFAX INVESTMENT SERVICES LTD SWISS FRANC ACCOUNT (SF Account)	Account to which clients on all platforms deposited CHF and redemptions of CHF were made	43.47	CHF 207	Y
12.	NAB	HAFAXE UR01	HALIFAX INVESTMENT SERVICES LTD EURO ACCOUNT (Euro Account)	Account to which clients on all platforms deposited Euro and redemptions of Euro were made	82,199.72	EUR 52,213.26	Y
13.	NAB	HAFAXG BP01	HALIFAX INVESTMENT SERVICES	Account to which clients on all platforms	9,363.81	GBP 5,270.89	Y

			LTD POUND STERLING ACCOUNT (GBP Account)	deposited Pounds and redemptions of Pounds were made			
14.	NAB	HAFAXH KD01	HALIFAX INVESTMENT SERVICES LTD HONG KONG DOLLAR ACCOUNT (HKD Account)	Account to which clients on all platforms deposited Hong Kong Dollars and Redemptions of Hong Kong Dollars were made	8,621.11	HKD 48,910.14	Y
15.	NAB	HAFAXN ZD01	HALIFAX INVESTMENT SERVICES LTD NEW ZEALAND DOLLAR ACCOUNT (Halifax AU NZD Account)	Account to which New Zealand clients on the Interactive Broker AU, Interactive Broker NZ, MT4 and MT5 platforms deposited NZD and redemptions in NZD were made	496,795.56	NZD 525,641.80	Y
16.	NAB	HAFAXU SD01	HALIFAX INVESTMENT SERVICES LTD US DOLLAR ACCOUNT (NAB USD Account)	Account to which clients on all platforms deposited USD and redemptions of USD were made. Some company expenses were also paid from this account	146,962.65	USD 106,547.92	Y
17.	NAB	HAFAXS GD01	HALIFAX INVESTMENT SERVICES LTD SINGAPORE ACCOUNT (SGD Account)	Account to which clients on all platforms deposited SGD and redemptions of SGD were made	54,582.56	SGD 54,320.56	Y
18.	NAB	HAFAXJP Y01	HALIFAX INVESTMENT SERVICES	Account to which clients on all platforms	16,991.07	JPY 1,390,889.00	Y

			LTD JAPANESE YEN ACCOUNT (JPY Account)	deposited JPY and redemptions of JPY were made			
Other accounts							
19.	Bankwest	98500837 19	BWA Gold TD	Term deposit for Halifax AU office lease	165,000.00	AUD 165,000.00	N
20.	Bankwest	302100 0828234	Unallocated Deposits (Unallocated Account)	Holds client deposits made to suspense accounts which are not able to be allocated to individual client accounts. Holds Unallocated Moneys.	136,336.47	AUD 136,336.47	Y
21.	Bankwest	98502662 60	BWA Gold TD	Term deposit for Halifax NZ office lease	111,385.00	AUD 111,385.00	N
22.	Bankwest	302100 9030850	HALIFAX GROUPED ACCOUNT	Account contains interest on all Bankwest accounts and revenue withdrawal from the Halifax Pro Allocated Account	12,552.98	AUD 12,552.98	N
23.	Bankwest	2000735	Money Market Call Account	Unknown Awaiting receipt of bank statements to confirm primary purpose	10,682.90	USD 7,749.09	N
24.	Bankwest	302100 9111909	Group Allocated	Previously used for deposits and redemptions on Saxo platform. Not frequently used from 2017 onwards.	3,283.90	AUD 3,283.90	N
25.	Bankwest	302100 9001247	SAXO SUSP	Previously used for	1,000.00	AUD 1,000.00	Y

			[s981B Trust A/c]	client deposits and on Saxo platform			
26.	Bankwest	302100 9070658	FXCM SUSP [s981B Trust A/c]	Previously used for FXCM client deposits	50.26	AUD 50.26	Y
27.	Bankwest	302100 0810796	GFT SUSPENS E Trust Account	Previously used for client deposits on platform that is no longer offered by Halifax	20.00	AUD 20.00	Y
28.	Bankwest	302100 0845127	SAXO ALLOC [s981B Trust A/c] (Saxo Allocated Account)	N/A	0	0	Y
29.	Bankwest	302100 9070666	FXCM ALL [s981B Trust A/c]	N/A	0	0	Y
30.	Bankwest	302100 9049132	GAIN SUSP [s981B Trust A/c]	N/A	0	0	Y
31.	Bankwest	302100 9049140	GAIN ALL [s981B Trust A/c]	N/A	0	0	Y
32.	Bankwest	302100 9068213	FXDD SUSP [s981B Trust A/c]	N/A	0	0	Y
33.	Bankwest	302100 9068221	FXDD ALLOC [s981B Trust A/c]	N/A	0	0	Y
34.	Bankwest	302100 9079505	INFINITY ALL [s981B Trust A/c]	N/A	0	0	Y
35.	Bankwest	302100 9079539	INFINITY SUS [s981B Trust A/c]	N/A	0	0	Y
36.	Bankwest	302100 9079872	FX SUSPENS E [s981B Trust A/c]	N/A	0	0	Y
37.	Bankwest	302100 9079880	FX ALLOCATE D [s981B Trust A/c]	N/A	0	0	Y
38.	Bankwest	302100 9111894	CREDIT CARD MERCHAN T	N/A	0	0	Y

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39.	Bankwest	302100 9301780	iSignThis Merchant Direct Debit	N/A	0	0	N
40.	Bankwest	302100 9301798	Dynamic Payment Merchant	N/A	0	0	N
41.	Bankwest	302100 0828250	Bad Debts Victoria Account	N/A	0	0	N
42.	Bankwest	302100 9040578	MIRUS SUSP [s981B Trust A/c]	N/A	0	0	Y
43.	Bankwest	302100 9041095	MIRUS ALLOC [s981B Trust A/c]	N/A	0	0	Y
Funds held with hedging providers							
44.	Invast	HFX100 1	Invast	Funds held with third party hedging provider of which USD3,000,00 0 has been remitted to the Liquidators and is being held in a segregated account.	AUD 4,462,212.68	USD 3,235,104.19	N
45.	Gain	GT59084 8 & CX05890 3	Gain	Funds held with third party hedging provider which have since been remitted to the Liquidators	401,267.59	AUD401,267. 59	N
Funds held with third party merchant providers							
46.	Skrill	Unknown	Skrill	Funds held with third party merchant providers	5.00	AUD3.85	N
47.	GT Pay	Unknown	GT Pay	Funds held with third party merchant providers	0	0	N
48.	Neteller	71468	Neteller	Funds held with third party merchant providers	205,061.62	USD 148,746.28	N
49.	Payment t Asia Mercha	10000578 & 10000699	Payment Asia Merchant	Funds held with third party	124,433.12	CNY 625,166.40	N

	nt			merchant providers			
50.	RPN Pay	Unknown	RPN Pay	Funds held with third party merchant providers	3,993.95	CNY 20,066.06	N
51.	Paysec	Unknown	Paysec	Funds held with third party merchant providers	808.48	CNY 4,061.89	N
52.	GSD Pay	Unknown	GSD Pay	Funds held with third party merchant providers	0	0	N
Funds held with Interactive Brokers							
53.	IB		IB AU Master Account	IB AU Master and Client Accounts	111,362,100.00	AUD 111,362,100.00	N
54.	IB		IB AU Prop Account	IB AU Prop	27,291,901.00	AUD 27,291,901.00	N
55.	IB		IB AU Master Account	OLD B Master Account	15,505.51	AUD 15,505.51	N
56.	IB		IB AU Prop Account	OLD IB Prop	0	0	N
57.	IB		IB AU Disclosed Master Account	OLD Disclosed Master	1,200.10	AUD 1,200.10	N
58.	IB		IB AU Disclosed Prop Account	OLD IB Disclosed Prop	23,953.48	AUD 23,953.48	N
59.	IB		IB AU Master Account	OLD IB Master	Unknown	Unknown	N
60.	IB	Unknown	IB AU Prop Account	OLD IB Disclosed Prop	Unknown	Unknown	N
61.	IB		IB AU Master Account	OLD IB Master	32.90	AUD 32.90	N

91. The accounts listed at 1 to 5 in the above table are referred to as the **"AU Company Accounts"**.

92. The table in paragraph 90 above shows that Halifax AU had 43 bank accounts opened in Halifax AU's name at NAB, Bankwest and ANZ and of those 43 accounts;

- (a) Halifax AU maintained 30 trust accounts pursuant to section 981B of the Act (**Australian Statutory Trusts**);
- (b) 16 of the accounts have a zero balance; and
- (c) 9 of the accounts were operated in foreign currencies.



93. The various foreign currency accounts in the name of Halifax AU were accounts into which clients from all three trading platforms deposited funds directly. Funds were then used for various purposes including client redemptions, funding the trading platforms and paying company related expenses.
94. There are statutory trust accounts maintained by Halifax AU which hold moneys deposited shortly prior to the administration of Halifax AU but which were never allocated to particular clients (**Unallocated Moneys**). For those accounts, in the above table the words "Holds Unallocated Moneys" are inserted in the column "Description / Primary Purpose". The total amount held by Halifax AU at 23 November 2018 which never came to be allocated is **AU\$203,026.91**. For those amounts, no credit was made to a trading platform in connection with the clients that deposited the funds.

Accounts operated by Halifax NZ prior to the appointment of the Liquidators

95. The table below shows all of the accounts operated by Halifax NZ on 27 November 2018 (**NZ Accounts**), together with the balance in each account as at 27 November 2018. Some of the accounts are foreign currency accounts and the table shows the New Zealand Dollar equivalent of the account balance as at 27 November 2018 as well as the base currency value as at that same date.

	Bank	Account Number	Account Name	Description / Primary Purpose (if relevant)	Balance (NZD)	Balance (account currency)	Described or treated by Halifax NZ as statutory trust account (Y/N)
1.	ANZ	01-0121-0135307-00	Business Current Account	Used for payment of Halifax NZ expenses and receipt of revenue	95,446.57	NZD 95,446.57	N
2.	ANZ	01-0121-0135307-01	Online Account	Used for Halifax NZ business expenses	898.90	NZD 898.90	N
3.	ANZ	01-0121-0135307-02	Business Current Account (ANZ HNZ Account)	Used for New Zealand client deposits and redemptions for the IB NZ Consolidated Account. Also used for New Zealand clients on the Interactive Broker NZ,	577,712.36	NZD 577,712.36	Y

	Bank	Account Number	Account Name	Description / Primary Purpose (if relevant)	Balance (NZD)	Balance (account currency)	Described or treated by Halifax NZ as statutory trust account (Y/N)
				MT4 and MT5 platforms			
4.	ANZ	88252908-100	Term Deposit (NZ Term Deposit)	Term deposit used to support FSP licence	1,113,564.52	NZD 1,113,564.52	N
Foreign Currency Accounts							
5.	ANZ	205964AUD0020	FCA (AUD)	Used for New Zealand client deposits in AUD on the Interactive Broker AU, Interactive Broker NZ, MT4 and MT5 platforms. Halifax Treasury have advised that this account was not frequently used.	19.90	AUD 18.69	Y
6.	ANZ	205964EUR0001	FCA (EUR)	Used for New Zealand client deposits in AUD on the Interactive Broker AU, Interactive Broker NZ, MT4 and MT5 platforms. Halifax AU treasury have advised that this account was not frequently used.	5,179.61	EUR 3,094.89	Y
7.	ANZ	205964GBP0001	FCA (GBP)	Used for New Zealand client deposits in AUD on the Interactive Broker AU, Interactive Broker NZ, MT4 and MT5	-	-	Y

	Bank	Account Number	Account Name	Description / Primary Purpose (if relevant)	Balance (NZD)	Balance (account currency)	Described or treated by Halifax NZ as statutory trust account (Y/N)
				platforms. Halifax AU Treasury have advised that this account was not frequently used.			
8.	ANZ	205964USD0001	FCA (USD)	Used for New Zealand client deposits in AUD on the Interactive Broker AU, Interactive Broker NZ, MT4 and MT5 platforms.	1,174,032.81	USD 800,022.36	Y
IB Accounts							
9.	IB		NZD	IB NZ Prop Account	188,882.00	NZD 188,882.00	N
10.	IB		NZD	IB NZ Master Account	48,510,613.00	NZD 48,510,613.00	N
11.	IB		NZD	Old IB NZ Non Disclosed Master Account	11.28	NZD 11.28	N
12.	IB		NZD	Old IB NZ Non Disclosed Prop Account	-5.28	NZD -5.28	N
13.	IB		NZD	Old IB NZ Disclosed Master Account	500.69	NZD 500.69	N
14.	IB		NZD	Old IB NZ Disclosed Master Account	4,700.00	NZD 4,700.00	N

96. The accounts listed at 1 to 2 in the above table are referred to as the "NZ Company Accounts".

97. As can be seen from the table in paragraph 95 above, Halifax NZ had 8 bank accounts opened in Halifax NZ's name at the ANZ and of those 8 bank accounts;

(a) Halifax NZ maintained 5 trust accounts for depositing and receiving Client Moneys (**NZ Statutory Trusts**); and

(b) 4 of the bank accounts were operated in foreign currencies.

98. The bank accounts held by Halifax AU set out in the table in paragraph 90 above and the bank accounts held by Halifax NZ set out in the table in paragraph 95 above are collectively referred to as the "**Bank Accounts**".

Trust accounts maintained by Halifax NZ

99. Within the statutory trust accounts maintained by Halifax NZ there are moneys which were deposited shortly prior to or shortly after the administration of Halifax NZ but which never came to be allocated to particular investments or another account. The total amount held by Halifax NZ as at 27 November 2018 which never came to be allocated is **NZ\$13,079.45** and those moneys are all held in the ANZ HNZ Account.

Moneys paid into the Bank Accounts after voluntary administration commenced

100. Certain clients deposited moneys on or after 23 November 2018 into the AU Accounts and on or after 27 November 2018 into the NZ Accounts (**On or After Appointment Date Deposits**). The total amounts deposited are, as at 31 May 2019, and on a converted to AUD basis, **AU\$162,376.48** in the AU Accounts and **AU\$73,184.53** in the NZ Accounts. The breakdown of the On or After Appointment Date Deposits is set out in the following table.

Bank	Account	Entity	Amount Deposited	Currency	Exchange rate	AUD Equivalent
Bankwest	IB Suspense Account	Halifax AU	\$41,130.44	AUD	1.0000	\$41,130.44
Bankwest	Halifax Pro Suspense Account	Halifax AU	\$36,620.00	AUD	1.0000	\$36,620.00
Bankwest	9001247	Halifax AU	\$36,714.70	AUD	1.0000	\$36,714.70
Bankwest	9049132	Halifax AU	\$800.00	AUD	1.0000	\$800.00
NAB	NAB USD Account	Halifax AU	\$26,287.95	USD	1.4432	\$36,240.57
NAB	GBP Account	Halifax AU	\$5,500.00	GBP	1.8538	\$9,764.15
Credit Card	5353109291777640	Halifax AU	\$1,106.63	AUD	1.0000	\$1,106.63
ANZ	ANZ HNZ Account	Halifax NZ	\$60,176.51	NZD	0.9473	\$56,532.22
ANZ	205964GBP00001	Halifax NZ	\$9,380.00	GBP	1.8538	\$16,652.31
TOTAL (AUD)						\$235,561.02

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101. To the extent that funds were deposited by clients with Halifax AU on 23 November 2018 and with Halifax NZ on 27 November 2018, these amounts are included in the balances for the Bank Accounts as set out in the tables in paragraphs 90 and 95 above. These funds amount to **AU\$58,291.75**. The On or After Appointment Date Deposits that were deposited after those dates are not included in the balances for the Bank Accounts set out in those paragraphs above.

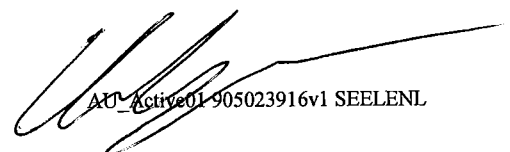
Assets and Client Moneys held by Halifax AU and Halifax NZ

Summary of assets and Client Moneys

102. In order to trade on the trading platforms, clients of Halifax AU or Halifax NZ deposited moneys with Halifax AU or Halifax NZ.
103. Certain clients had also transferred to Halifax AU and Halifax NZ, by way of off-market transfers, stocks from their existing brokers or custodians. Those stocks were held in accordance with the arrangement between Halifax AU or Halifax NZ (whichever was relevant) and Interactive Brokers.

(a) Moneys in statutory trust accounts with Halifax AU or Halifax NZ

104. As at 23 November 2018 (but excluding the On or After Appointment Date Deposits):
- (a) the sum of AU\$1,326,221.40 was held within the AU Accounts that were described as or which were treated as Australian Statutory Trusts;
 - (b) the sum of NZ\$1,756,942.34 was held within the NZ Accounts that were described as or which were treated as NZ Statutory Trusts;
 - (c) the sum of AU\$147,752,462.29 and NZD \$48,704,701.69 was held by third parties on behalf of Halifax AU or Halifax NZ in external accounts (either by way of cash or other assets). This is discussed in more detail in paragraphs 115 and 130 below;
 - (d) a further sum of AU\$2,533,765.47 was held in the AU Company Accounts which were not designated as trust accounts; and
 - (e) a further sum of NZ\$1,209,909.99 was held in the NZ Company Accounts which were not designated as trust accounts.
105. The AU Company Accounts and NZ Company Accounts were accounts that were not described or treated by Halifax AU or Halifax NZ as statutory trust accounts.
106. Upon our appointment as voluntary administrators to Halifax AU, we accessed the following amounts in order to pay the operating expenses of Halifax AU:

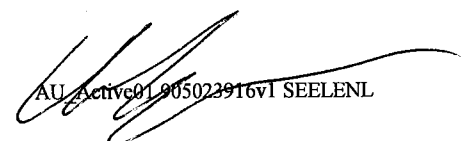



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- (a) the funds in the NAB Company Account (being item 1 in the table at paragraph 90 above), which we were informed by the director of Halifax AU, Jeffrey Worboys, and the employees of Halifax AU, contained only Halifax AU's company funds. Upon appointment, there was \$517,193.94 available in that account;
- (b) the funds in the Third NAB Company Account (being item 3 in the table at paragraph 90 above), which held \$82,645.47 as at the date of the appointment. On the basis that this amount was transferred out of the NAB Company Account, we considered at that time that, on face value, these were Halifax AU's company funds; and
- (c) the sum of \$100,000 that was on 2 August 2018 paid into the Johnson Winter & Slattery Trust Account (**JWS Trust Account**) maintained by Johnson Winter & Slattery, Halifax AU's solicitors prior to Halifax AU being placed in administration and shortly thereafter, that on its face appeared to be Halifax AU funds.

107. The AU Term Deposit (being item 4 in the table at paragraph 90 above) was held in the name of Halifax AU. The source of the AU Term Deposit has been identified as follows:

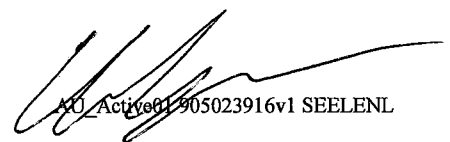
- (a) The AU Term Deposit originated from \$5.5 million in Halifax AU company funds held in an old bank account known as the Saxo Allocated Account (item 28 in the table at paragraph 90 above). Those funds were proceeds received by Halifax AU on 10 December 2010 following Halifax AU, Australian Mutual Holdings Limited, in its capacity as the responsible entity of the Trident Global Growth Fund and the Trident Investment Manager, in its capacity as the investment manager of the Trident Global Growth Fund entering into a subscription agreement for the issuance of preference shares;
- (b) Since that time, the funds were placed in a series of term deposits. At the expiry of a term deposit, the funds would typically be paid back into a general Halifax AU account until a new term deposit was arranged;
- (c) There have been two reductions in those funds over time:
 - (i) In June 2015, Halifax AU advanced NZ\$1,200,000 to Halifax NZ as a subordinated secured loan; and
 - (ii) In August 2015, Halifax AU paid \$2,750,000 to buy-back half the preference shares on issue to AMH; and
- (d) The funds were placed on term deposit to better demonstrate that the funds were Halifax AU funds and not client funds and, therefore, available to support Halifax AU's adjusted surplus liquid funds requirements under its AFSL. Halifax AU's

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accountants, Moore Stephens, had been responsible for calculating Halifax AU's adjusted liquid surplus funds since 2011.

108. A member of my staff, Paul Harlond, undertook a trace of the AU Term Deposit. As at 22 January 2019 (being the date Mr Quinlan swore an affidavit in these proceedings in support of an Interlocutory Process seeking orders that the voluntary administrators (as we then were) were justified in using and applying the funds held in the NAB Company Account, Third NAB Company Account, the \$100,000 that was paid into the JWS Trust Account and AU Term Deposit to pay the expenses of Halifax AU and the expenses incurred by the voluntary administrators in the administration of Halifax AU) the Liquidators were not aware of any evidence to suggest that the AU Term Deposit was not the beneficial property of Halifax AU.
109. On 25 January 2019, Gleeson J made orders in these proceedings including to the effect that pursuant to section 90-15(1) of the *Insolvency Practice Schedule (Corporations)*, being Schedule 2 to the *Corporations Act 2001* (Cth) and/or sections 63 and 81 of the *Trustee Act 1925* (NSW), the voluntary administrators (as we then were) were and would continue to be justified in using and applying the funds held in the NAB Company Account, Third NAB Company Account, the sum of \$100,000 that was paid into the JWS Trust Account on 2 August 2018, and the AU Term Deposit to pay:
 - (a) the trading expenses of Halifax AU of the nature set out in the schedule of costs, which was attached to those Orders and marked "A", up to the amounts specified therein;
 - (b) the administration expenses of Halifax AU in respect of meeting costs and Link Market Services of the nature set out in the schedule of costs, which was attached to those Orders and marked "A", up to the amounts specified therein; and
 - (c) any further reasonable and necessary trading expenses incurred by Halifax AU.
110. Those funds in the NAB Company Account, Third NAB Company Account, JWS Trust Account and AU Term Deposit have been used and applied in accordance with Gleeson J's orders made on 25 January 2019.
111. The NZ Term Deposit (item 4 in the table at paragraph 95 above) originated from the subordinated secured loan advanced from Halifax AU to Halifax NZ in June 2015. That loan appears to have been effected by transferring the funds on 9 June 2015 from the Saxo Allocated Account (an account in the name of Halifax AU) to the ANZ HNZ Account (and account in the name of Halifax NZ).

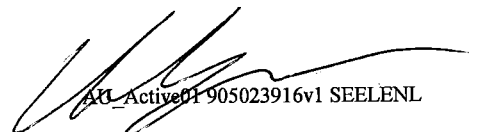



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112. The funds in the NZ Term Deposit were held in connection with Halifax NZ meeting its net tangible assets requirements imposed by the Financial Markets Authority in connection with Halifax NZ's FSP.
113. On 5 March 2019 the NZ Term Deposit funds were receipted into the administration bank account of Halifax NZ. The voluntary administrators, and now the Liquidators, of Halifax NZ accessed the NZ Term Deposit to meet the ongoing operational and administration costs of the external administration of Halifax NZ.
114. Although the AU Company Accounts and NZ Company Accounts were not treated by Halifax AU or Halifax NZ as statutory trust accounts, our further investigations to date have indicated that some of the moneys in those "company accounts" are intermingled with client funds. The total balances in the AU Company Accounts and NZ Company Accounts would be insufficient to make up the Deficiency.

(b) Cash and positions with Interactive Brokers

115. The investments that Interactive Brokers holds on behalf of Halifax AU and Halifax NZ are largely stocks and cash.
116. Within the IB AU Consolidated Account and IB NZ Consolidated Account, Interactive Brokers holds funds in the following accounts:
 - (a) IB AU Master Account (in connection with Halifax AU) and IB NZ Master Account (in connection with Halifax NZ), which was used to fund individual client accounts in connection with Halifax AU's and Halifax NZ's clients that trade the IB Platform;
 - (b) IB AU Prop Account and IB NZ Prop Account, which holds Halifax AU and Halifax NZ revenue relating to commissions and interest. In the case of the IB AU Prop Account it also holds stocks as hedges against MT5 stock positions as well as a cash balance; and
 - (c) IB Client Sub-Accounts in connection with each of Halifax AU's IB AU Consolidated Account and Halifax NZ's IB NZ Consolidated Account, which were required by the relevant statutory/regulatory provisions to be maintained as segregated client accounts holding client assets including cash, stocks and other securities.
117. I have caused my staff to generate an Activity Summary from the IB Platform in relation to the IB AU Consolidated Account and IB NZ Consolidated Account as at approximately the close of trading New York time on 22 November 2018 (being approximately commencement of trading on 23 November 2018 AEDT) and also an Activity Summary in relation to the IB NZ Consolidated Account as at approximately close of trading New

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York time on 26 November 2018 (being approximately commencement of trading on 27 November 2018 AEDT). Copies of the:

- (a) Activity Summary for the IB AU Consolidated Account is at CE pages **26 to 435** of the **Confidential Exhibit**;
- (b) Activity Summary for the IB NZ Consolidated Account for 23 November 2018 AEDT is at CE pages **436 to 709** of the **Confidential Exhibit**; and
- (c) Activity Summary for the IB NZ Consolidated Account for 27 November 2018 AEDT is at CE pages **710 to 1036** of the **Confidential Exhibit**.

118. Within each Activity Summary there is, on page 1, a reference to certain types of "Asset Class". The Asset Class category in the Activity Summary is broken down such that "Options" is a combination of "Equity and Index Options" and "Options On Futures", "Stock" is a combination of "Stocks" and "Warrants", and "Futures" is a component of the "Cash" section.

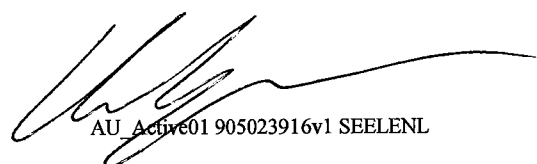
Halifax AU - assets with Interactive Brokers

119. The Activity Summary for the IB AU Consolidated Account discloses the value of the IB AU Consolidated Account around the time of the appointment of administrators to Halifax AU on 23 November 2018. The total value, together with the value of the different asset classes within the IB AU Consolidated Account, is set out in the following table:

Asset Class	Total (AUD)
Cash	27,956,896
Warrants	9,684
Stock	112,534,311
Equity and Index Options	(80,119)
Options on Futures	(296,480)
Futures	(1,685,161)
Interest and dividend accruals	214,872
Total	138,654,002

120. As part of the assets held in the IB AU Consolidated Account (as set out in the above table), Interactive Brokers held, as at 23 November 2018, the following assets:

- (a) **AU\$1,317,521.33** in the IB AU Master Account;
- (b) **AU\$27,291,901.26** in the IB AU Prop Account; and
- (c) The remaining balance, making up the IB Client Sub-Accounts in relation to Halifax AU, being **AU\$110,044,579.11**.

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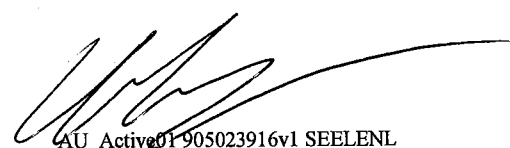
121. In relation to the Old IB Accounts in the name of Halifax AU, the account details and balances as at 23 November 2018 are set out in the following table:

Old IB Accounts in the name of Halifax AU				
Master Account No.	Prop Account No.	Type (Disclosed / Non-Disclosed)	Balance in Master Account	Balance in Prop Account
██████████	██████████	Non-Disclosed	AU\$15,505.51	AU\$0.00
██████████	██████████	Disclosed	AU\$1,200.10	AU\$23,953.48
██████████	Unsure	Disclosed	Unable to access	Unable to access
██████████	N/A	Disclosed	AU\$32.90	N/A

Halifax NZ - assets with Interactive Brokers

122. The Activity Summaries for the IB NZ Consolidated Account disclose the net asset value of the IB NZ Consolidated Account as at around the morning of 23 November 2018 and the morning of 27 November 2018. The total value, together with the value of the different asset classes within the IB NZ Consolidated Account, is set out in the following table:

Asset Class	Total (NZD)
Positions as at 23 November 2018	
Cash	15,319,416
Warrants	27,638
Stock	32,762,183
Equity and Index Options	311,494
Options on Futures	20,918
Futures	176,511
Mutual Funds	26,325
CFDs	(419,375)
Interest and dividend accruals	20,619
Total	48,245,729
Positions as at 27 November 2018	
Cash	16,842,560
Warrants	28,906
Stock	31,862,689
Equity and Index Options	263,406
Options on Futures	39,651
Futures	(2,082)
Mutual Funds	26,790
CFDs	(379,705)
Interest and dividend accruals	17,280
Total	48,699,495

123. As part of the assets held in the IB NZ Consolidated Account (as set out in the above table), Interactive Brokers held the following assets:

(a) As at 23 November 2018:

- (i) **NZ\$836,913.95** in the IB NZ Master Account;
- (ii) **NZ\$180,632.05** in the IB NZ Prop Account; and
- (iii) the remaining balance, making up the IB Client Sub-Accounts in relation to Halifax NZ, of **NZ\$47,228,182.98**; and

(b) As at 27 November 2018:

- (i) **NZ\$843,634.20** in the IB NZ Master Account;
- (ii) **NZ\$188,882.12** in the IB NZ Prop Account; and
- (iii) the remaining balance, making up the IB Client Sub-Accounts in relation to Halifax NZ, of **NZ\$47,666,979.06**.

124. The total equity balance within the IB NZ Consolidated Account fluctuated between 23 November 2018 and 27 November 2018 when Halifax NZ was placed into administration, with the total increase in value being **NZ\$453,766.30**.

125. In relation to the Old IB Accounts in the name of Halifax NZ, the account details and balances as at 23 November 2018 are set out in the following table:

Old IB Accounts in the name of Halifax NZ				
Master Account No.	Prop Account No.	Type (Disclosed / Non-Disclosed)	Balance in Master Account	Balance in Prop Account
██████████	██████████	Non-Disclosed	NZ\$11.28	-NZ\$5.28
██████████	N/A	Disclosed	NZ\$500.69	N/A
██████████	N/A	Disclosed	NZ\$4,700	N/A

Positions across the Interactive Broker AU and Interactive Broker NZ platforms

126. As at 31 May 2019 the following positions were open on the IB Platform (across both Interactive Broker AU and Interactive Broker NZ) in connection with clients that have a CSA with Halifax AU and those clients that have a CSA with Halifax NZ:

Platform Where Positions Held	Asset Type	Position	Notional Value (AUD)
Clients that have CSAs with Halifax AU			
Interactive Broker AU	Stocks	Long	\$76,684,267.57
		Short	-\$211,145.02
	Stock CFDs	Long	\$0.00
		Short	\$0.00
	Options	Long	\$362,625.40
		Short	-\$46,345.89
	Futures Options	Long	\$0.00
		Short	-\$20,698.50
	Warrants	Long	\$3,926.96
		Short	\$0.00
Interactive Broker NZ	Stocks	Long	\$3,068,497.43
		Short	-\$30,697.35
	Stock CFDs	Long	\$919,985.31
		Short	-\$73,415.65
	Options	Long	\$1,686.38
		Short	-\$99.49
	Futures Options	Long	\$36.04
		Short	\$0.00
	Fund	Long	\$0.00
		Short	\$0.00
Warrants	Long	\$27.74	
	Short	\$0.00	
Clients that have CSAs with Halifax NZ			
Interactive Broker AU	Stocks	Long	\$9,350,763.38
		Short	-\$23,549.59
	Futures	Long	\$23,117.75
		Short	\$0.00
	Options	Long	\$13,538.91
		Short	\$0.00
	Futures Options	Long	\$1,666.62
		Short	\$0.00
	Warrants	Long	\$1,913.46
		Short	\$0.00
Interactive Broker NZ	Stocks	Long	\$24,677,662.77
		Short	-\$62,269.43
	Stock CFDs	Long	\$83,480.28
		Short	\$0.00
	Options	Long	\$18,913.04
		Short	-\$6,415.95
	Futures Options	Long	\$97.29
		Short	-\$3.60
	Fund	Long	\$25,503.79
		Short	\$0.00
Warrants	Long	\$12,649.09	
	Short	\$0.00	

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(c) Cash and positions with MT4 and MT5 Clients (excluding shares)

127. The amounts held as at 23 November 2018 as cash collateral in respect of hedged positions of "A-Book" clients with Invast and Gain were:

- (a) with Invast, AU\$4,462,212.68 (this amount stated in AUD is held in a number of different currencies and may change depending on the exchange rate). Of this amount, USD3,000,000.00 (AUD4,324,200.00) was remitted to Halifax AU following the appointment of voluntary administrators and is held in a segregated account. As at 31 May 2019 Invast holds cash collateral totalling AUD725,404.40; and
- (b) with Gain, AU\$401,267.59, which has been remitted to Halifax AU following the appointment of voluntary administrators and is held in a segregated account.

128. As at 23 November 2018 the following positions were open on the MT4 and MT5 platforms:

Platform, Product and Position Type as at 23 November 2018			AU Client or NZ Client and Notional Value	
			CSAs with Halifax AU	CSAs with Halifax NZ
Platform	Product Type	Position	Notional Value (AUD)	Notional Value (NZD)
MT4	FX	Long	\$31,080,902.94	\$21,359,976.12
		Short	-\$42,907,611.80	-\$22,624,673.70
	Stock CFDs	Long	\$30,699.23	\$0.00
		Short	-\$9,250.50	\$0.00
	Commodities	Long	\$4,837,356.11	\$1,444,606.22
		Short	-\$1,790,648.63	-\$49,540.73
	Index CFDs	Long	\$1,194,094.88	\$405,617.60
		Short	-\$650,333.38	-\$727,242.40
MT5	FX	Long	\$488,934.50	\$1,969,115.60
		Short	-\$916,211.00	-\$3,485,061.70
	Stock CFDs	Long	\$2,713,130.97	\$0.00
		Short	\$0.00	\$0.00
	Commodities	Long	\$6,534.60	\$87,045.18
		Short	\$0.00	-\$15,902.64
	Index CFDs	Long	\$556,954.26	\$7,245.45
		Short	-\$4,710,636.55	\$0.00

129. As at 31 May 2019 the following positions were open on the MT4 and MT5 platforms

Platform, Product and Position Type as at 31 May 2019			AU Client or NZ Client and Notional Value	
			CSAs with Halifax AU	CSAs with Halifax NZ
Platform	Product Type	Position	Notional Value (AUD)	Notional Value (AUD)
MT4	FX	Long	\$2,257,964.70	\$3,006,856.52
		Short	-\$913,499.40	-\$830,445.14
	Stock CFDs	Long	\$33,904.64	\$0.00
		Short	-\$14,398.72	\$0.00
	Commodities	Long	\$1,481,039.53	\$437,367.29
		Short	-\$30,488.22	\$0.00
	Index CFDs	Long	\$16,304.61	\$0.00
		Short	\$0.00	-\$143,951.68
MT5	FX	Long	\$280,535.00	\$5,765.60
		Short	\$0.00	-\$1,046,955.00
	Stock CFDs	Long	\$1,386,289.48	\$0.00
		Short	\$0.00	\$0.00
	Commodities	Long	\$2,095.80	\$0.00
		Short	\$0.00	-\$33,875.35
	Index CFDs	Long	\$26,285,886.57	\$22,518.40
		Short	-\$492.45	\$0.00

(d) Merchant facility providers

130. Certain funds deposited by clients located in China were paid through merchant facilities (**Overseas Merchant Facility Providers**) and those merchants facilitated payment to Halifax AU's accounts in Australia.

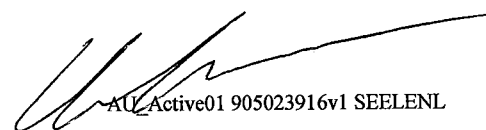
131. The Overseas Merchant Facility Providers are listed in the table at paragraph 90 (account numbers 46 to 52). The merchant providers and respective AUD equivalent balances as at the date of appointment are as follows:

- (a) Neteller – \$205,061.62;
- (b) Payment Asia Merchant – \$124,433.12;
- (c) RPN Pay - \$3,993.95;
- (d) Paysec - \$808.48; and
- (e) Skrill - \$5.00.

132. As at 23 November 2018, the sum of AU\$334,302.17 was held by these Overseas Merchant Facility Providers.

133. The funds with the Overseas Merchant Facility Providers are held in connection with both Halifax AU and Halifax NZ.

134. The Liquidators are seeking to recover those amounts from the Overseas Merchant Facility Providers.

(e) No other positions or insurance payments

135. Other than the funds referred to above, the Liquidators are not aware of any other counterparties who hold open positions or funds on behalf of Halifax AU or Halifax NZ that are Client Moneys or that may be subject to statutory trusts for the benefit of clients of either Halifax AU or Halifax NZ.
136. There are no payments received on behalf of insureds in accordance with a contract of insurance and that is required to be paid into any of the Australian Statutory Trusts or NZ Statutory Trusts.

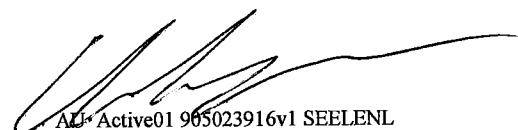
(f) No payments made "in error"

137. The Liquidators are not aware of any moneys that have been identified as having been paid into the Australian Statutory Trusts or NZ Statutory Trusts in error. No one has informed me or, as far as I am aware, any of the other Liquidators or our staff, that they have paid any amount into an account in error.

Summary of assets held

138. The assets listed in paragraphs 104 to 137 above can be summarised as follows:

How Assets are Held	Held for Halifax AU and the Amount Held (AU\$)	Held for Halifax NZ and the Amount Held (AU\$)	Total (AU\$)
In "Company Accounts" of Halifax AU or Halifax NZ (not designated or treated as statutory trust accounts)	2,533,765.47	1,134,680.66	3,668,446.13
In Australian Statutory Trusts or NZ Statutory Trusts (either treated as or designated as statutory trust accounts)	1,326,221.40	1,647,702.06	2,973,923.46
By Interactive Brokers	138,694,692.99	45,676,359.06	184,371,052.07
By third parties (other than Interactive Brokers)	5,197,782.44	-	5,197,782.44
Total	147,752,462.29	48,459,741.81	196,211,204.10

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Flow of Funds - Trading Platforms

139. From paragraph 149 below I set out some details of the investigations that have been undertaken in relation to the flow of funds of clients of Halifax AU and Halifax NZ, the commingling of those funds and attempts to trace those funds to individual clients. Paragraphs 140 to 148 sets out the relevant bank accounts in relation to the various trading platforms and refers to the preliminary investigations undertaken in relation to the flow of funds through those accounts and the trading platforms. That is expanded upon in the paragraphs that follow.

Bank accounts involved in the IB AU Platform

140. The bank accounts set up by Halifax AU for the primary purposes of dealing with funds paid by clients who used the IB Platform (**IB Clients** or **IB Client**) were:

- (a) the IB Suspense Account;
- (b) BWA Merchant Account;
- (c) accounts with Overseas Merchant Facility Providers;
- (d) the Various NAB Foreign Currency Accounts; and
- (e) the IB Allocated Account.

141. A diagram depicting how funds moved through these accounts to the IB Platform is at page **293** of the **Exhibit**.

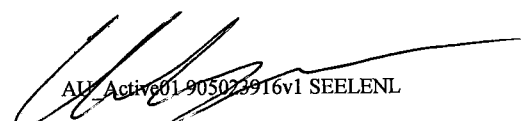
142. Sections 4.2.3 of the Australian Report to Creditors (pages **62** to **63** of the **Exhibit**) sets out the results of the Liquidators' investigations as at the date of the report in relation to the funds flow.

Process for the flow of funds on the Interactive Broker NZ platform

143. The bank accounts set up by Halifax AU primarily for the purposes of dealing with funds paid by clients who used the Interactive Broker NZ platform (**IB NZ Clients**) were as follows:

- (a) the ANZ HNZ Account;
- (b) BWA Merchant Account;
- (c) accounts with Overseas Merchant Facility Providers; and
- (d) the Various NAB Foreign Currency Accounts.

144. A diagram depicting how funds moved through these accounts to the Interactive Broker NZ platform is at page **293** of the **Exhibit**.

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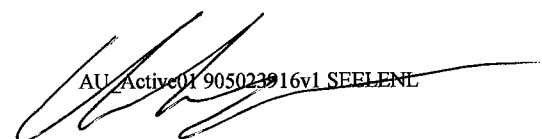
145. Section 4.5.3 of the New Zealand Report to Creditors (pages **194 to 195** of the **Exhibit**) sets out the results of the Liquidators' investigations as at the date of the report in relation to the funds flow.

Process for the flow of funds on the MT4 and MT5 platforms

146. The bank accounts set up by Halifax AU for the purposes of primarily dealing with funds paid by clients who used the MT4 platform (**MT4 Clients**) or and MT5 platform (**MT5 Clients**) were:
- (a) the Halifax Pro Suspense Account;
 - (b) the BWA Merchant Account;
 - (c) accounts with Overseas Merchant Facility Providers;
 - (d) the Various NAB Foreign Currency Accounts; and
 - (e) the Halifax Pro Allocated Account.
147. A diagram depicting how funds moved through these accounts to the MT4 platform and the MT5 platforms is at page **294** of the **Exhibit**.
148. Section 4.2.4 of the Australian Report to Creditors (pages **64 to 65** of the Exhibit) sets out the results of the Liquidators' investigations as at the date of the report in relation to the funds flow.

Tracing investigations

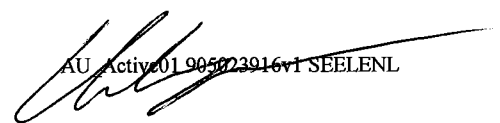
149. The Liquidators have undertaken investigations into the Bank Accounts and the assets held by third parties on behalf of the Halifax Group in order to determine, amongst other things, the flow of funds through the Halifax Group account structure, the extent of the Deficiency, the effect of the conduct described at paragraphs 158 to 177 below, whether or not the Client Moneys are commingled and, if so, the extent to which they are commingled and whether or not any of the Client Moneys are traceable and, if so, the extent to which they are.
150. When conducting a review of transactions into or out of any of the Bank Accounts, the Liquidators' investigations focused on, amongst other things, the movement of Client Moneys into and out of the Bank Accounts (including the frequency of transfers, where funds were directed to and the purpose of the transfers) to try and identify a pattern behind client deposits, the transfer of Client Moneys between the Bank Accounts, and the funding of the MT4, MT5, Interactive Broker AU and Interactive Broker NZ platforms.
151. The primary source material used by the Liquidators in conducting these investigations were Microsoft Excel spreadsheets which were maintained by Halifax AU (**Excel**

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Records), along with bank statements provided to the Liquidators by the relevant financial institutions.

152. The Excel Records were the primary method by which the treasury team of Halifax AU (**Treasury Team**) recorded transactions which took place in the Bank Accounts. For example, in respect of the Excel Records for the Foreign Currency Accounts of Halifax AU, the Treasury Team:
- (a) accessed, on a daily basis, the online banking platform for the Foreign Currency Accounts and downloaded an activity statement for the preceding business day;
 - (b) copied and pasted the data from the activity statement into the relevant tab in the Excel Records for the applicable Foreign Currency Account;
 - (c) included any additional information in the relevant tab for each transaction, including the relevant trading platform, the account number, the client name, notes and the transaction type; and
 - (d) checked the balance in Excel Records for the applicable Foreign Currency Account against the balance on the activity statement.
153. When utilising the Excel Records for the purposes of the Liquidators' investigations, the Liquidators conducted cross checks between the balance in the Excel Records and the balance on the bank statement for the relevant Bank Accounts. The Liquidators have not yet undertaken a complete reconciliation of the Excel Records and the bank statements for the Bank Accounts, and as such, the Liquidators' views in respect of the Bank Accounts may be subject to change.
154. The specific investigations completed by the Liquidators include the following:
- (a) In respect of those AU Accounts with Bankwest, including the Halifax Pro Allocated Account, the IB Allocated Account, the IB Suspense Account and the Halifax Pro Suspense Account, the Liquidators conducted a review of the transactions in those accounts for the 6 months prior to 23 November 2018, being approximately 4,900 transactions;
 - (b) In respect of Halifax AU's USD Account, Halifax AU NZD Account, JPY Account, SF Account, Euro Account, GBP Account, HKD Account and SGD Account, the Liquidators conducted a review of transactions in those accounts for the 2 years prior to 23 November 2018, being approximately 4,500 transactions;
 - (c) In respect of the IB NZ Master Account and the IB Allocated Account, the Liquidators conducted a review of transactions in those accounts for the 3 years prior to 23 November 2018, being approximately 4,290 transactions;

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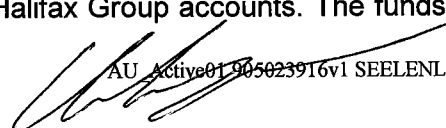
- (d) In respect of the IB Allocated Account and the Halifax Pro Allocated Account, the Liquidators conducted a review of all transactions to and from these two accounts, being approximately 27,000 transactions;
- (e) In respect of the IB Allocated Account and the Foreign Currency Accounts, the Liquidators conducted a review of transactions between those accounts to determine whether the IB Platform was credited on the same day as funds were deposited into the Foreign Currency Accounts; and
- (f) The Liquidators conducted a review of all payments to Invast and Gain from August 2017 to 23 November 2018.

Issues with flow of funds on the trading platforms which have caused commingling

155. The Liquidators' investigations to date have led me to the preliminary conclusion, upon which I expand below, that, as a result of the operation of the Bank Accounts held by Halifax AU and Halifax NZ, and third party providers (such as Interactive Brokers, Invast, Gain and others that are referred to above), funds have been significantly commingled between the MT4, MT5, Interactive Broker AU, Interactive Broker NZ platforms and across clients that have signed a CSA with Halifax AU and clients that have signed a CSA with Halifax NZ. My preliminary conclusion is that this commingling has made it impossible to identify which part of the Deficiency is attributable to the investments of which clients in which platforms, with the consequence that it is impossible to identify to which clients in Australia or New Zealand the Deficiency relates.
156. Funds appear to have been transferred between the various Halifax Group accounts in round sum figures and on an ad hoc basis with no noticeable pattern (with the exception of transfers from suspense accounts to allocated accounts upon an investor deposit being received).
157. Some of the examples of commingling that I have identified are set out below.

Foreign Currency Accounts

158. If a client wished to use a foreign currency on any of the trading platforms, the client paid the currency into a Foreign Currency Account depending on what currency was being used by that client. There was no segregation of Foreign Currency Accounts by trading platform. Consequently, funds held in the Foreign Currency Accounts of Halifax AU and Halifax NZ are a mixture of funds deposited by clients who traded on the Interactive Broker AU platform, the Interactive Broker NZ platform, MT4 and MT5.
159. Funds deposited into a Foreign Currency Account remained in that Foreign Currency Account for some time and appear to have only been transferred from the Foreign Currency Account to the IB Master Account or other Halifax Group accounts. The funds

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appear to have been transferred from the Various NAB Foreign Currency Accounts to make payments when required, or when the Treasury Team was directed to make a transfer.

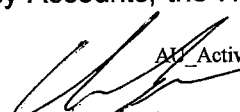
160. Client accounts on the Interactive Broker AU platform and the Interactive Broker NZ platform were credited with deposits in foreign currency amounts without the requirement for any transfer out of a Foreign Currency Account. Interactive Brokers could access moneys in the IB AU Master Account or IB NZ Master Account for this purpose.
161. Certain corporate expenses of Halifax AU and Halifax NZ appear to have been paid from the NAB USD Account, the NAB CNY, the NAB GBP and the Halifax AU NZD Account from time to time.
162. Halifax AU also made payments from the NAB USD Account to fund hedging activities with Invast and Gain.

Transfer of funds between the IB Allocated Account and the Halifax Pro Allocated Account

163. There were significant movements of funds between the IB Allocated Account (which predominately held funds deposited by IB Clients) and the Halifax Pro Allocated Account (which predominately held funds deposited by MT4 Clients and MT5 Clients). During the period from February 2016 to 23 November 2018 there were approximately 124 transactions between the IB Allocated Account and the Halifax Pro Allocated Account with an estimated net movement of AU\$24.9 million. These movements appear to have been made to ensure that sufficient funds were within each account to allow client redemptions to be paid when required.

Pooling of funds in the IB AU Master Account and IB NZ Master Account

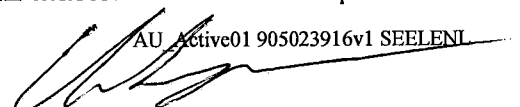
164. When an IB Client transferred funds to Halifax AU, the client ordinarily deposited the funds into one of the IB Suspense Account, the BWA Merchant Account, overseas merchant facilities, the Foreign Currency Accounts or the ANZ HNZ Account. For funds deposited into the IB Suspense Account, these funds were then transferred to the IB Allocated Account.
165. The IB AU Master Account and IB NZ Master Account (both of which were held by Interactive Brokers), each held funds that, when combined with the total assets in the IB Client Sub-Accounts, exceeded the total amount of Halifax AU's and Halifax NZ's respective monetary obligation to Interactive Brokers in relation to those accounts. In effect, this meant that Halifax held a pool of surplus funds in the IB AU Master Account and IB NZ Master Account.
166. The funds in the IB AU Master Account were transferred from the IB Allocated Account and other accounts (including the Foreign Currency Accounts, the Halifax Pro Allocated

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Account and the ANZ HNZ Account) on what appears to have been an ad hoc basis and were held in connection with Halifax AU's obligations to Interactive Brokers. In practice, when Halifax AU received funds from an IB Client into the IB Allocated Account, the BWA Merchant Account, overseas merchant facilities, the Foreign Currency Accounts or the ANZ HNZ Account, Halifax AU very soon after (normally on the same day upon the funds being receipted by Halifax AU) credited the IB Client's account under the IB Client Sub-Account using moneys from a pool of funds already held in the IB AU Master Account. The funds in the IB AU Master Account appear to have been a mix of funds invested by multiple clients across all platforms.

167. I have not been able to identify a pattern for transfers from the IB AU Master Account to and from the IB Allocated Account.
168. For example, during the month of May 2018 in relation to the IB AU Consolidated Account:
- (a) IB Client Sub-Accounts were credited with amounts relating to 136 separate deposits from IB Clients of Halifax AU totalling approximately AU\$2.0 million; and
 - (b) redemptions from IB Clients totalled approximately AU\$3.0 million,
- however:
- (c) there were only two transfers from the IB AU Master Account to the IB Allocated Account totalling approximately AU\$1.05 million;
 - (d) there were no transfers from the IB Allocated Account to the IB AU Master Account (or any other Halifax AU accounts) during this period; and
 - (e) on 23 May 2018 an amount of US\$700,000 was transferred from the IB AU Master Account to the NAB USD Account, despite there being no transfers to Halifax AU of USD amounts in that month.
169. During the month of May 2018 in relation to the IB NZ Consolidated Account:
- (a) IB Client Sub-Accounts were credited with amounts relating to approximately 189 separate deposits from IB Clients of Halifax NZ totalling approximately AU\$1.0 million 2018; and
 - (b) redemptions from IB Clients totalled approximately AU\$5.9 million;
- however, there were net transfers from the IB NZ Master Account to and from various other accounts held by the Halifax Group (including the IB Allocated Account) in the amount of AU\$4.9 million.
170. I am informed by Mr Diogo Couto, an employee of Halifax AU's Treasury, and I believe, that the reason the IB AU Master Account and IB NZ Master Account were operated in

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the manner they were was to allow IB Clients to trade on the IB Platform immediately following receipt by Halifax AU or Halifax NZ of the client deposit. If these pools of funds were not held in the IB AU Master Account and IB NZ Master Account, then, because of the delay in obtaining clearance through the transferor's bank, the client may have had to wait 24 hours or longer in order for the funds to be transferred across to the IB AU Consolidated Account or IB NZ Consolidated Account, as the case may be.

Movement of funds in and out of the IB AU Master Account

171. From the period January 2016 to 23 November 2018, the following transfers of note, among others, took place in relation to the IB AU Master Account:

- (a) Net payments of AU\$28.3 million flowed from the IB Allocated Account to the IB AU Master Account;
- (b) Payments totalling approximately AU\$900,000 were transferred from the Halifax Pro Allocated Account (containing funds deposited by MT4 Clients and MT5 Clients) to the IB AU Master Account;
- (c) Net payments of approximately AU\$3.2 million flowed from the ANZ HNZ Account (containing funds deposited by Halifax NZ clients) to the IB AU Master Account; and
- (d) Funds of approximately AU\$5.4 million were transferred from the Foreign Currency Accounts to the IB AU Master Account.

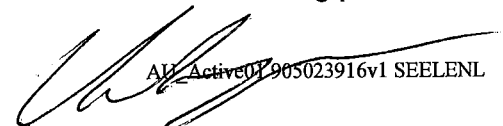
172. Those transactions indicate to me a mixing of funds from clients on all trading platforms.

Movement of funds in and out of the IB NZ Master Account

173. From the period January 2016 to 23 November 2018, the following transfers of note, among others, took place in relation to the IB NZ Master Account:

- (a) Net payments of AU\$17.5 million flowed from the IB Allocated Account to the IB NZ Master Account;
- (b) Payments totalling approximately AU\$1.5 million were transferred from the Halifax Pro Allocated Account (containing funds deposited by MT4 Clients and MT5 Clients) to the IB NZ Master Account;
- (c) Net payments of approximately AU\$19.8 million have flowed from the ANZ HNZ Account to the IB NZ Master Account; and
- (d) Funds of approximately AU\$22.1 million have been transferred from the Foreign Currency Accounts to the IB NZ Master Account.

174. Those transactions indicate to me a mixing of funds from clients on all trading platforms.

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Transfer of funds between Halifax AU accounts and Halifax NZ accounts

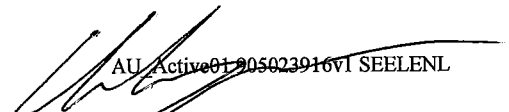
175. There was a significant flow of funds between AU Accounts and NZ Accounts.
176. During the period 29 June 2015 to 23 November 2018, the following transactions of note, among others, took place:
- (a) NZ\$8,139,247 was transferred from the ANZ HNZ Account to the NAB Company Account;
 - (b) NZ\$350,000 was transferred from the ANZ HNZ Account to various Foreign Currency Accounts; and
 - (c) NZ\$2,114,724 was transferred from Halifax AU's NAB NZD Account to the ANZ HNZ Account.

IB Prop Account

177. The IB AU Prop Account was used for the following:
- (a) In the case of hedging on the MT5 platform, the MT5 Client would execute a trade of shares on the virtual MT5 platform. Interactive Brokers would then, on behalf of Halifax AU, acquire and allocate the shares to the IB AU Prop Account using the cash held in the IB AU Prop Account. Stocks acquired in the IB AU Prop Account are not in the name of any MT5 Client but are held as a pool of stocks available to Halifax AU; and
 - (b) Interest and commissions payable to Halifax AU (i.e., company revenue) is paid by Interactive Brokers into the IB AU Prop Account. I understand that this revenue must be transferred to the IB AU Master Account before it is able to be transferred to the IB AU Prop Account and, on this basis, the funds are affected by the commingling as a result of passing through the IB AU Master Account.
178. I understand that in order for funds to be transferred to the IB AU Prop Account they must be transferred from the IB AU Master Account. The IB AU Master Account contains commingled funds as discussed in paragraph 171 above.

BWA Merchant Account

179. The BWA Merchant Account appears to have been operated on a 'pooled' basis in that funds were received from clients who deposited funds via credit card, and then were transferred into either the IB Allocated Account or the Halifax Pro Allocated on what appears to have been an ad hoc basis.
180. I understand from discussions with the Treasury Team that there was no exercise undertaken by Halifax AU or Halifax NZ to allocate the funds in the BWA Merchant

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Account to either the Halifax Pro Allocated Account or IB Allocated Account at the time the client deposits were received and based on whether the clients were IB Clients or MT4 Clients or MT5 Clients.

Funds held by Invast and Gain

181. Halifax AU utilised Invast and Gain to place hedges on certain positions entered into by MT4 Clients and MT5 Clients. When hedging specific trades, the hedging providers specified a minimum collateral balance (dependant on the value of open positions) which Halifax AU would be required to top up on an ad hoc basis.
182. The Liquidators have undertaken a review of payments made to Invast from September 2016 onwards. Those payments are summarised in the below table and the data indicates that all payments to Invast came from accounts holding Client Moneys:

Bank Account	Number of transactions	Currency	Total
Halifax Pro Allocated Account	4	AUD	300,000
BWA USD Account	1	USD	200,000
NAB USD Account	33	USD	6,300,000
NAB NZD Account	2	NZD	1,000,000

183. The Liquidators have undertaken a review of payments made to Gain from August 2017 onwards. Those payments are summarised in the below table and the data indicates that all payments to Gain came from accounts holding Client Moneys:

Account	Number of transactions	Currency	Total
BWA USD Account	1	USD	100,000
NAB USD Account	5	USD	590,000

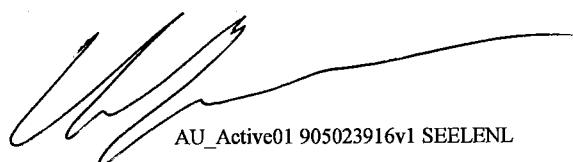
Funds in Halifax NZ Foreign Currency Accounts

184. The Liquidators have undertaken a detailed review of the ANZ Foreign Currency Accounts in the name of Halifax NZ. These accounts contain funds transferred from the IB NZ Master Account which holds funds relating to clients across multiple platforms, as outlined in paragraphs 173 and 174 above.

Presence of commingling across the trading platforms

185. The tracing investigations carried out to date under my supervision have resulted in my forming the following views:

- (a) With the exception of (i) the transfer of funds between suspense accounts and allocated accounts upon deposits being received from clients and (ii) the crediting of a client account on a trading platform shortly after a client deposit is allocated to that client, there is no discernible pattern in the transfer of funds between the Bank Accounts;

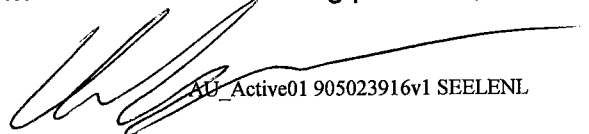
- (b) Funds appear to have been transferred from one Bank Account to another on what appears to have been an ad hoc basis; and
- (c) Halifax AU made a great many transfers from one Bank Account to another to maintain a balance of funds in the various Bank Accounts.

186. It is apparent to me that:

- (a) the IB Suspense Account contains funds that were deposited by a number of different and clearly identifiable clients shortly before or after Halifax AU was placed into administration. The funds are commingled as between those clients only; and
- (b) the Halifax Pro Suspense Account contains funds that were deposited by a number of different and clearly identifiable clients shortly before or after Halifax AU was placed into administration. The funds are commingled as between those clients only.

187. Of the total balance of the funds in the Bank Accounts, in the IB AU Master Account and IB NZ Master Account and in funds held by third parties including Invast and Gain, it is apparent to me that approximately 98% of the funds are significantly commingled. My preliminary conclusions on that commingling are based on the following key examples that contributed to the commingling:

- (a) The IB Allocated Account contains commingled funds as a consequence of:
 - (i) receiving funds from the Halifax Pro Allocated Account which contains commingled funds; and
 - (ii) receiving funds from the IB AU Master Account which contains commingled funds;
- (b) The Halifax Pro Allocated Account contains commingled funds as a consequence of:
 - (i) receiving funds from the IB Allocated Account which contains commingled funds;
 - (ii) receiving funds from the IB AU Master Account which contains commingled funds; and
 - (iii) receiving funds from the IB NZ Master Account which contains commingled funds;
- (c) The various Foreign Currency Accounts contain commingled funds as a consequence of receiving funds from clients across all of the trading platforms;





- (d) The IB AU Master Account contains commingled funds as a consequence of:
 - (i) receiving funds from the IB Allocated Account which contains commingled funds;
 - (ii) receiving funds from the Halifax Pro Allocated Account which contains commingled funds;
 - (iii) receiving funds from the various Foreign Currency Accounts of Halifax AU which contain commingled funds; and
 - (iv) receiving funds from Foreign Currency Accounts of Halifax NZ; and
- (e) The IB NZ Master Account contains commingled funds as a consequence of:
 - (i) receiving funds from the Halifax Pro Allocated Account which contains commingled funds; and
 - (ii) receiving funds from the various Foreign Currency Accounts which contain commingled funds.

188. I consider that the commingling was in existence from at least 1 July 2016, which is the point from which the Liquidators have conducted their investigations. The Liquidators conducted their investigations from this time given this is the time it appears that a deficiency in Client Moneys first arose and the time at which positions were no longer held on a 1:1 cash backed basis with Saxo and Interactive Brokers.

189. Apart from the specific examples I refer to above (such as the funds in the Unallocated Account) I view the funds that were held by each of Halifax AU and Halifax NZ as all being part of a "**deficient mixed fund**". The deficient mixed fund arose primarily by reason of:

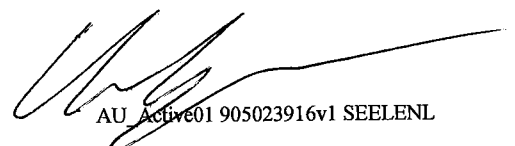
- (a) The matters raised in paragraphs 185 to 188 above and the extensive commingling of funds in all accounts which Halifax AU and Halifax NZ held on trust for clients - as between clients, as between trading platforms and as between Halifax AU and Halifax NZ;
- (b) In order to allow clients to invest immediately once funds were received by Halifax AU or Halifax NZ, at all material times from 1 July 2016 (and potentially earlier) to the date of the appointment of the Voluntary Administrators, numerous inter-account transfers of funds occurred between all the accounts held in the name of Halifax AU and Halifax NZ in respect of all investment platforms operated by both entities to maintain a minimum cash balance in each account; and
- (c) Funds held on trust for clients were withdrawn from the Australian Statutory Trusts and applied to operating expenses of Halifax AU and Halifax NZ, and for

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other purposes unrelated to the clients, between about January 2017 (and likely from at least 1 July 2016) and November 2018.

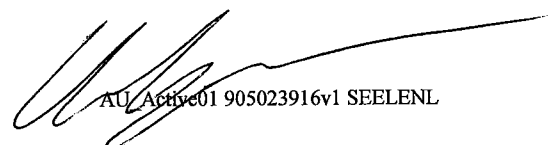
190. At **pages 295 to 342** of the **Exhibit** is a memorandum titled "*Funds Flow Memorandum*" (**Funds Flow Memorandum**).
191. The Funds Flow Memorandum was prepared by Ian Sutherland, a Director of KPMG (and formerly a Director of Ferrier Hodgson), with the assistance of other staff of KPMG (which were formerly staff of Ferrier Hodgson). Mr Sutherland has been assisting the Liquidators in the external administration of Halifax AU and Halifax NZ since the time of those companies being placed into voluntary administration and he has been actively involved in the day to day conduct of the administrations and, following the appointment of the Liquidators, the liquidation of those companies. The Funds Flow Memorandum provides an outline of the findings from the investigative work undertaken to date to determine the extent of the commingling of Client Moneys across the various accounts of Halifax AU and Halifax NZ. The Funds Flow Memorandum was prepared following discussions between Mr Sutherland and the Liquidators in relation to the investigations to be conducted into the Client Moneys and my instructions to Mr Sutherland to the effect that he conduct a comprehensive investigation into the potential commingling of funds across the various accounts of Halifax AU and Halifax NZ for the period June 2016 to 23 November 2018 and to prepare a memorandum summarising those investigations and the results of those investigations.
192. I received regular updates from Mr Sutherland and other employees of KPMG (that were formerly staff of Ferrier Hodgson) in relation to the investigations being conducted into the Client Moneys and commingling across accounts in the Halifax Group. As part of those updates, Mr Sutherland and I considered a number of discrete issues and the nature of further investigations to be undertaken.
193. I have read the Funds Flow Memorandum and I am satisfied with the views and conclusions reached in the Funds Flow Memorandum. I am of the view on the basis of my careful review of the Funds Flow Memorandum and my discussions with Mr Sutherland referred to above, that the Funds Flow Memorandum accurately sets out the extent of commingling of Client Moneys across the various accounts of Halifax AU and Halifax NZ and that are evident from the Liquidators' investigations to date.
194. The Annexures referred to in the Funds Flow Memorandum are contained in the **Confidential Exhibit** at CE pages **1037 to 1048**.



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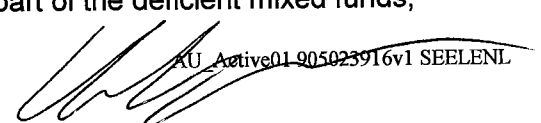
Sample of client accounts to demonstrate commingling across the Trading Platforms

195. I instructed Mr Sutherland and other staff of KPMG, including Sarah Arnfield, to conduct a tracing exercise in respect of a sample of clients of Halifax AU and Halifax NZ and transactions undertaken by those sample clients. Throughout the process of the task being undertaken I received regular updates from Mr Sutherland in relation to the exercise and discussed with Mr Sutherland any matters of significance that arose.
196. The results and findings in respect of that tracing exercise have been set out in a series of case studies prepared by Mr Sutherland or under his direct supervision. Those individual case studies are the subject of a memorandum prepared by Mr Sutherland titled "*Investor tracing and case studies*" (**Case Study Memorandum**). The individual case studies are annexed to the Case Study Memorandum as Annexures B1 to B20.
197. The Case Study Memorandum is contained in the **Confidential Exhibit** at CE pages **1049 to 1067**.
198. The Case Study Memorandum set out the findings, in respect of the sample clients, from Account Opening all the way through to the cash Redemption Process (being the **Investor "Lifecycle"**), together with sample movements of cash in respect of that client. As part of the Case Study Memorandum, a view is provided on whether there is evidence of commingling, when any specific transactions can be easily or readily traced.
199. The individual case studies the subject of the Case Study Memorandum are as follows:
 - (a) Case Study 1 in relation to client number ending 2598 - *Investor 'Lifecycle' - Interactive Broker AU* - which is at CE **pages 1068 to 1077** of the **Confidential Exhibit** (being Annexure B1) and in which the view is reached that tracing of the funds is not feasible as funds go into the commingled IB Allocated Account which is part of the deficient mixed fund (which I explained further above);
 - (b) Case Study 2 in relation to client number ending 6674 - *Investor 'Lifecycle' - MT4 platform* - which is at CE **pages 1078 to 1086** of the **Confidential Exhibit** (being Annexure B2) and in which the view is reached that tracing of the funds is not feasible as funds go into the commingled Halifax Pro Allocated Account which is part of the deficient mixed fund;
 - (c) Case Study 3 in relation to client number ending 4837 - *Investor 'Lifecycle' - MT4 platform* - which is at CE **pages 1087 to 1094** of the **Confidential Exhibit** (being Annexure B3) and in which the view is reached that tracing of the funds is not feasible as funds go into the commingled Halifax Pro Allocated Account which is part of the deficient mixed fund;

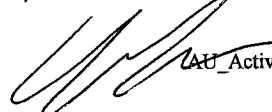
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- (d) Case Study 4 in relation to client number ending 7872 - *Investor 'Lifecycle' - MT4 platform* - which is at CE **pages 1095 to 1102** of the **Confidential Exhibit** (being Annexure B4) and in which the view is reached that tracing of the funds is not feasible as funds go into the commingled Halifax Pro Allocated Account which is part of the deficient mixed fund;
- (e) Case Study 5 in relation to client number ending 4719 - *Investor 'Lifecycle' - MT5 platform* - which is at CE **pages 1103 to 1112** of the **Confidential Exhibit** (being Annexure B5) and in which the view is reached that tracing of the funds is not feasible as funds go into the commingled Halifax Pro Allocated Account which is part of the deficient mixed fund;
- (f) Case Study 6 in relation to client number ending 7730 - *Investor 'Lifecycle' - Interactive Broker NZ Platform* - which is at CE **pages 1113 to 1120** of the **Confidential Exhibit** (being Annexure B6) and in which the view is reached that tracing of the funds is not feasible as funds go into the commingled ANZ HNZ Account which is part of the deficient mixed fund;
- (g) Case Study 7 in relation to client number ending 1460 - *Investor 'Lifecycle' - Interactive Broker AU Platform* - which is at CE **pages 1121 to 1131** of the **Confidential Exhibit** (being Annexure B7) and in which the view is reached that tracing of the funds is not feasible as funds go into the commingled Halifax Pro Allocated Account which is part of the deficient mixed fund;
- (h) Case Study 8 in relation to client number ending 7042 - *Investor 'Lifecycle' - Interactive Broker AU Platform* - which is at CE **pages 1132 to 1140** of the **Confidential Exhibit** (being Annexure B8) and in which the view is reached that tracing of the funds is not feasible as funds go into the commingled IB Allocated Account which is part of the deficient mixed fund;
- (i) Case Study 9 in relation to client number ending 0127 - *Investor 'Lifecycle' - MT5 platform* - which is at CE **pages 1141 to 1150** of the **Confidential Exhibit** (being Annexure B9) and in which the view is reached that tracing of the funds is not feasible as funds go into the commingled Halifax Pro Allocated Account which is part of the deficient mixed fund;
- (j) Case Study 10 in relation to client number ending 4190 - *Investor 'Lifecycle' - Interactive Broker AU Platform* - which is at CE **pages 1151 to 1160** of the **Confidential Exhibit** (being Annexure B10) and in which the view is reached that tracing is possible in that stock was transferred in through another broker and does not appear to go through the IB AU Master Account or any Halifax Group controlled commingled account which are part of the deficient mixed funds;

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- (k) Case Study 11 in relation to client number ending 0453 - *Investor 'Lifecycle' - Interactive Broker NZ Platform* - which is at CE **pages 1161 to 1170** of the **Confidential Exhibit** (being Annexure B11) and in which the view is reached that tracing is possible in that stock was transferred in through another broker and does not appear to go through the IB NZ Master Account or any Halifax Group controlled commingled account which are part of the deficient mixed fund;
- (l) Case Study 12 in relation to client number ending 4795 - *Investor 'Lifecycle' - Interactive Broker AU Platform* - which is at CE **pages 1171 to 1181** of the **Confidential Exhibit** (being Annexure B12) and in which the view is reached that tracing of the funds is not feasible as funds go into the commingled IB Allocated Account which is part of the deficient mixed fund;
- (m) Case Study 13 in relation to client number ending 9564 - *Investor 'Lifecycle' - Interactive Broker NZ Platform* - which is at CE **pages 1182 to 1191** of the **Confidential Exhibit** (being Annexure B13) and in which the view is reached that tracing of the funds can potentially be undertaken, whereby there was a transfer to the IB NZ Master Account for same value of deposit made on the same date, which was potentially linked to the client's deposit. Despite this, the initial deposit was to the NAB HKD Account and that account, as well as the IB NZ Master Account, are part of the deficient mixed fund and so the deposit appears to have ceased to be feasibly traceable to the entitlement on the part of the individual client;
- (n) Case Study 14 in relation to client number ending 9160 - *Investor 'Lifecycle' - Interactive Broker NZ Platform* - which is at CE **pages 1192 to 1200** of the **Confidential Exhibit** (being Annexure B14) and in which the view is reached that tracing is possible in that stock was transferred in through another broker and does not appear to go through the IB NZ Master Account or any Halifax Group controlled commingled account which are part of the deficient mixed fund;
- (o) Case Study 15 in relation to client number ending 6949 - *Investor 'Lifecycle' - Interactive Broker AU Platform* - which is at CE **pages 1201 to 1210** of the **Confidential Exhibit** (being Annexure B15) and in which the view is reached that tracing of the funds not feasible, as the funds are traced into the Unallocated Account but once they are identified the funds are transferred into the commingled IB Allocated Account which is part of the deficient mixed fund;
- (p) Case Study 16 in relation to client number ending 8747 - *Investor 'Lifecycle' - Interactive Broker NZ Platform* - which is at CE **pages 1211 to 1219** of the **Confidential Exhibit** (being Annexure B16) and in which the view is reached that

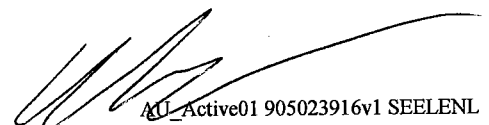
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tracing of the funds is not feasible as funds go into the commingled ANZ HNZ Account which is part of the deficient mixed fund;

- (q) Case Study 17 in relation to client number ending 7598 - *Investor 'Lifecycle' - MT4 platform* - which is at CE **pages 1220 to 1228** of the **Confidential Exhibit** (being Annexure B17) and in which the view is reached that tracing of the funds is not feasible as funds go into the commingled ANZ HNZ Account which is part of the deficient mixed fund;
- (r) Case Study 18 in relation to client number ending 2686 - *Investor 'Lifecycle' - Interactive Broker AU Platform* - which is at CE **pages 1229 to 1239** of the **Confidential Exhibit** (being Annexure B18) and in which the view is reached that tracing can potentially be undertaken, whereby there was a transfer to the IB AU Master Account for similar value of deposit made on the same date and that was potentially linked to the client's deposit. Despite this, the deposit was made to the commingled ANZ HNZ Account which is part of the deficient mixed fund and the deposit appears to have ceased to be feasibly traceable to the entitlement on the part of the individual client;
- (s) Case Study 19 in relation to client number ending 0211 - *Investor 'Lifecycle' - MT5 platform* - which is at CE **pages 1240 to 1249** of the **Confidential Exhibit** (being Annexure B19) and in which the view is reached that tracing of the funds is not feasible as funds go into the commingled Halifax Pro Allocated Account which is part of the deficient mixed fund; and
- (t) Case Study 20 in relation to client number ending 0407 - *Investor 'Lifecycle' - MT5 platform, Chinese investor* – funds paid into Chinese Merchant Providers - which is at CE **pages 1250 to 1259** of the **Confidential Exhibit** (being Annexure B20) and in which the view is reached that tracing of the funds is not feasible as the funds go into commingled NAB USD Account which is part of the deficient mixed fund.

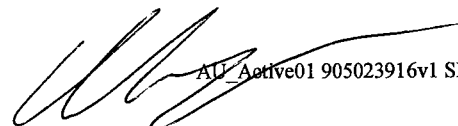
Results of investigations on commingling and tracing

- 200. The statements in respect of individual clients which we have reviewed do not record the client account in which any particular funds are held, but instead record the amount owing by Halifax AU or Halifax NZ to the client, or the client to Halifax AU or Halifax NZ.
- 201. Further, the Liquidators have not identified any process or record of Halifax AU or Halifax NZ which provides a reliable reconciliation of the deposits and redemptions in respect of each client with the amounts that are held in particular Bank Accounts, Australian Statutory Trusts or NZ Statutory Trusts.

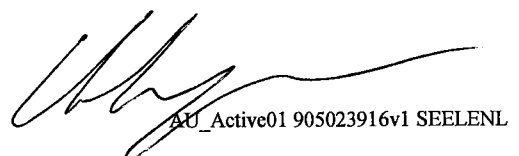



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202. I have read the affidavit of Ian Sutherland sworn 26 June 2019 (**Sutherland Affidavit**) which refers to the methodology and steps taken in relation to the investigations into the flow of funds between accounts in the Halifax Group and the attempts to trace individual client deposits.
203. I have also reviewed the Case Study Memorandum and I am satisfied with the views and conclusions reached in the Case Study Memorandum and accompanying individual case studies. I am of the view on the basis of my careful review of the Case Study Memorandum, the Funds Flow Report, the Sutherland Affidavit and my discussions with Mr Sutherland referred to above, that the Case Study Memorandum accurately sets out the Investor Lifecycle for the specific clients and deposits that were investigated and that the views on whether there is evidence of commingling and whether any specific client deposits can be traced are accurate and correct. On that basis I am satisfied that the conclusion reached in the case of each individual case study that tracing of funds is not practically feasible is well-founded. I agree with the approach to tracing as referred to by Mr Sutherland at paragraphs 26 to 32 and 50 to 65 of the Sutherland Affidavit.
204. For reasons expanded upon below, in circumstances where a deposit was made into a commingled account which held funds that were part of the deficient mixed fund, or a credit was made to an account on a trading platform for the benefit of an individual client that came from a commingled account which is part of the deficient mixed fund (including a credit or deposit as a result of the closing out, sale or realisation of investments by clients), the deposit or credit is viewed as having ceased to be feasibly traceable to any entitlement on the part of individual clients. Such issues with tracing exist in relation to deposits and credits made on or after the date that the deficiency in Client Moneys first arose (which is around 1 July 2016 but may be earlier) and affect approximately 98% of the Client Moneys.
205. As a result of the significant commingling between the funds that were held in the Bank Accounts and between the MT4, MT5, Interactive Broker AU and Interactive Broker NZ platforms and across clients that have signed a CSA with Halifax AU and clients that have signed a CSA with Halifax NZ, in my view it is not practically feasible to identify money in any particular Bank Accounts, Australian Statutory Trusts, NZ Statutory Accounts, or held by Interactive Brokers, Gain and Invast as belonging to any individual client of Halifax AU or Halifax NZ.
206. The exception to this view is in relation to the funds already identified above in this affidavit as being traceable, in particular, the funds deposited shortly prior to or after the appointment of the voluntary administrators (being the On or After Appointment Date Deposits) and which have not been allocated to any client account (such as the Unallocated Moneys).



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207. The exercise of attempting to identify and trace funds deposited by each client into each Australian Statutory Trust and NZ Statutory Trust (in the manner referred to in paragraph 26 of the Sutherland Affidavit) would be extremely time consuming and expensive. In my view it is not practically feasible to trace affected client deposits. The foreseeable costs of undertaking such an exercise (the details of which are referred to in paragraphs 66 to 76 of the Sutherland Affidavit and which I agree with) would be disproportionate to the likely Deficiency and to the potential benefit that clients would obtain from such an exercise.
208. The primary reason for the likely futility of a tracing exercise in respect of all client deposits is that it is not feasible to identify the total proportion of the Deficiency attributable to each particular client of Halifax AU and Halifax NZ. Due to the extensive commingling between accounts of Halifax AU and Halifax NZ, and because no particular part of the Deficiency can be feasibly traced to any particular statutory trust, it is not practically feasible for the Liquidators to determine how much of that amount of a little less than A\$193 million (as at 23 November 2018) should be regarded as standing to the credit of any particular statutory trust out of the Australian Statutory Trusts and the NZ Statutory Trusts, let alone to the credit of any particular client investing through Halifax AU or Halifax NZ.
209. Consequently, in my view it is not feasible to determine how much of the Deficiency should be regarded as standing to the credit of any particular Australian Statutory Trusts or NZ Statutory Trusts, let alone to the credit of any particular clients of Halifax AU or Halifax NZ.
210. On this basis, I am of the view that a large part of the funds that make up the Client Moneys which, following the sale, closing out or realisation of investments on the IB Platform, will be held by Halifax AU and Halifax NZ on trust for clients, arise from, in effect, a single "*deficient mixed fund*" containing moneys held on trust both by Halifax AU for those clients who invested through it and by Halifax NZ for those clients who invested through it, in respect of which tracing to any entitlement on the part of individual clients is, in an extremely high percentage of cases, not practically feasible.
211. In my view, funds that Halifax AU received from and held for its clients became so commingled with the funds that Halifax NZ received from and held for its clients that the Liquidators of both Halifax AU and Halifax NZ are unable to distribute the trust funds in a manner which they can be satisfied accords with strict legal requirements.
212. I have been informed by Mr Quinlan (and I believe) that he shares my views expressed in paragraphs 205 to 211 above.



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Consideration about making early payments

213. The Liquidators have considered whether it may be appropriate to make payments or distributions to certain categories or classes of clients early and in advance of all issues in this proceeding being determined. Those categories include:

- (a) clients who deposited moneys or purchased stocks prior to 1 July 2016 (being the time that the deficiency in client moneys looks to have first arose) and have not made any trades since that date (**Early Investors**);
- (b) clients who have transferred stocks onto the IB Platform from another broker and those stocks have not been traded;
- (c) clients who deposited the Unallocated Moneys; and
- (d) clients who deposited the On or After Appointment Date Deposits.

214. The Liquidators have formed the view that any such early payments are not appropriate at this stage due to the following issues:

- (a) The process of determining those clients that are Early Investors or that have transferred stock from another broker and that have not sold the stock, if there are any such clients, requires the assistance of Interactive Brokers. Interactive Brokers has informed the Liquidators that:
 - (i) it does not have a way to easily check that information;
 - (ii) it would require its programmers to run certain queries; and
 - (iii) the process would be expensive and time-consuming;
- (b) Although the deficiency in client moneys looks to have first arose at around 1 July 2016, that is a preliminary view only and it may be that the deficiency arose at an earlier date;
- (c) The date of calculating clients' entitlements has not yet been determined and will be subject to judicial directions;
- (d) Any early payments may be affected by currency rates and currency conversions;
- (e) Depending on the views of certain clients and the Courts, such assets may in any event be affected by the Deficiency and commingling that affects the Client Moneys;
- (f) Not all of the clients that have deposited the Unallocated Moneys have been identified; and
- (g) Some clients, including those within the category of having made the On or After Appointment Date Deposits, have accounts in debit with amounts owing to Halifax

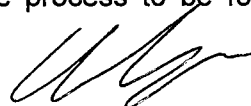



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AU or Halifax NZ. The entitlement of those clients will likely be subject to claims in relation to offsetting balances that may be the subject of further judicial directions.


Proposed next steps - requesting aid

215. The Liquidators are applying to this Court seeking directions and advice in relation to the determination of each client's entitlement to the funds held in the Australian Statutory Trusts and any related recoveries, and how the Liquidators should deal with the funds in the Australian Statutory Trusts (**Australian Application**).
216. The Liquidators of Halifax NZ will shortly be seeking directions and/or judicial advice relating to the funds which Halifax NZ holds on trust for its clients (**New Zealand Application**).
217. The Liquidators, through this process, wish to avoid the possibility of any inconsistency in the findings made and directions given by this Court and those made by the High Court of New Zealand in the hearing and determination of each of the Australian Application and the New Zealand Application. This is because of the practical impossibility of the Liquidators acting in accordance with directions from two separate Courts that are inconsistent in circumstances in which the Australian Application and the New Zealand Application will to a very significant extent be concerned with the very same commingled pool of funds.
218. As set out in more detail above, the vast majority of the Client Moneys are funds commingled across each of the trading platforms, across the vast majority of the accounts in the Halifax Group, and as between Australian and New Zealand clients. The affected New Zealand clients therefore have a direct interest in any directions an Australian Court may give with respect to how to deal with the commingled funds and, in my view, it is desirable that the affected clients from both countries have visibility of and access to the Australian Application to allow their views to be heard if they so wish. The same also applies in reverse in respect of the New Zealand Application. Obviously, any inconsistency in the approach of the courts would put the Liquidators in an extremely difficult if not impossible position, without a clear practical way forward, since each Court would be dealing, at least in a substantial part, with the same set of commingled funds.
219. For this reason, the Liquidators are seeking the issue by this Court to the High Court of New Zealand of a letter of request seeking the aid of the High Court of New Zealand to enable these proceedings (and in particular this application) to be resolved in a way that, so far as possible, avoids any risk of inconsistency between the directions or advice given by the Australian and New Zealand Courts.
220. To that end, the Liquidators seek a joint sitting of the Federal Court of Australia and the High Court of New Zealand. Although the process to be followed is for the Court or

Courts to determine, the Liquidators respectfully suggest that such a joint sitting take place partly in Australia and partly in New Zealand. As an example, if the hearing were to run for four days, the first two days could take place physically in Australia (with video link facilities between the Federal Court of Australia and the High Court of New Zealand) and the final two days could take place physically in New Zealand (with video link facilities between the High Court of New Zealand and the Federal Court of Australia). The primary reason for this respectful suggestion is to provide clients in each jurisdiction - whether they be representative defendants or individuals - with the opportunity to be heard in person, without the need to have to travel from Australia to New Zealand or New Zealand to Australia.

221. Approximately 11 separate clients have told me that they wish to be heard or make submissions in these proceedings.
222. In my view it is important that clients be provided with the opportunity to appear in person before the Court. I have reached this view based on my communications with a number of clients of Halifax AU and Halifax NZ who have indicated to me that they wish to be heard in the proceedings. In my view there is a risk that any creditors who do not have the opportunity to appear or be heard in person because the proceedings take place entirely in Australia (or in New Zealand) would consider themselves to be at a disadvantage.
223. Whilst Halifax NZ is a subsidiary of Halifax AU, with a smaller number of clients and potential entitlement, I am also aware that the matter is of considerable importance to many creditors who had invested relatively significant amounts of their savings Halifax NZ, as well as Halifax AU.
224. Another basis on which I think it is important that clients have the opportunity to appear in person is that, in my experience of liquidations in which the debtor has operations in multiple jurisdictions, creditors located in a jurisdiction other than that in which the liquidation proceeding is based face a number of difficulties, including an inability to participate adequately or at all in the relevant proceedings.
225. For all of these reasons I am of the view that not only is it important that the Australian Application and the New Zealand Application be heard together (as a result of the practical indistinguishability of the funds) but also that clients be provided with an opportunity to appear in person before the Court(s).
226. The Liquidators seek an order that this Court issue a Letter of Request to New Zealand's Chief High Court Judge seeking that the High Court act in aid of and auxiliary to this Court so as to achieve a joint resolution of the Australian Application and the New Zealand Application.





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227. On 23 May 2019 at a meeting of the Creditors' Committee of Halifax NZ, I informed the Creditors' Committee about this application and asked whether there were any objections to this application. There were none.
228. On 28 May 2019 at a meeting of the Committee of Inspection of Halifax AU, I informed the Committee of Inspection about this application and asked whether there were any objections to this application. There were none.

Affirmed by the deponent
at Sydney
in NSW
on 26 June 2019
Before me:

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)
)
)
)



Signature of deponent



Signature of witness

Name of witness: Lewis Robert Hugh Seelenmeyer
Address of witness: Level 31, 1 O'Connell Street Sydney NSW 2000
Qualification of witness: Solicitor