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Details of Filing

Document Lodged: Affidavit - Form 59 - Rule 29.02(1)
File Number: NSD2191/2018
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 2:59:00 PM AEST

Registrar

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Exhibit "IPS-1"

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

This is the exhibit marked "IPS-1" to the affidavit of **Ian Phillip Sutherland** sworn before me on
26 June 2019.


Signature of witness before whom the
affidavit is sworn

Name of witness: *Lewis Robert Hugh Seelenmeyer*
Level 31, 10'Connell Street, Sydney NSW 2000
Solicitor

Filed on behalf of	Philip Alexander Quinlan, Morgan John Kelly and Stewart McCallum,
Prepared by	Plaintiffs
Law firm	Jason Opperman and Lewis Seelenmeyer
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Expertise covers:

- Restructuring turnaround and insolvency
- Insolvency services
- Strategic business reviews
- Special situations services
- Board advisory and risk management services
- Pre lending review

Ian Sutherland

Director of KPMG

Summary

Ian has over 12 years' experience working on corporate turnaround and restructuring, financial advisory and insolvency appointments in Australia and Europe. He has significant experience in the energy, retail, finance, manufacturing, healthcare and hospitality industries.

Ian's experience includes insolvency processes including detailed investigations and litigation, stakeholder negotiation, strategic business reviews, financial modelling, working capital management, identification of restructuring strategies and the sale of distressed companies.

Qualifications & Memberships

- Member of Chartered Accountants Australia and New Zealand
- Graduate Member of Australian Restructuring, Insolvency and Turnaround Association (ARITA)

Major Projects

- Board advisory to a global retailer, including stakeholder management, detailed strategic review of operations and assistance with securing refinancing;
- Successful operational rightsizing and restructure of the Australian Topshop / Topman franchise;
- Corporate governance review of a major sporting organisation;
- Strategic business review, performance improvement assessment and restructure of a major international wholesale business;
- Successful receivership and restructure of a 50% interest in the Callide C power station;
- Trade on receivership of Dick Smith Electronics, a chain of c. 430 consumer electronics stores;
- Restructuring advice and contingency planning options for a global oil and gas business;
- Financial restructure of one of the UK's largest casual dining chains with over 300 restaurants;
- Successful restructure and sale of the Sunshine Electricity Joint Venture, two renewable energy power plants;
- Strategic business review and restructure of Gourmet Food Group, including Rosella Foods;
- Receivership of Allco Finance Group; and

- Financial analysis for a large UK retailer to assist in their investment strategy.

Employment History

KPMG (following merger with Ferrier Hodgson) - Sydney, Australia

June 2019 – Present

Director

Ferrier Hodgson – Sydney, Australia

February 2007 – June 2019

Director

AlixPartners – London, United Kingdom

July 2013 to June 2015

Senior Associate

Education

University of Technology, Sydney, Sydney (2011)

Bachelor of Business majoring in Accounting and sub-majoring in Economics

The Institute of Chartered Accountants in Australia (2011 - 2012)

Chartered Accountant qualification, modules completed include Taxation, Financial Accounting, Management Accounting, Audit and Ethics.

ARITA Advanced Certification Course (2017) (Delivered in partnership with the Faculty of Law at University of Technology, Sydney)

Modules completed include Fundamentals of Restructuring, Insolvency and Turnaround and Advanced Restructuring and Turnaround



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Memo

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Australia

To **Privileged and confidential**
Morgan Kelly
Liquidator
Date 25 June 2019

cc Philip Quinlan
Liquidator

Halifax Investment Services Pty Limited (In Liquidation) (Halifax AU)

Halifax New Zealand Limited (In Liquidation) (Halifax NZ)

Together the Halifax Group

Funds Flow Memorandum

1. Introduction

1.1 Background

The following memorandum (the **Memorandum**) should be read in conjunction with the Voluntary Administrator's Report in relation to Halifax AU dated 12 March 2019 and Voluntary Administrator's Report in relation to Halifax NZ dated 14 March 2019 (collectively the **VA Reports**). The Memorandum is written assuming that the reader has read and understood the VA Reports and the terms defined within the VA Reports.

This Memorandum should also be read in conjunction with the memorandum concerning individual investor tracing case studies I have prepared (Case Study Memorandum dated 25 June 2019).

Defined terms used in the VA Reports and the Case Study Memorandum have the same meaning in this document.

This Memorandum provides an outline of the investigative work undertaken by myself and other KPMG staff and colleagues to determine the extent of the commingling of Client funds across the Halifax Group.

All amounts in this Memorandum are in AUD unless indicated otherwise. Where foreign currencies have been converted to AUD or NZD, the IB rates as at 22 November 2018 have been used (attached as Annexure C).

Parts of the analysis in this Memorandum have been undertaken by other KPMG staff and colleagues, namely Paul Harlond (Director), Sarah Arnfield (Manager), Bronte Morris (Senior Consultant) and Candice Ferreira (Executive) (together the **KPMG Halifax Team**), with assistance from various Halifax employees. I have undertaken a detailed review of the work undertaken and agree with the conclusions drawn.

As outlined in these VA Reports, the **deficiency in Client Monies** for the Halifax Group as at 23 November 2018 was estimated to be approximately \$19.7 million. The further investigations undertaken since the VA Reports were issued have caused the estimate to be revised down to **approximately \$19.0 million before costs and any recoveries (Deficiency)**, which is equal to approximately 9% of Client equity positions.

My initial view as to the reasons for the Deficiency are as follows:



- Use of Client Monies to fund operational losses; and
- Improper operation of trust accounts and improper application of Client funds.

1.2 Limitations

Key limitations in the preparation of this Memorandum and the conclusions I have drawn are as follows:

- A significant proportion of my work is reliant on information provided by Halifax Treasury. I have assumed this information is accurate, and have also undertaken cross-checks to other source documents where appropriate.
- I am not in possession of a complete set of electronic bank statements for all bank accounts operated by the Halifax Group. For example, in relation to the Various NAB Foreign Currency Accounts, my analysis is reliant on an excel spreadsheet maintained by Halifax Treasury and produced using a download of a .csv file from the relevant banking platform each day.
- I am heavily reliant on the descriptions provided by Halifax Treasury in the various excel spreadsheets which were maintained to mirror to the bank accounts. For example, descriptors such as 'IB', 'Halifax Pro' or 'Invast'.
- There may be bank accounts in the name of Halifax which I am not aware of.
- The foreign exchange rates I have used are the IB rates as at 22 November 2018.
- Given the large volume of transactions, myself and the KPMG Halifax Team have not been able to review each transaction on an individual basis.

The views outlined in this Memorandum represent my initial views only and should not be interpreted as a final conclusion as to the matters outlined.

1.3 Structure of this memorandum

The remaining sections of this memorandum are structured as follows:

- **Section 2:** Provides a high-level overview of the flow of funds through the Halifax Group account structure;
- **Section 3:** Sets out an outline of the investigative work undertaken by the Liquidators to date and provides specific examples of Client Monies being commingled in Halifax Group trust accounts; and
- **Section 4:** Provides a summary of the extent to which I consider accounts are commingled and an overview of Halifax Group accounts which may hold funds which are possibly traceable to individual Clients.

1.4 Summary of commingling

There is extensive commingling of Halifax AU and Halifax NZ Client funds across all platforms (IB AU, IB NZ, MT4 and MT5) in the majority of accounts operated by the Halifax Group, including the:

- IB Allocated Account;
- Halifax Pro Allocated Account;
- Halifax IB Master and Client Account (controlled by IB);
- Halifax NZ IB Master and Client Account (controlled by IB);



- Various NAB Foreign Currency Accounts;
- BWA Merchant Account;
- ANZ HNZ Account;
- ANZ HNZ Foreign Currency Accounts;
- Accounts held by third parties including Invest and Gain; and
- Halifax AU IB Prop Account and Halifax NZ IB Prop Accounts.

My investigations indicate that 98% of funds held on trust by the Halifax Group for the benefit of Clients are affected by commingling, with this commingling being across all platforms and between Halifax AU and Halifax NZ.

The costs of undertaking detailed investigations in relation to each investor to trace trust assets would be such that it would not be practically feasible to do so. The costs of tracing each individual investor (of which there are 11,900+) would be disproportionate to the amount of the Deficiency and benefit that Clients would likely obtain from such an exercise.

The consequence of this is that the Liquidators will be making an application to the Court for judicial advice including, amongst other things, directions as to whether the funds affected by the commingling should be pooled.

1.5 Summary of my key findings:

- The deficiency in Client Monies as at 23 November 2018 is estimated to be approximately \$19.0 million.
- Myself and my staff have undertaken a review of 30,000+ transactions in accounts operated by the Halifax Group as at the date of the appointment of the Voluntary Administrators and have determined that there is no pattern behind the transfer of funds between the Halifax Group accounts and funds appear to have been transferred on an 'ad hoc' basis.
- The exception to there being no pattern of transfers is that, upon a client making a deposit with the Halifax Group and the deposit being allocated to an individual client, shortly afterwards a credit would have been made to the client's account on the relevant trading platform.
- Our analysis confirms that there is extensive commingling of funds in the majority of section 981B Accounts and other segregated accounts within the Halifax Group.
- 98% of Client funds held on trust by the Halifax Group for the benefit of Clients is affected by the commingling and is unlikely to be traceable (with the exception of a number of specific circumstances as outlined in the Case Study Memorandum).

1.6 Information sources

In preparing this Memorandum, I have used information from the following sources:

- Discussions held by myself and the KPMG Halifax Team with Halifax management staff and other parties;
- Meetings held by myself and the KPMG Halifax Team with Mr Jeffrey Worboys, the Director of Halifax AU;
- Documents prepared by Halifax Treasury prior to and after the date of appointment of the Administrators;



- Electronic bank statements sourced directly from BankWest, NAB and ANZ; and
- Excel workbooks prepared by my staff using a combination of bank statements and schedules maintained by Halifax Treasury.

I understand that Halifax staff maintained transaction workbooks in excel which were prepared using bank statements downloaded from the relevant banking platforms. Sarah Arnfield has prepared balance checks against PDF bank statements to verify that the figures that appear in these workbooks are correct and has cross checked certain individual transactions.

I have submitted requests to NAB and ANZ for bank statements in excel format for all Halifax AU and Halifax NZ accounts for the 3 years prior to the appointment of the Voluntary Administrators.

1.7 Summary of key bank accounts

The following table provides a summary of the bank accounts referred to in this memorandum.

Name	Halifax Entity	Description
Halifax Investment Services Pty Ltd (NAB Company Account)	AU	Company transaction account
Halifax Investment Services Pty Ltd (NAB USD Account)	AU	Account used for Client deposits and redemptions in USD. Funds also transferred to other Halifax Group accounts on an ad hoc basis
IB Suspense (s981b trust account) (IB Suspense Account)	AU	IB Clients deposit funds into this account which is then swept on a daily basis to IB Allocated Account
BWA Halifax Pro Suspense (s981b trust account) (Halifax Pro Suspense Account)	AU	When using MT4 and MT5 platforms, Clients deposit funds into this account which is then swept on a daily basis to the Halifax Pro Allocated Account
IB Allocated (s981b trust account) (IB Allocated Account)	AU	The funds in the IB Suspense account are transferred to this account once the deposit has been allocated to a Client
BWA Halifax Pro (s981b trust account) (Halifax Pro Allocated Account)	AU	The funds in the Halifax Pro Suspense Account flow to this account once the deposit has been allocated to an individual Client
Unallocated Account	AU	Contains funds from Clients which Halifax Treasury have been unable to allocate to an individual Client account



NAB Foreign Currency Accounts (s981b trust accounts) (Various Foreign Currency Accounts)	AU	Foreign currency accounts to which Clients from all three platforms deposited funds directly. Funds were then used for various reasons including payment of various company related expenses
Halifax NZ ANZ Foreign Currency Accounts (the Halifax NZ Foreign Currency Accounts)	NZ	Foreign currency accounts (AUD, GBP, USD and EUR) in the name of Halifax NZ. These accounts were used only in specific circumstances for example the transfer of funds to and from IB and large redemptions involving IB NZ Clients.
BWA Merchant Account	AU	Account to which Clients on the IB and MT4/MT5 platforms depositing funds via credit card is settled
ANZ HNZ Bank account (trust) (ANZ HNZ Account)	NZ	Used for any Client in the Halifax Group depositing NZD



2. Funds Flow

Key points

- 1 Funds deposited by Clients on the IB platform were **not segregated** from funds deposited by Clients on the MT4 and MT5 platforms (except for the short time when the funds are in the relevant suspense account to which the investor has made a deposit).
- 2 Funds have been mixed or **commingled in such a way that it appears to affect the claims of the majority of Clients on all platforms** in both the Halifax AU and Halifax NZ business.
- 3 There appears to be substantial **contraventions of the Client Money Rules by Halifax AU.**

2.1 Funds flow process

I have (with assistance from Paul Harlond) prepared an analysis of the funds flow process on the MT4, MT5 and IB platforms. Attached as Annexure A is a series of diagrams which represent the funds flow process.

The funds flow process in respect to the IB and MT4/MT5 platforms is discussed in more detail in sections 2.4 and 2.6 of this memorandum.

2.2 Overview of client money rules

The client money provisions contained in Division 2 of Part 7.8 of the Corporations Act 2001 (**the Act**) (**the Client Money Rules**) were discussed at length throughout the Halifax AU VA Report. However, for the purposes of this memorandum, it is helpful to note the following:

- As an AFSL holder, Halifax AU was required to comply with the Client Money Rules which state that money received is required to be placed into a designated client trust account (a Section 981B Account);
- Section 981H of the Act provides that money held in a Section 981B Account is to be held on trust for Clients and may only be used or withdrawn as provided for in the Client Money Rules; and
- AFSL holders are required to ensure that no other funds (other than Client Monies) are paid into a Section 981B Account.

My investigations to date indicate that there appears to be substantial contraventions of the Client Money Rules by Halifax AU. Further investigation in this regard is required with respect of Halifax NZ.



2.3 Use of key accounts and high-level overview of commingling

2.3.1 Bank accounts

The following table provides an overview of commingling of funds in accounts operated by the Halifax Group.

Account	Balance at appointment AUD	Operation of account	Commingled	Tracing practically feasible?	Instances of commingling
NAB Company Account	517,193.94	Company bank account from which commission and revenue from the MT4/MT5 platform was drawn. Company expenses were paid out of this account	Y	N	Company funds and Client Monies are commingled in this account (to the extent Client Monies have been drawn in advance to meet Company expenses). Funds in this account have been utilised by the Liquidators pursuant to Orders made by the Supreme Court on 25 January 2019 Orders.
IB Suspense Account	8,490.44	IB Clients deposited funds into this account	N	Y	No (or immaterial) commingling of funds given funds are swept out of this account on a daily basis. Funds in this account are likely to be traceable. Refer to section 4.2.2.
Halifax Pro Suspense Account	57,200.00	MT4 and MT5 Clients deposited funds into this account	N	Y	No (or immaterial) commingling of funds given funds are swept out of this account on a daily basis. Funds in this account are likely to be traceable. Refer to Section 4.2.2.
IB Allocated Account	148,100.26	Funds in the IB Suspense Account were transferred to this account	Y	N	I have identified transfers between the Halifax Pro and the IB



Account	Balance at appointment AUD	Operation of account	Commingled	Tracing practically feasible?	Instances of commingling
		following allocation to individual Clients by Halifax Treasury			Allocated Accounts indicating a commingling of funds between Clients on the IB, MT4 and MT5 platforms. Refer to section 3.2.
Halifax Pro Allocated Account	162,637.73	Funds in the Halifax Pro Suspense Account were transferred to this account following allocation to individual Clients by Halifax Treasury	Y	N	I have identified transfers between the IB Allocated and the Halifax Pro Allocated Accounts indicating a commingling of funds between Clients on the IB, MT4 and MT5 platforms. Refer to section 3.2.
Unallocated Account	136,336.47	Deposits made into either the IB Suspense Account or Halifax Pro Suspense Account that could not be identified were transferred to this account.	N	Y	Account holds funds from both IB and MT4/MT5 Clients. Funds in this account are likely to be traceable. Refer to 4.2.2.
Various Halifax AU NAB Foreign Currency Accounts (JPY, NZD, USD, SGD, EUR, HKD, GBP, CHF)	815,559.94	In circumstances where a Client on the MT4, MT5, IB AU or IB NZ platforms deposited funds in a foreign currency, Halifax AU would instruct the Client to deposit the money into the relevant NAB foreign	Y	Partially	There was no segregation of foreign currency accounts by platform. In circumstances where a Client deposited funds into the Various NAB Foreign Currency



**Halifax Investment Services Pty Ltd (In
Liquidation) and Halfax New Zealand Pty Ltd
(In Liquidation)**
Funds Flow Memo
25 June 2019

Account	Balance at appointment AUD	Operation of account	Commingled	Tracing practically feasible?	Instances of commingling
		<p>currency account.</p> <p>Foreign currency redemptions were paid from one of these accounts.</p>			<p>Accounts, these funds did not flow to the IB Allocated Account or Halifax Pro Allocated Account. However, I have identified transfers of funds from the Various Foreign Currency Accounts to both the Halifax AU IB AU Master Account and Halifax NZ IB NZ Master Account. Refer to section 3.8.</p> <p>The NZD, USD and GBP accounts were also used to pay operating expenses incurred by the Company (notwithstanding that they were designated section 981B trust accounts).</p> <p>I have also identified transfers between foreign currency accounts operated by Halifax NZ and the Various NAB Foreign Currency Accounts indicating a commingling between Halifax AU and Halifax NZ. Refer to section 3.6.</p>
BWA Merchant	55,118,05	Merchant facility which allowed Clients to make		Y Partially	Clients from the IB AU, IB NZ, MT4 and MT5 platforms



**Halifax Investment Services Pty Ltd (In
Liquidation) and Halfiax New Zealand Pty Ltd
(In Liquidation)**
Funds Flow Memo
25 June 2019

Account	Balance at appointment AUD	Operation of account	Commingled	Tracing practically feasible?	Instances of commingling
Account		deposits by credit card			could deposit money into this account. Accordingly, there is a commingling of funds between Clients on all platforms. Round sum amounts were transferred to the IB Allocated Account or Halifax Pro Allocated Account on an 'ad hoc' basis. There is no identifiable pattern between Client deposits in this account and transfers to the IB Allocated or Halifax Pro Allocated Account. Refer section 3.7.
ANZ HNZ Account (Halifax NZ)	\$541,791.59 (NZD 577,712.36)	Clients depositing in NZD on the IB NZ, IB AU, MT4 and MT5 platform deposited into this account	Y	N	Clients on all platforms deposited funds into this account indicating a commingling of funds between Halifax AU and Halifax NZ and across all platforms. Refer to section 3.6.
ANZ HNZ Foreign Currency Accounts (Halifax NZ)	1,105,910.49 (NZD 1,179,232.32)	Used for NZ Clients to deposit foreign currency and trade on IB AU, IB NZ, MT4 or MT5	Y	N	Likely commingling of funds on the basis that these accounts were used to deposit funds for clients across all platforms by Clients of both Halifax AU and



Account	Balance at appointment AUD	Operation of account	Commingled	Tracing practically feasible?	Instances of commingling
					Halifax NZ. Further information in this regard is provided in section 3.6.2.

The above table does not provide a comprehensive listing of all accounts operated by the Halifax Group. Refer to Annexure B for a schedule of all known accounts.

2.3.2 Accounts controlled by IB

In addition to the funds held in accounts outlined in section 2.3.1 above, IB holds significant assets on behalf of Halifax AU and Halifax NZ. Within the Halifax AU IB and the Halifax NZ IB accounts, IB holds the following assets in the following accounts:

- IB AU Master Account and IB NZ Master Account which was used to fund individual client accounts in connection with Halifax AU's and Halifax NZ's clients that trade the IB platform;
- IB AU Prop Account and IB NZ Prop Account which hold 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 investor positions as well as a cash balance; and
- IB Client sub-accounts in connection with both Halifax AU and Halifax NZ consolidated accounts holding investor assets including cash, stocks and other securities which are required by the relevant statutory provisions to be maintained as segregated client accounts.

The amounts listed for the IB Master and IB Prop Accounts above consist of both securities (stocks, futures, options, forex products) and cash. The value as at the date of the appointment is the total value of the assets held in these accounts and does not represent the cash position only.

The tables below provide a breakdown of assets controlled by IB in relation to Halifax AU and Halifax NZ. The below is a combination of the IB Master Accounts, individual IB Client Sub-Accounts and the IB Prop Accounts. Refer to Annexure B for a more detailed analysis.



Halifax AU

A summary of assets controlled by IB in the Halifax AU Master Account, IB AU Prop Account and IB Client Sub-Accounts as at 23 November 2018 is as follows:

AUD	Total \$
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

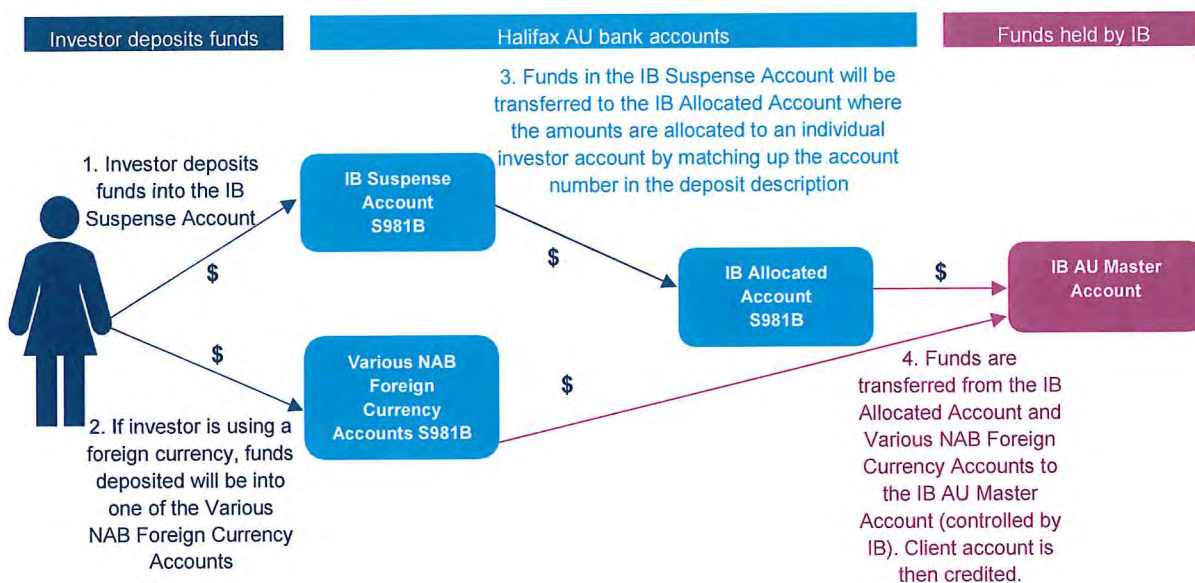
Halifax NZ

A summary of assets controlled by IB in the Halifax NZ Master Account, IB NZ Prop Account and IB NZ Client Sub-Accounts as at 27 November 2018 is as follows:

NZD	Total \$
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

2.4 Flow of Client funds on the Halifax IB AU platform

I understand that, if Client funds were to be segregated by platform (ie funds from Clients investing on IB AU platform were not commingled with funds from Clients investing on the IB NZ, MT4 and MT5 platforms), the following process would have been undertaken. I understand from discussions with Halifax employees that this process was not undertaken in practice.



In practice I understand the following occurred:

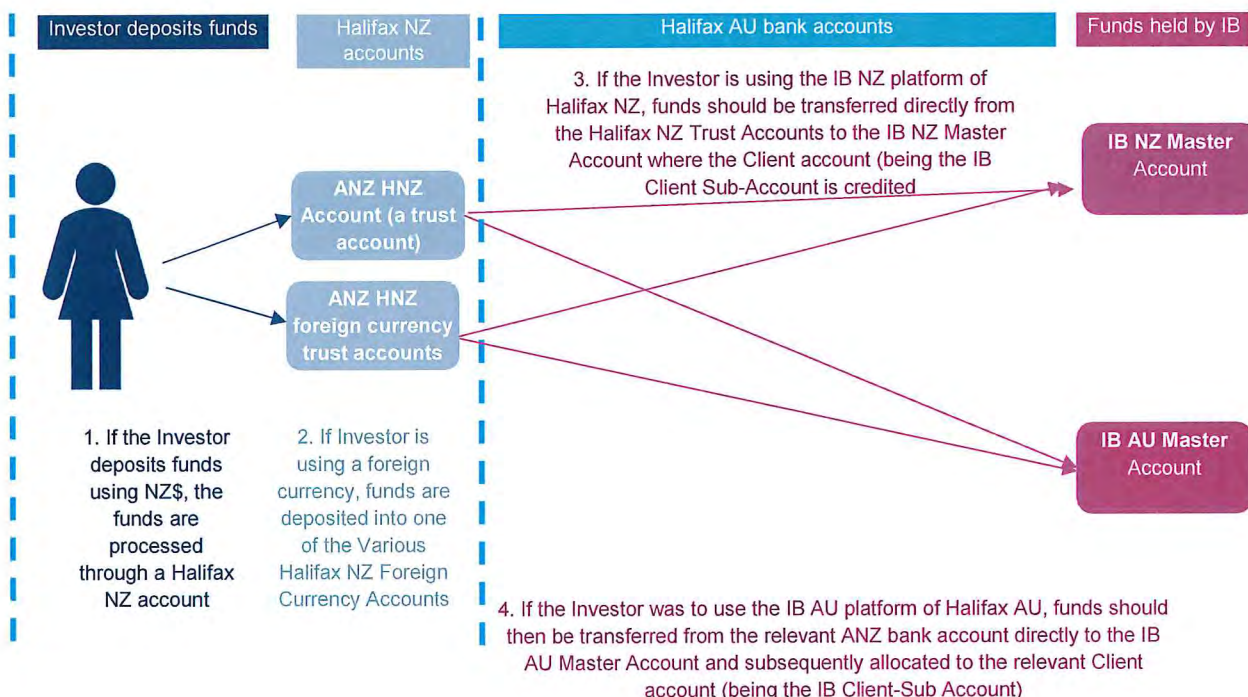
	Process	Correct / Incorrect	Issue
1	Clients deposit funds into the IB Suspense Account	✓	N/A
2	Clients also deposit into the Various NAB Foreign Currency Accounts and the BWA Merchant Account (which also contain funds deposited by MT4 and MT5 Clients)	✓	Expenses were paid directly from the Various NAB Foreign Currency Accounts. Commingling of monies deposited by MT4/MT5 Clients
3	Funds would be transferred from the IB Suspense Account to the IB Allocated Account	✓	N/A



4	Funds are not transferred from the Various NAB Foreign Currency Accounts to the IB Allocated Account	x	Funds remain in Various NAB Foreign Currency Accounts and are commingled with funds deposited by MT4/MT5 Clients
5	Funds in the IB Allocated Account and Various NAB Foreign Currency Accounts were paid to the IB AU Master Account on an ad hoc basis	x	This resulted in a surplus of funds being held in the IB AU Master Account at all times. Accordingly, it is not practically feasible to trace individual deposits to the IB Suspense Account through to payments to the IB AU Master Account
6	We understand that there were significant movements of funds between the IB Allocated Account and the Halifax Pro Allocated Account	x	Payments between IB Allocated Account and the Halifax Pro Allocated Account indicate a commingling of funds between Clients on all three platforms

2.5 Flow of Client funds on the Halifax NZ IB NZ platform

I understand that, if Client funds were to be segregated by platform (ie funds from Clients investing on IB NZ platform were not commingled with funds from Clients investing on the IB AU, MT4 and MT5 platforms), the following process would have been undertaken. I understand from discussions with Halifax employees that this process was not undertaken in practice.



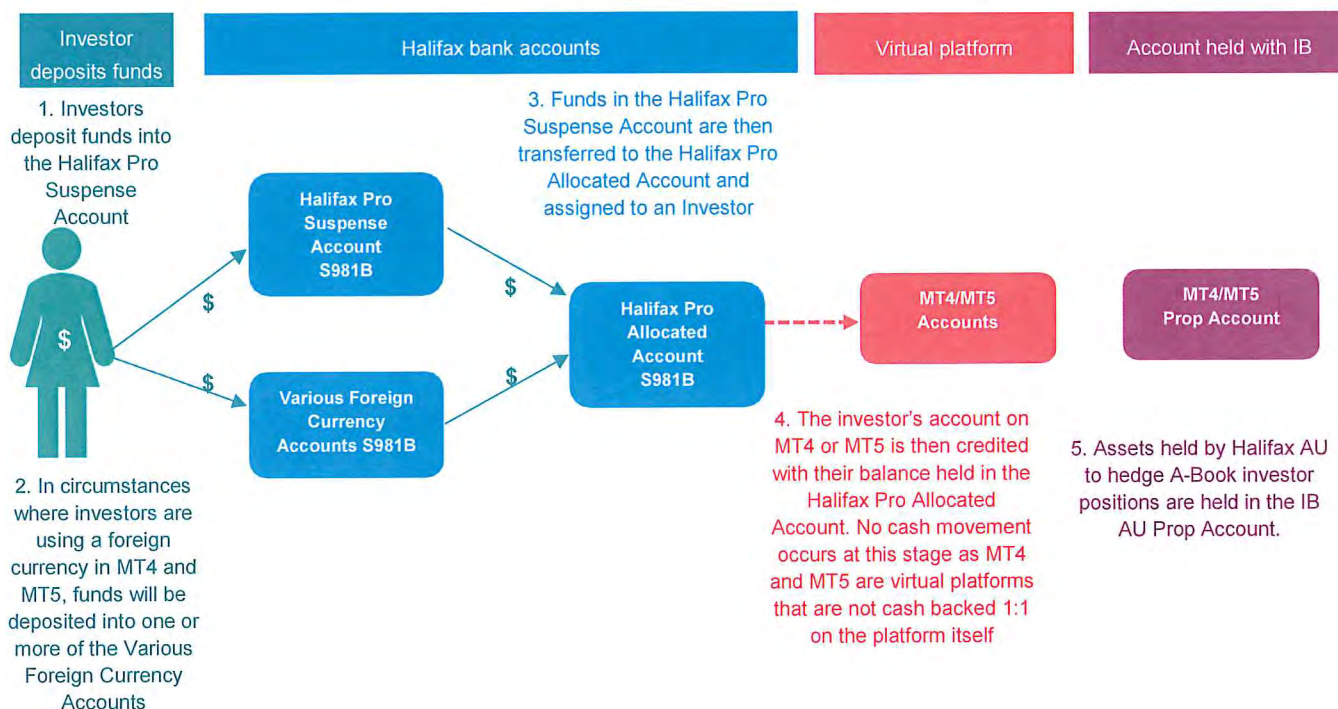
However, in practice, I understand the following appears to have occurred:

	Process	Compliant	Issue
1	If the Investor deposits NZD, the funds are processed through the ANZ HNZ Account	✓	N/A
2	If the Investor is using a foreign currency, funds are deposited into one of the Various NAB Foreign Currency Accounts or the Halifax NZ Foreign Currency Accounts	✓	N/A
3	The ANZ HNZ, Various NAB Foreign Currency Accounts and Halifax NZ Foreign Currency Accounts were used by Investors on the IB platform and NZ Investors on the Halifax AU	✗	Given these accounts were used by Clients on multiple platforms, there is commingling of funds between Clients using different platforms

Process	Compliant	Issue
MT4 and MT5 platforms.		
<p>A pool of funds was held in the Halifax NZ IB Master Account to allow Halifax NZ to immediately credit the IB NZ platform for a Client.</p> <p>4 Funds were transferred to the Halifax NZ IB Master Account (generally in round sum amounts) from various accounts within the Halifax Group as and when funds were required on the IB NZ platform.</p>	×	<p>Transfers to the Halifax NZ IB Master Account were not completed on an individual or grouped basis. As a result, it not possible to directly trace an Investor's funds into the Halifax NZ IB Platform.</p>

2.6 Flow of Client funds on the MT4 and MT5 platform (deposits to Halifax AU Accounts)

I understand that, if Client funds were to be segregated by platform (ie funds from Clients of MT4 and MT5 were not commingled with funds from Clients on the IB AU and IB NZ platforms), the following process would have been undertaken. I understand from discussions with Halifax employees that this process was not undertaken in practice.



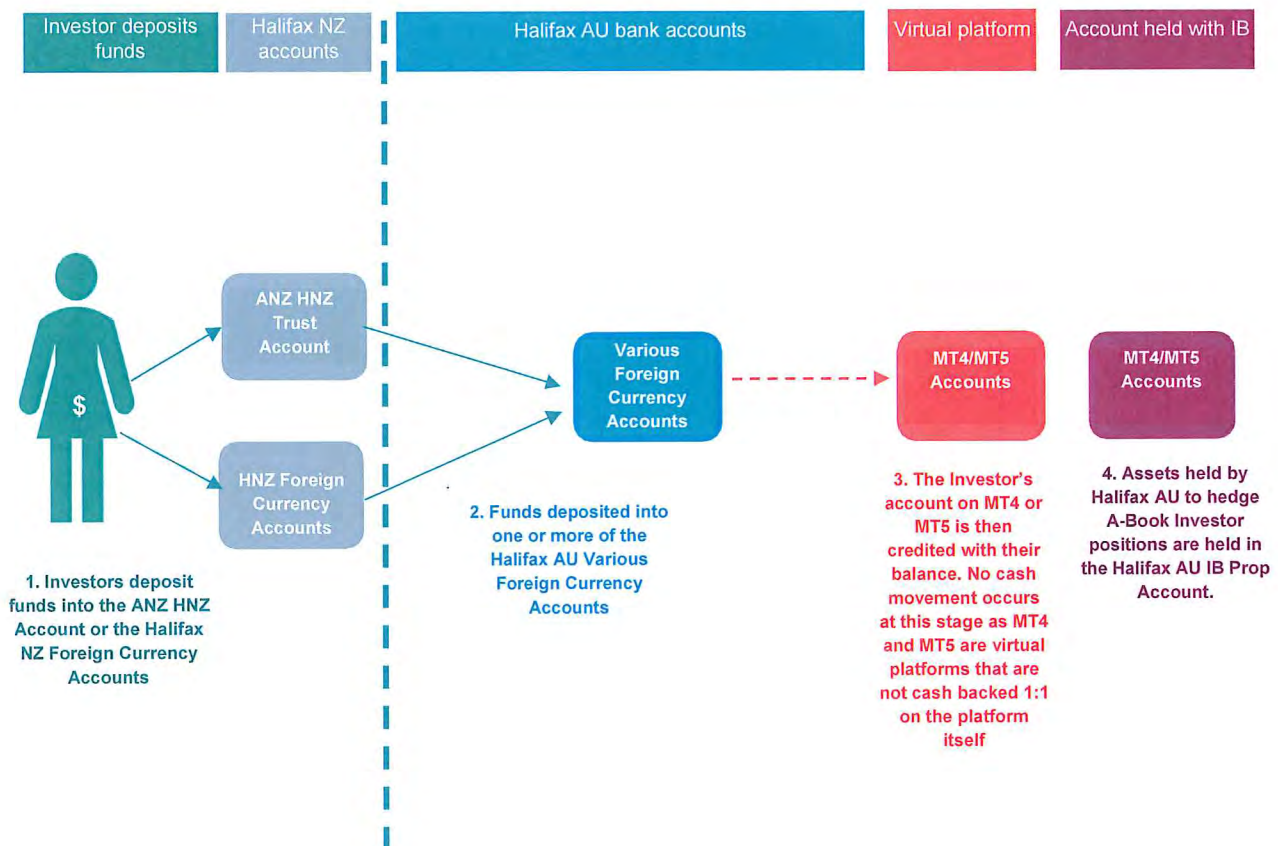


However, in practice, I understand the following occurred:

	Process	Correct / Incorrect	Issue
1	Clients deposited funds into the Halifax Pro Suspense Account	✓	N/A
2	Clients would also deposit into the Various NAB Foreign Currency Accounts and the BWA Merchant Account (contain funds deposited by IB Clients)	✓	Expenses were paid directly from some of the Various NAB Foreign Currency Accounts (USD, GBP and NZD). Commingling of monies deposited by IB Clients
3	Funds would then be transferred from the Halifax Pro Suspense Account to the Halifax Pro Allocated Account	✓	N/A
4	Funds would <u>not</u> be transferred from the Various NAB Foreign Currency Accounts to the Halifax Pro Allocated Account. This was to reduce the currency exposure to Halifax	✗	Funds remain in Various NAB Foreign Currency Accounts and are commingled with funds deposited by Clients on the IB platform. It would have been best practice to hold funds deposited in the Various NAB Foreign Currency Accounts in segregated accounts
5	The Client's account on MT4 or MT5 is then credited with their balance deposited in the Halifax Pro Allocated Account or Various NAB Foreign Currency Account. No cash movement occurs at this stage as MT4 and MT5 are virtual platforms that are not cash backed 1:1 on the platform itself	✓	N/A
6	On occasion, funds would be transferred from the Halifax Pro Allocated Account to the IB Allocated Account and vice versa. I understand from discussions with Halifax management and Treasury that this occurred when funds were required in either of the allocated accounts	✗	This conduct indicates a commingling of IB and MT4 and MT5 Client funds at the Allocated Account level

2.7 Flow of Client funds on the MT4 and MT5 platform (deposits to Halifax NZ Accounts)

I understand that, if Client funds were to be segregated by platform (ie funds from Clients of MT4 and MT5 were not commingled with funds from Clients on the IB AU and IB NZ platforms), the following process would have been undertaken. I understand from discussions with Halifax employees that this process was not undertaken in practice.





However, in practice I understand the following occurred:

	Process	Compliant		Issue
1	Investors deposit funds into the Halifax NZ Trust Account	✓	N/A	
2	Halifax NZ deposit funds into the Various Foreign Currency Accounts (depending on the currency)	✓	N/A	
3	The ANZ HNZ and Halifax NZ Foreign Currency Accounts were used by Investors on the IB platform and the Halifax AU MT4 and MT5 platforms	✓		Given these accounts were used by Clients on multiple platforms, there is co-mingling of funds between Clients using different platforms
4	On some occasions, funds were not transferred out of the ANZ HNZ Accounts to Halifax AU accounts despite the Client's MT4 or MT5 account with Halifax AU being credited with the virtual funds	✗		Whilst the Investors' equity position is held by Halifax AU, the funds supporting that position may still be held by Halifax NZ
5	If funds were transferred to the Various Foreign Currency accounts with Halifax AU, funds would <u>not</u> be transferred from these accounts to the Halifax Pro Allocated Account	✗		Halifax AU retained funds in Various Foreign Currency Accounts and are co-mingled with funds deposited by IB Investors
6	The Investor's account on MT4 or MT5 is then credited with their balance held in the Halifax Pro Allocated Account. No cash movement occurs at this stage as MT4 and MT5 are virtual platforms that are not cash backed 1:1 on the platform itself.	✓	N/A	
7	On occasion, funds would be transferred by Halifax AU from the Halifax Pro Allocated Account to the IB Allocated Account and vice versa. We understand from discussions with Halifax AU that this occurred when funds were required in either of the allocated accounts.	✗		This conduct indicates a mingling of IB and MT4/MT5 Investor funds at the Allocated account level



3. Funds Flow Investigations Undertaken

Key takeaways	Ref.
1 I, together with the KPMG Halifax Team have undertaken a review of 30,000+ transactions in accounts operated by the Halifax Group.	
2 My review has determined that the only noticeable pattern of transfers between accounts is that, upon a client making a deposit with the Halifax Group and the deposit being allocated to an individual client, shortly afterwards a credit would have been made to the client's account on the relevant trading platform. Otherwise, there was no pattern behind the transfer of funds between Halifax Group accounts and funds appear to have been transferred on an 'ad hoc' basis . The Halifax Group made transfers to maintain a balance of funds in various client accounts (effectively running pooled accounts on a commingled basis).	

3.1 Summary of funds flow investigations undertaken to date

Specific tasks undertaken by myself, Paul Harlond, Sarah Arnfield and others include:

- Review of transactions in the Halifax Pro Suspense Account, IB Suspense Account and BWA Merchant Facility for the 6 months prior to the appointment of the Administrators (4,900 transactions);
- Review of transactions in the Various NAB Foreign Currency Accounts for the 2 years prior to the appointment of the Administrators (4,500+ transactions);
- Review of transactions between the Halifax Pro Allocated Account and IB Allocated Account for the 3 years prior to the appointment of the Administrators;
- Review of all transactions to and from the IB Allocated Account (20,000+ transactions) and Halifax Pro Allocated Account (7,000+ transactions) to ascertain the quantum and volume of transactions in which funds relating to the IB and MT4/MT5 platforms have been commingled;
- Reviewed timing of transactions into IB Allocated Account and Various NAB Foreign Currency Accounts to identify whether the IB AU platform was credited on the same day;
- Reviewed timing of transactions into accounts used by Halifax NZ IB Clients to identify whether the IB NZ platform was credited on the same day;
- Review of payments to hedging counterparties (Invast and Gain);
- Review of all Halifax NZ trust accounts and Halifax NZ foreign currency accounts; and
- Review of transactions in the Halifax AU IB Master Account and Halifax NZ IB Master Account.



In addition to the above, myself and other members of the KPMG Halifax team have undertaken more targeted investigations of transactions in the IB Suspense Account, Halifax Pro Suspense Account, Unallocated Account, BWA Merchant Account and the Various NAB Foreign Currency Accounts to determine whether there are funds held in these accounts which are able to be traced.

Based on my review of the transactions, and my interviews with Halifax Treasury staff, I am of the view that:

- The only noticeable pattern of transfers between accounts is that, upon a client making a deposit with the Halifax Group and the deposit being allocated to an individual client, shortly afterwards a credit would have been made to the client's account on the relevant trading platform (**Credits to Platforms**).
- Other than the pattern of Credit to Platforms, there is no pattern behind the transfer of funds between accounts (ie frequency, where funds were directed to, purpose of transfers);
- Funds appear to have been transferred on an ad hoc basis with no direct link to individual Client deposits; and
- The Halifax Group made transfers to maintain a balance of funds in various accounts (effectively running pooled accounts on an intermingled basis).

The following sections outline the investigative work undertaken and the specific instances of commingling of Client Monies throughout the Halifax Group accounts:

	Ref
Commingling between the IB Allocated Account and Halifax Pro Allocated Account	3.2
Pooling of funds in IB AU and IB NZ Master Accounts	3.3
Commingling of funds in the IB AU Master Account	3.4
Commingling of funds in the IB NZ Master Account	3.5
Commingling of funds between Halifax AU and Halifax NZ Accounts	3.6
Commingling of funds in the BWA Merchant Account	3.7
Commingling of funds in Various NAB Foreign Currency Accounts	3.8
Payments from the NAB USD Account to Invest and Gain	3.9
Commingling of funds in NBA USD Account and NAB NZD Account	3.10
Further review of Various NAB Foreign Currency Accounts (excluding NAB USD and NAB NZD)	3.11



Client deposits and payments to IB NZ Master Account	3.12
Investigation of Halifax NZ Foreign Currency Accounts	3.13
Commingling of funds in the Halifax AU and Halifax NZ IB Prop Accounts	3.14

3.2 Commingling of funds in the IB Allocated Account and Halifax Pro Allocated Account

3.2.1 Background to operation of the IB platform

Key points to note:

- The IB platform is asset backed 1:1. Unlike MT4 and MT5, it is not a virtual platform and all positions are exchange traded.
- Clients were able to deposit funds into the IB Suspense Account, the ANZ HNZ Account, the Various NAB Foreign Currency Accounts, through Chinese merchant facility providers or the BWA Merchant Account. The most common of these deposit methods was through the IB Suspense Account.
- **These funds were then to be transferred to the IB Allocated Account (in the case of funds received in the IB Suspense Account), with no immediate or corresponding transfer to the IB Master Account.** In the case of funds received in other Halifax Group accounts, there was no subsequent immediate movement of these funds.
- The process for Client deposits into the IB platform is explained in further detail in section 2.4.
- My analysis indicates that **10,185 deposits totalling \$133.8 million** were made to the IB Suspense Account from January 2012 to 23 November 2018.

3.2.2 Background to operation of the MT4 and MT5 platform

Key points to note:

- The MT4 and MT5 platforms are virtual trading platforms and there is no requirement for investor positions to be asset backed 1:1.
- Clients were able to deposit into the Halifax Pro Suspense Account, the Various NAB Foreign Currency Accounts, the ANZ HNZ Account, through overseas merchant facility providers or the BWA Merchant Account. The most common of these deposit methods was through the Halifax Pro Suspense Account.
- These funds were then to be transferred to the Halifax Pro Allocated Account (in the case of funds received in the Halifax Pro Suspense Account). In the case of funds received in other Halifax Group accounts, there was no subsequent immediate movement of these funds.
- There was no cash movement onto the MT4 and MT5 platforms from the Halifax Pro Allocated Account or any other account, rather the individual Client accounts on the MT4 or MT5 platform were credited following receipt of the funds into the Halifax Pro Allocated Account, BWA Merchant Account or Various NAB Foreign Currency Accounts. This is different to IB where sufficient funds were required to be kept in the IB Master Account (controlled by IB) to back Client positions.
- My analysis indicates that **2,088 deposits totalling \$23.3 million** were made to the Halifax Pro Suspense Account from February 2016 to the date of appointment.



3.2.3 Investigation of transfers between the IB Allocated Account and the Halifax Po Allocated Account

There have been 124 transactions with a net total of \$24.9 million between the IB Allocated Account and the Halifax Pro Allocated Account from February 2016 to 23 November 2018.

This indicates that Client funds on the MT4 and MT5 platforms were 'topped up' on an ad hoc basis using funds from the IB Allocated Account.

I have identified and reviewed all transactions to date between the IB Allocated Account and the Halifax Pro Allocated Account. A summary of the movements between the IB Allocated Account and the Halifax Pro Allocated Account is as follows:

Account name	Out (\$)	In (\$)	Net effect \$
IB Allocated Account	(33,500,000)	8,574,844	(24,925,156)
Halifax Pro Allocated Account	(8,574,844)	33,500,000	24,925,156

The above transactions were identified using information provided by Halifax Treasury. The payments outlined above have not been confirmed by way of bank trace provided by the relevant financial institutions.

3.3 Pooling of funds in the IB Master Accounts

3.3.1 Operation of IB Master Accounts generally

Key points to note:

- The IB AU Master Account and IB NZ Master Account each held a pool of cash in addition to the total amount deposited by Clients using the IB platform and allocated to individual Client accounts.
- When IB Clients transferred funds to Halifax, the funds were deposited into the IB Suspense Account, the BWA Merchant Account, the ANZ HNZ Account, or the Various NAB Foreign Currency Accounts. In relation to the IB Suspense Account, these funds were then transferred to the IB Allocated Account (refer to process outlined in section 2.4).
- Following the transfer of funds to the IB Allocated Account (or receipt into the Various NAB Foreign Currency Accounts or Merchant Accounts), there was (with the exception of a few occasions) no direct transfer to the IB Master Accounts (maintained by IB). However, the Client's IB Client Sub-Account was very shortly after, almost always on the same day, credited using funds in the IB Master Account.
- The individual IB Client Sub-Account with IB was credited using monies from a pool of funds already held in the IB Master Account, being a mix of funds from multiple Clients across all platforms.
- Funds were transferred from the IB Allocated Account to the IB Master Account (and vice versa) on an ad hoc basis (for example if there were insufficient funds to mirror the funds deposited by the Client to their



accounts on the trading platform). I have been advised by Halifax Treasury that the accounts were run in this manner to allow clients to trade immediately following receipt of deposits by Halifax.

On this basis, it is not appear to be practically feasible to trace individual Client deposits through to credits in the relevant IB Client Sub-Accounts on the IB platform.

Refer to the Case Study Memorandum dated 25 June 2019 for further information.

3.3.2 Investigations undertaken in relation to credits to individual IB accounts

Sarah Arnfield, together with Halifax Treasury, has undertaken an investigation to confirm the time taken for an individual client account to be credited on the both the Halifax AU IB and Halifax NZ IB platforms following a Client deposit into a Halifax Group account.

In preparing this analysis, Sarah Arnfield and Halifax Treasury undertook a review of payments made into the IB Allocated Account, BWA Merchant Account, ANZ HNZ Account and Various NAB Foreign Currency Accounts during May 2018 to form a view on the average time taken between when funds are deposited into these accounts to when the individual IB Client Sub-Account on IB is credited, as well as whether cash was transferred to the relevant IB Master Account as part of this process.

3.3.2.1 IB AU Master Account

A summary of the analysis undertaken by Sarah Arnfield and Halifax Treasury for May 2018 is as follows:

Transactions	ANZ HNZ	IB Suspense Account	NAB GBP	Credit Card (AUD)
Total IB related transactions in May 2018	24	109	1	2
Dollar value of transfers (account currency)	148,111	1,309,870	314,000	2,925
AUD equivalent	136,995	1,309,870	551,604	2,925
Average days taken to credit Client's IB Client Sub-Account	0.75	1.11	3.00	0.00

The above analysis indicates:

- Client IB Client Sub-Accounts were credited on the same day in circumstances where funds were deposited through the BWA Merchant Account (credit card facility);
- It took approximately 1 day to credit IB Client Sub-Accounts in circumstances where funds were deposited into the ANZ HNZ Account or the IB Suspense Account; and
- It took approximately 3 days to credit IB Client Sub-Accounts in circumstances where funds were deposited into the NAB GBP account.

I did not identify a pattern of funds being transferred to the IB AU Master Account directly following Client deposits to the IB Allocated Account.



Based on the analysis undertaken by Sarah Arnfield, **there were approximately 136 IB Client deposits and accounts were credited in the amount of \$2.0 million during May 2018**, with Client redemptions of \$3.0 million. However there were only two transfers from the IB AU Master Account to the IB Allocated Account totalling \$1.05 million, and **no transfers from the IB Allocated Account to the IB AU Master Account (or any other Halifax Group accounts) during this period.**

An amount of USD700,000 was transferred from the IB AU Master Account to the NAB USD Account on 23 May 2018, despite there being no deposits of USD in that month.

This supports the position that the IB AU Master Account was operated as a 'pool' of funds to which funds were transferred on an ad hoc basis.

3.3.2.2 IB NZ Master Account

A summary of for the analysis undertaken by Sarah Arnfield and Halifax Treasury for May 2018 is as follows:

Transactions	ANZ HNZ	IB Suspense Account	NAB EUR	NAB USD	NAB SGD	Credit card
Number of NZ IB Client deposits in May 2018	99	4	1	47	1	37
Dollar value of transfers in account currency	666,712	13,879	11,820	245,553	3,500	77,869
AUD equivalent	616,675	13,879	18,261	328,413	3,457	77,869
Average days taken to credit Client account	0.53	0.00	1.00	1.38	1.00	3.46

I did not identify a pattern of funds being transferred to the IB NZ Master Account following the transfer of funds to the IB Allocated Account.

Based on the analysis undertaken by Sarah Arnfield, there were **189 Halifax NZ IB Client deposits and accounts were credited in the amount of AU\$1.0 million during May 2018**, with Client redemptions of AU\$5.9 million. **However, there were seven transfers from the IB NZ Master Account to and from various other accounts in the Halifax Group (including the IB Allocated Account) in the net amount of AU\$4.9 million.**

This supports the position that the IB NZ Master Account was operated as a 'pool' of funds to which funds were transferred on an ad hoc basis.

3.3.3 Specific example of funds flow between IB Allocated Account and IB AU Master Accounts

The following provides a specific example of how an individual IB Client Sub-Account has been credited:

- On 8 May 2019, \$10,000 was transferred to the IB Allocated Account (from the IB Suspense Account) in relation to IB account number ending 7244;
- As a result, the IB AU Master Account was reduced by \$10,000 and the individual client account was credited (using funds already held in the IB AU Master Account in the amount of \$10,000);
- There are no transfers from the IB Allocated Account to the IB AU Master Account in May 2018; and



- The next transfer from the IB AU Master Account was to the IB Allocated Account on 18 May 2018 in the amount of \$500,000.

Having regard to the above, and to our overall analysis, it would appear that funds were not transferred to and from the IB AU Master Account following receipt of individual deposits. Rather, the funds were maintained on a pooled basis and the IB AU Master Account ‘topped up’ as required.

3.3.4 Specific example of funds flow between ANZ HNZ Account and IB NZ Master Account

The following provides a specific example of how an individual IB Client Sub-Account on the IB NZ platform has been credited:

- On 2 May 2019, NZ\$95,000 was paid into the ANZ HNZ Account by investor with account ending 0183;
- The IB NZ Master Account was reduced (debited) by the amount of NZ\$95,000 and the individual IB Client Sub-Account was credited in the amount of NZ\$95,000;
- There was only one transfer from the ANZ HNZ Account to the IB NZ Master Account in May 2018 in the amount of NZ\$300,000; and
- The only other transfer to the IB NZ Master Account in May 2018 was from the Halifax AU GBP Account (one of the Various NAB Foreign Currency Accounts) in the amount of GBP315,000 on 2 May 2018.
- **Having regard to the above, and to our overall analysis, it would appear that funds were not transferred to and from the IB NZ Master Account following receipt of individual deposits. Rather, the funds were maintained on a pooled basis and the IB NZ Master Account ‘topped up’ as required.**

3.4 Commingling of funds in the Halifax IB AU Master Account

3.4.1 Commingling of funds

I referred in paragraph 3.3.1 to background information on the purpose and operation of the IB Master Accounts.

With the assistance of Paul Harlond and Bronte Morris, I have undertaken an analysis of the transfers in and out of the IB AU Master Account for the period from January 2016 to 23 November 2018. The results of the analysis are set out in the following table.



Account name	Entity	Commingled?	To IB Master	From IB Master	Net effect
IB Allocated Account	Halifax	Y	13,070,000	(41,330,000)	(28,260,000)
Halifax Grouped Account	Halifax	Y	2,400,000	-	2,400,000
Halifax Pro Allocated Account	Halifax	Y	900,000	-	900,000
BWA USD Account	Halifax	Y	8,513,332	(3,791,573)	4,721,759
Various NAB Foreign Currency Accounts	Halifax	Y	5,420,618	(34,336,100)	(28,915,482)
ANZ HNZ Account	Halifax NZ	Y	6,424,946	(3,221,298)	(3,203,647)
Total			36,728,896	(82,678,972)	(45,950,076)

The above analysis indicates:

- Net payments of **\$28.3 million flowed from the IB Allocated to the IB AU Master Account**. This is to be expected. However, for the reasons discussed in section 3.2 above, I consider the IB Allocated Account to be affected by the commingling;
- **Payments totalling \$900,000 have been transferred from the Halifax Pro Allocated Account** (containing funds deposited by MT4 and MT5 Clients);
- Net payments of **\$3.2 million have flowed from the ANZ HNZ Account** to the Halifax IB AU Master account, indicating that the IB AU Master Account contains funds deposited by Halifax NZ Clients; and
- Funds of \$5.4 million have been transferred from the Various NAB Foreign Currency Accounts to the IB AU Master Account indicating a mixing of funds from Clients on the IB AU, IB NZ, MT4 and MT5 platforms.



3.5 Commingling of funds in the Halifax IB NZ Master Account

A summary of transactions to and from the IB NZ Master Account from January 2016 to November 2018 was also undertaken by myself, Paul Harlond and Bronte Morris. A summary of my findings in this regard is as follows:

Account name	Entity	To IB NZ Master AUD\$	From IB NZ Master AUD\$	Net effect NZ\$
IB Allocated Account	Halifax	5,790,000	(23,280,000)	(17,490,000)
Halifax Pro Allocated Account	Halifax	1,500,000	-	1,500,000
Saxo Allocated Account	Halifax	300,000	-	300,000
BWA USD Account	Halifax	3,639,887	(1,522,510)	2,117,377
Various NAB Foreign Currency Accounts	Halifax	40,473,943	(18,348,912)	22,125,031
ANZ HNZ Account	Halifax NZ	26,957,907	(7,163,029)	19,794,878
ANZ HNZ Foreign Currency Accounts		-	(7,984,040)	(7,984,040)
Total		78,661,736	(58,298,491)	20,363,246

The above analysis indicates:

- The IB Allocated Account received net payments of **\$17.5 million** from the IB NZ Master Account, indicating a commingling of funds between Halifax AU and Halifax NZ Clients; and
- Net funds of **\$22.1 million** have been transferred from the Various NAB Foreign Currency Accounts to the IB NZ Master Account indicating a mixing of funds from Clients on the IB AU, IB NZ, MT4 and MT5 platforms access Australia and New Zealand.



3.6 Commingling of funds between Halifax AU and Halifax NZ Accounts

3.6.1 Approach

To form a view as to whether funds had been commingled between Halifax AU and Halifax NZ, I instructed Paul Harlond and Candice Ferreira to undertake the following:

- Preparation of a summary of all transactions between the ANZ HNZ Account (which was the main account used by Halifax NZ clients to deposit funds) and the Halifax AU NAB NZD Account. The outcome of this analysis is outlined in 3.6.2; and
- A review of transactions to and from the IB NZ Master Account.

3.6.2 Transactions between the ANZ HNZ Account (Halifax NZ) and the NAB NZD Account (Halifax AU)

A summary of the transactions between the ANZ HNZ Account and the NAB NZD Account for the period from 29 June 2015 to 23 November 2018 is as follows:

Transaction	Amount NZD
ANZ HNZ Account to NAB NZD Account (Halifax NZ to Halifax AU)	8,139,247
ANZ HNZ Account to Various NAB Foreign Currency Accounts (Halifax NZ to Halifax AU)	350,000
NAB NZD Account and ANZ HNZ Account (Halifax AU to Halifax NZ)	(2,114,724)
Net transactions from Halifax NZ to Halifax AU	6,374,523



3.7 Commingling of funds in the BWA Merchant Account

The BWA Merchant Account was the account into which funds deposited by Clients via credit card were settled.

I instructed Sarah Arnfield to undertake a review of all payments in the BWA Merchant Account in 2018 and I have formed the view that this account was operated on a 'pooled' basis and that funds were transferred into the IB Allocated Account and the Halifax Pro Allocated Account on an ad hoc basis.

The Halifax Group **did not** allocate the funds deposited into this account to either the Halifax Pro Allocated Account or the IB Allocated Account depending on the Client deposits received. The effect of this is that funds deposited by IB Clients and MT4 or MT5 Clients were commingled in this account.

A total of \$2.8 million in 37 round sum payments was made from the BWA Merchant Account to the Halifax Pro Allocated Account and IB Allocated Account from 1 January 2017 to November 2018.

The last payment to the IB Allocated Account was made on 15 November 2018 in the amount of \$120,000. There was no direct link between this payment and any specific Client deposits.

On this basis, it will only be feasible to trace funds deposited into this account subsequent to this date totalling \$36,285.31. Based on my review of the BWA Merchant Accounts, there were 8 deposits into this account subsequent to 15 November 2018.

The ability to trace deposits into this account may also be affected by chargebacks.

3.8 Commingling of funds in Various NAB Foreign Currency Accounts

3.8.1 Introduction

In circumstances where Client funds were deposited into the Various NAB Foreign Currency Accounts, these funds were not transferred to the Halifax Pro Allocated Account or IB Allocated Account. Instead, the funds remained in the Various NAB Foreign Currency Accounts and were transferred within the Halifax Group on an ad hoc basis as required. Halifax Treasury has advised that this practice was to avoid currency exposure and exchange costs.

My investigative work in relation to the Various NAB Foreign Currency Accounts indicates that:

- Foreign currency funds across all platforms (IB AU, IB NZ, MT4 and MT5) were deposited into the same foreign currency accounts and **there was no segregation of foreign currency accounts by platform**.
- Funds were transferred to various company (or "house") accounts and to the IB AU Master Account and IB NZ Master Account on an ad hoc basis.
- Based on my review of the Various NAB Foreign Currency Accounts, I understand that certain third-party invoices were paid from the NAB USD and NAB NZD Accounts.
- Halifax also made payments from the NAB USD Account to fund hedging activities with Invast and Gain (see section 3.9).
- On 21 November 2018, round sum payments totalling \$683,000 were made to the NAB Company Account from the Various NAB Foreign Currency Accounts. There was no link between these payments and specific Clients. Accordingly, I have formed a view that tracing is not practically feasible in relation to Client funds held in these accounts given that they contain commingled funds **and** it is not feasible to determine which Clients' funds were transferred to the NAB Company Account. Refer to section 3.11.3.



3.8.2 Specific examples of funds remaining in the Various NAB Foreign Currency Accounts

The following provides a number of examples of funds being deposited into the Various NAB Foreign Currency Accounts by IB Clients and illustrates that these funds were not subsequently transferred to the IB Master Accounts.

- On 30 January 2017, JPY8,000 was transferred to the NAB JPY Account. The next transfer from the NAB JPY Account to the IB AU Master Account was JPY27,946.79 on 13 July 2018; and
- On 8 February 2018, 7,630.85EUR was deposited by the client with account number ending 7299 in the NAB EUR Account. The next payment made to the IB AU Master Account from the NAB EUR Account was on 16 February 2018 for an amount of EUR49,990.00.

The following is an example of IB Clients and MT4 Clients depositing funds into the NAB USD Account on the same day and illustrates that these funds were not transferred to the IB Master Accounts on the same day:

- On 26 June 2018, the client with number ending 0991 (an IB Client) deposited USD9,976.26 into the NAB USD Account;
- On 26 June 2018, the client with number ending 7317 (an MT4 Client) deposited USD3,974.00 into the NAB USD Account;
- There were no further transfers from the NAB USD Account to the IB Master Accounts from 26 June 2018 to the date of appointment. The last transfer from the NAB USD Account to the Halifax AU Master Account was on 20 June 2018. The next payment made from the NAB USD Account was to the Halifax IB NZ Master Account on 3 July 2018 in the amount of \$300,000.

3.9 Payments from the NAB USD Account to Invast and Gain

3.9.1 Background

Halifax AU engaged Invast and Gain to place hedges on positions for the Halifax Group on MT4 and MT5 A-book Client positions. 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 as needs basis. Conversely, in circumstances where a hedging profit was made by Halifax AU, funds would be returned to Halifax AU by the liquidity providers.

In respect to stock and CFD trading, Halifax AU hedged the virtual trades on the MT5 platform through acquiring or selling stocks in Halifax AU's account with IB called the IB AU Prop Account. Stocks acquired and held in the IB AU Prop Account are not in the name of individual Clients but were held as a pool of stocks available to Halifax AU. This is discussed in section 3.14.

3.9.2 Summary of payments to Invast and Gain

Sarah Arnfield (with the assistance of Halifax Treasury) has undertaken a review of payments made to Invast from September 2016 to 23 November 2018 and prepared the following summary:

Source of payment	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

Sarah Arnfield (with the assistance of Halifax Treasury) has undertaken a review of payments made to from August 2017 to 23 November 2018 to Gain and prepared the following summary:

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

The above indicates that the funds held with Invast and Gain are commingled on the basis that funds were paid to Invast and Gain from the NAB USD Account, NAB NZD Account and the Halifax Pro Allocated Account which were designated as section 981B trust accounts and held commingled funds across all platforms and across both Australian and New Zealand Clients (sections 3.2, 3.10, 3.13).



3.10 Commingling of funds in NAB USD and NAB NZD Accounts

The most commonly used of the Various NAB Foreign Currency Accounts was the NAB USD and the NAB NZD accounts. The volume of transactions in these accounts is as follows:

- NAB USD – 7,527 transactions since September 2013, deposits totalling USD\$89.5 million; and
- NAB NZD – 648 transactions since September 2013, deposits totalling NZD\$16.1 million.

I have not undertaken (or instructed other KPMG staff to undertake) a detailed review of these accounts on the basis that there is no doubt that these accounts are affected by the commingling and it is not practically feasible to trace the funds in these accounts to individual clients.

I consider that these accounts are commingled for the following reasons:

- Clients from the IB AU, IB NZ, MT4 and MT5 platforms all deposited funds into these accounts. The amounts were not transferred to the Halifax Pro Allocated Account or IB Allocated Account, and rather, remained in the respective accounts and were used for payment of redemptions, third party expenses and internal transfers to other accounts in the Halifax Group (including the NAB Company Account) and profit withdrawals;
- In particular, there has been evidence of transfers between both the NAB USD Account and the NAB NZD Account to and from the following commingled Halifax Group Accounts:
 - IB AU Master Account;
 - IB NZ Master Account;
 - ANZ HNZ Account; and
 - Accounts held by third party hedging providers, including Invast and Gain.
- Third party payments totalling \$406,374.99 were made from the NAB NZD Account from 1 January 2017 to the date of appointment;
- Third party payments totalling \$3,730,284.97 were made from the NAB USD Account from 1 January 2017 to the date of appointment;
- On 21 November 2018, USD245,124 was paid to the NAB Company Account. Accordingly, funds paid into the NAB USD Account are not traceable given that it is not practically feasible to identify to which client the funds transferred to the NAB USD Account belonged; and
- On 21 November 2018, NZD197,177.40 was paid to the NAB Company Account. Accordingly, it is not feasible to trace Client funds paid into the NAB NZD Account given that it is practically feasible to identify to which Client the funds transferred to the NAB USD Account belonged and/or a specific Client's entitlement to those funds.

There was a series of Client deposits received on 22 November 2018. However, on the same date, there was also a series of Client redemptions. Given the commingling in the account and the inability to trace the Client redemptions to individual Client funds, these redemptions had the effect of making it not feasible to trace the Client deposits on the same date. The same logic applies for the ANZ HNZ Account for the period from 21 November 2018 to 27 November 2018.



3.11 Further review of Halifax AU Various NAB Foreign Currency Accounts (excluding NAB USD and NAB NZD)

3.11.1 Summary

To determine whether the less frequently used foreign currency accounts contain funds which could potentially be traced, I instructed Sarah Arnfield undertake a detailed review of all transactions in the JPY, SGD, EUR, GBP, HKD and CFH accounts from June 2015.

3.11.2 Potentially traceable foreign currency accounts

3.11.2.1 NAB JPY Account

I consider that the NAB JPY Account may be traceable on the basis that only 2 Clients deposited funds from June 2016 (in 4 separate payments).

On 13 July 2019, a payment of JPY2.3 million was made to the IB NZ Master Account, leaving a balance of JPY1.4 million.

There may be an argument that the two Clients who deposited funds have an entitlement to the balance of the funds in the JPY Account.

3.11.2.2 NAB HKD Account

Client deposits were made by a specific client on 5 May 2018 and 23 May 2018 totalling HKD39,500. No payments were made after this date and, accordingly, it may be possible to trace these payments.

3.11.3 Payments from Various NAB Foreign Currency Accounts on 21 November 2018

The following payments were made from the Various NAB Foreign Currency Accounts to the NAB Company Account on 21 November 2018:

Account	Amount AUD
NAB USD	330,000
NAB NZD	180,000
NAB SGD	100,000
NAB GBP	38,000
NAB EUR	30,000
NAB CHF	5,000
Total	683,000



Following the transfer of funds to the NAB Company Account, a payment of \$1.6 million was made to the ATO. Those payments were not identifiable to individual Clients.

In relation to the SGD, GBP, EUR and CHF Accounts, there were no further deposits following the payment to the NAB Company Account. Accordingly, it is my view that it would not be practically feasible to trace the remaining balances in these accounts because the 'sweep' of funds means that it is not feasible to distinguish which Clients' funds remain in the respective accounts.

3.12 Client deposits and payments to IB NZ Master Account

In the course of reviewing the Various NAB Foreign Currency Accounts, Sarah Arnfield identified a number of situations in which a Client made a large deposit and, on the following day (or shortly thereafter), the equivalent amount was transferred out to the IB NZ Master Account.

These transactions are as follows:

Account	Date	Deposit amount
SGD	24 November 2017	70,000
HKD	14 July 2017	3,500,000
GBP	29 September 2017	185,000

These amounts are possibly traceable if the payment to IB could be linked to an individual Client. I have been advised by employees of Halifax that there is unlikely to be an email trail or written request for the transfer of the above funds to the IB NZ Master Account.

Further, there may be an issue which prevents tracing in that the funds were transferred to the IB NZ Master Account from an account that was commingled and part of the single deficient mixed fund, which may make it not practically feasible to trace the deposit to an individual client.

The above table should not be considered as a complete list of transactions of this nature. A far more time consuming analysis will be required in order to determine other instances of transfers to the IB Master Accounts on the day following a Client deposit.

Further work may be undertaken in relation to this potential category of Client in due course.



3.13 Investigation of Halifax NZ Foreign Currency Accounts

The following provides a summary of my review of the Halifax NZ Foreign Currency Accounts.

Account	Commingled	Feasible to Trace	Reason	Balance as at date of appointment NZD
ANZ EUR	Yes	No	Account contains deposits from IB NZ Master Account on 2 May 2018 and 17 May 2018 in the amount of EUR2.3 million and EUR2.1 million respectively. Funds then paid out as Client redemptions. Balance is commingled.	5,179.61
ANZ GBP	N/A	N/A	Minimal balance.	-
ANZ USD	Yes	No	NZ\$800,000 deposited into ANZ USD account on 13 November 2018 from the Halifax NZ IB Master Account. The balance of funds in the account is commingled.	1,174,032.81
ANZ AUD	N/A	N/A	Minimal balance.	19.9
Total				1,179,232.32

All funds held in foreign currency accounts operated by Halifax NZ are affected by the commingling and it is not practically feasible to trace these funds to individual Clients.



3.14 Commingling of funds in the Halifax AU and Halifax NZ IB Prop Accounts

3.14.1 Halifax AU

Halifax AU maintained an account with IB called the IB AU Prop Account. The IB AU Prop Account was used for the following:

- In the case of hedging on the MT5 platform, the Client would execute a trade of shares on the virtual MT5 platform. Halifax AU (through IB) would then acquire and apply 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 the Client but are held as a pool of stocks available to Halifax AU; and
- Company interest and commissions (ie company revenue) was paid by IB into the IB AU Prop Account.

All cash which is transferred into the IB AU Prop Account to pay for the shares held therein, as well as the commission revenue, must be transferred to the IB AU Master Account before it is able to be transferred into the IB AU Prop Account and on this basis, the funds are affected by the commingling as a result of passing through the commingled IB AU Master Account.

3.14.2 Halifax NZ

Halifax NZ also maintained a Prop Account with IB. The IB NZ Prop Account was not used for hedging but rather contained company interest and commissions payable to Halifax NZ from IB.

This revenue was also transferred through the IB NZ Master Account prior to being transferred to the IB NZ Prop Account and on this basis, the funds in the IB NZ Prop Account are also commingled.



4. Outcome of investigations – categorisation of investor accounts

Key takeaways

- 1 I have determined that **98% of Client Monies held by the Halifax Group are affected by commingling** and it is not practically feasible to trace trust assets to individual Clients.
- 2 I have identified a number of accounts which hold funds that are possibly traceable including suspense accounts and non-allocated accounts.

4.1 Introduction

For the purposes of my analysis, I have categorised Client accounts as follows:

Category

Commingled	<p>Accounts which I know are commingled to such an extent that tracing is not practically feasible. For example the IB Allocated Account, ANZ HNZ Account, Halifax Pro Allocated Account, NAB NZD and NAB USD Accounts.</p> <p>These accounts contain funds that are part of a single deficient mixed fund the contents of which are not practically feasible to trace.</p>
Traceable	<p>Accounts which hold funds that appear entirely or partially traceable (eg suspense accounts).</p>
Partially Traceable	<p>Accounts which are affected by the commingling and the Deficiency but contain client funds deposited subsequent to the last transfer out of the commingled account.</p> <p>For example, if a transfer was made from Halifax Account A to Halifax Account B on 20 November 2018, but there were 10 client deposits into Halifax Account A from 21 November 2018 to 23 November 2018, these deposits <i>may</i> be traceable on the basis that they occurred subsequent to the last transfer out of Account A.</p> <p>Accounts may only be traceable in circumstances where the relevant client account on the trading platforms has not been credited in relation to the client deposits which may be traceable.</p>
Subject to 25 January 2019 Court Order	<p>Accounts which were subject to the Orders made by the Court on 25 January 2019 in relation to the funding application. These funds are being applied to the costs of the VA/liquidation (not including appointee and legal fees).</p>



Further information required

Accounts for which I require further information to determine whether the funds contained therein are affected by the commingling and deficiency in Client monies or able to be traced (mainly overseas merchant facilities).

Minimal balances

Accounts with balances of less than \$100.

4.2 Halifax AU – Summary

A summary of accounts which fall within each of the categories of accounts is as follows:

Category	Accounts	Balance AUD as at 23 November 2018	% of funds
Commingled	13	144,651,293.72	98%
Traceable	4	203,026.91	0%
Partially Traceable	3	80,730.32	0%
Subject to 25 January 2019 Court Order	3	2,210,165.57	2%
More information required	13	665,308.06	0%
Minimal balances	25	229.56	0%
Total	61	147,810,754.04	100%

I have determined that **98% of Client Monies held by the Halifax Group are affected by commingling** and it is not practically feasible to trace these assets to individual Clients or to any entitlement on the part of the individual Clients.

Refer to **Annexure B** for a listing of accounts in each of the categories above.

4.2.1 Commingled accounts

Account	Balance AUD as at 23 November 2018	Reason	Ref.
Halifax Pro Allocated Account	162,637.73	Significant transfers between the IB Allocated Account and Halifax Pro Allocated Account indicating a commingling of funds between Clients on the IB, MT4 and MT5 platforms.	3.2



IB Allocated Account	148,100.26	Significant transfers between the IB Allocated Account and Halifax Pro Allocated Account indicating a commingling of funds between Clients on the IB, MT4 and MT5 platforms.	3.2
Halifax Grouped Account	12,552.98	Contains (amongst other things) revenue withdrawals from the Halifax Pro Allocated Account.	
Invast	4,462,212.68	Funds transferred to Invast from NAB USD and NZD Accounts which hold commingled funds.	3.9
Gain	401,267.59	Funds transferred to Gain from NAB USD and NZD Accounts which hold commingled funds.	3.9
IB AU Master Account and Halifax AU IB Client Sub-Accounts	111,362,100.71	These accounts hold a mix of cash, stocks and other securities. The IB AU Master Account was operated on a pooled basis and accordingly, the IB Client Sub-Accounts contain commingled funds.	3.3
IB AU Prop Account	27,291,901.00	This account holds a mix of cash, stocks and other securities. Contains stocks and other assets held for the purposes of hedging client positions on the MT5 platform. Contains cash paid by IB in relation to commission. Further, funds were transferred into the IB AU Prop Account from the IB AU Master Account.	3.14
NAB NZD Account	496,795.56	High volume of transactions between NAB NZD Account and ANZ HNZ Account as well as transfers to the IB NZ Master Account and the IB AU Master Account.	3.6
NAB USD Account	146,962.65	Contains Client deposits from IB, MT4 and MT5 accounts as well as a high volume of transactions to and from the IB AU Master Account and IB NZ Master Account.	3.8, 3.9, 3.10



NAB SGD Account	54,582.56	Contains funds deposited by Clients across all platforms. Multiple transfers to other Halifax Group accounts. Payment made to NAB Company Account on 21 November 2018.	3.11
NAB GBP Account	9,363.81	Contains funds deposited by Clients across all platforms. Multiple transfers to other Halifax Group accounts. Payment made to NAB Company Account on 21 November 2018.	3.11
NAB EUR Account	82,199.72	Contains funds deposited by Clients across all platforms. Multiple transfers to other Halifax Group Accounts. Payment made to NAB Company Account on 21 November 2018.	3.11
NAB Company Account (No 2)	20,617.19	Appear to be Client deposits in account and was also used to pay various company expenses. Not practically feasible to trace as there are no Client deposits made following the \$15k payment to the ATO on 13 June 2018.	
Total	144,651,293.72		

4.2.2 Traceable accounts

I consider the following accounts to be traceable:

Account	Reason	Balance AUD as at 23 November 2019 \$
Halifax Pro Suspense Account	Contains Client deposits which can be identified by Client number. Affected by the commingling only to the extent that deposits in the account relate to multiple clients. Not otherwise affected by commingling or deficiency.	57,200.00
Halifax IB Suspense Account	Contains Client deposits which can be identified by Client number. Affected by the commingling only to the extent that deposits in the account relate to multiple clients. Not otherwise affected by commingling or deficiency.	8,490.44



Unallocated Account	Contains Client deposits which cannot be allocated (as well as some funds from an old unallocated account). Affected by the commingling only to the extent that deposits in the account relate to multiple clients. Not otherwise affected by commingling or deficiency.	136,336.47
Saxo Suspense Account	Contains Client deposits which Halifax Treasury were unable to allocate. Affected by the commingling only to the extent that deposits in the account relate to multiple clients. Not otherwise affected by commingling or deficiency.	1,000.00
Total		203,026.91

The above figures do not include deposits made by Clients on or after the appointment of the Voluntary Administrators.

4.2.3 Partially Traceable Accounts

I consider the following accounts to be partially traceable (that is, they are affected by the commingling but contain investor funds deposited subsequent to the last transfer out of the account).

Account	Reason	Balance AUD as at 23 November 2019 \$
BWA Merchant Account	Deposits subsequent to 15 November 2018 are potentially traceable (subject to chargebacks).	55,118.05
NAB JPY Account	Contains funds of only 2 Clients since June 2016, with no payments subsequent to the last Client deposits.	16,991.07
NAB HKD Account	Funds deposited on 2 May 2018 and 23 May 2018 may be traceable on the basis that there were no payments from the account subsequent to those dates.	8,621.11
Total		80,730.23



4.2.4 Funds subject to 25 January 2019 Court Order

On 25 January 2019, an Order was made by the Federal Court that the Administrators were justified in using and applying the funds in the following accounts to fund ongoing operating expenses:

Account	Balance as at 23 November 2019 AUD
NAB Company Account [946205445]	517,193.94
NAB Company Account [08580742]	82,645.47
Bankwest Term Deposit	1,610,326.16
Total	2,210,165.57

4.2.5 Accounts for which I require further information

I require additional information from third parties in order to determine whether funds held in the following accounts are affected by the commingling and deficiency in Client funds. I am continuing to liaise with these parties in this regard.



Account	Balance AUD as at 23 November 2018
Money market call account (USD)	10,682.90
Neteller (USD)	205,061.62
Payment Asia Merchant (CNY)	124,433.12
RPN Pay (CNY)	3,993.95
Paysec (CNY)	808.48
GSD Pay (AUD)	Unknown
BWA Gold TD (AUD) [9850083719]	165,000.00
BWA Gold TD (AUD) [9850266260]	111,385.00
Group Allocated Account	3,283.90
Old IB AU Master Account [REDACTED]	15,505.51
Old IB AU Prop [REDACTED]	1,200.10
Old IB AU Disclosed Master [REDACTED]	23,953.48
Old IB AU Disclosed Prop [REDACTED]	Unknown
Old IB AU Master Account [REDACTED]	Unknown
Old IB AU Disclosed Prop Account Unknown	Unknown
Total	665,308.06

4.2.6 Accounts with minimal balance

I have not undertaken a review of the following accounts given their minimal balances.



Balance AUD as at 23 November 2018	
Saxo Allocated Account	-
FXCM Allocated Account	-
Gain Allocated Account	-
FXDD Allocated Account	-
Infinity Allocated Account	-
FX Allocated Account	-
Mirus Allocated Account	-
ANZ Company Account	77.93
Skrill Merchant Facility	5.0
Credit Card Merchant Account (BWA)	-
iSignThis Merchant Account	-
Dynamic Payment Merchant	-
Bad Debts Victoria Account	-
GT Pay	-
FXCM Suspense Account	50.26
Gain Suspense Account	-
FXDD Suspense Account	-
Infinity Suspense	-
FX Suspense	-
Mirus Suspense Account	-
NAB CHF Account	43.47
GFT Suspense Account	20.00
Old IB AU Master Account [REDACTED]	32.90



Balance AUD as at 23 November 2018	
Old IB AU Prop [REDACTED]	-
Total	229.56

4.3 Categorisation of accounts – Halifax NZ

The following table provides a summary of the categories of Halifax NZ accounts.

	Number of accounts	Balance NZD as at 27 November 2018	% of funds
Commingled	5	50,456,419.78	98%
Company funds	3	1,209,909.99	2%
More information required	4	5,200.69	0%
Minimal balances	2	25.90	0%
Total	14	51,671,556.36	100%

Refer to **Annexure B** for further detail.

4.3.1 Commingled accounts

I consider the following accounts to be commingled:

Account	Balance NZD as at 27 November 2018	Reason	Section Ref
ANZ EUR Account	5,179.61	Payment in from IB of EUR2.1 million on 17 May 2018. Redemption of EUR2.1 million on 24 May 2018. No further transactions subsequent to this date. Balance is commingled.	3.13
ANZ USD Account	1,174,032.81	Deposit of USD800,000 on 13 November 2018 to IB NZ Master Account. These funds were commingled and no further Client deposits were made subsequent to this transfer.	3.133.13



IB NZ Prop Account [REDACTED]	188,882.00	Commingled due to transfers in an out of IB NZ Master Account which holds commingled funds.	3.14
IB NZ Master Account [REDACTED] (and client accounts)	48,510,613.00	These accounts hold a mix of cash, stocks and other securities. Maintained on a pooled basis and contains transfers from other Halifax Group accounts which are commingled and part of the single deficient mixed fund.	3.3
ANZ HNZ Account	577,712.36	Account used by Clients to deposit funds.	3.6.2
Total	50,456,419.78		

4.3.2 Company funds

The following accounts are considered company funds and have been used by the Administrators and Liquidators to meet the costs of the external administration.

Account	Balance NZD as at 27 November 2018	Description
ANZ Business Current Account	95,446.57	Everyday company account
ANZ Online Account	898.90	Online account (rarely used)
Term Deposit	1,113,564.52	Term deposit for FMA capital requirements
Total	1,209,909.99	



4.3.3 Minimal balances

The following accounts have minimal balances and have not been considered for the purposes of this memo.

Account	Balance NZD as at 27 November 2018
ANZ Business Current Account	-
ANZ GBP Account	-
ANZ AUD Account	19.90
Old IB NZ Non Disclosed Master Account	11.28
Old IB NZ Non Disclosed Prop Account	(5.28)
Total	25.90

4.3.4 Accounts for which I require further information

Account	Balance NZD as at 27 November 2018
Old IB NZ Disclosed Master Account	500.69
Old IB NZ Disclosed Master Account	4,700.00
Total	5,200.69