

NOTICE OF FILING

This document was lodged electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 12/12/2019 2:20:47 PM AEDT and has been accepted for filing under the Court's Rules. Details of filing follow and important additional information about these are set out below.

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 that reads "Sia Lagos".

Dated: 12/12/2019 2:20:49 PM AEDT

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.

The date and time of lodgment also shown above are the date and time that the document was received by the Court. Under the Court's Rules the date of filing of the document is the day it was lodged (if that is a business day for the Registry which accepts it and the document was received by 4.30 pm local time at that Registry) or otherwise the next working day for that Registry.



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 AND MORGAN JOHN KELLY IN THEIR CAPACITIES AS JOINT AND SEVERAL LIQUIDATORS OF HALIFAX INVESTMENT SERVICES PTY LTD (IN LIQUIDATION) ACN 096 980 522

Plaintiffs

Affidavit of: **Ian Phillip Sutherland**

Address: Level 38, Tower Three, International Towers Sydney, 300 Barangaroo Avenue, Sydney NSW 2000

Occupation: Chartered Accountant

Date: 11 December 2019

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Filed on behalf of **John Morgan Kelly and Philip Alexander Quinlan, Plaintiffs**

Prepared by **Jason Opperman and Katherine Smith**

Law firm **K&L Gates**

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[Form approved 01/08/2011]

AU_Active01 905842000v2 PENKLIE

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I, Ian Phillip Sutherland of Level 38, Three International Towers Sydney, 300 Barangaroo Avenue, Sydney, NSW 2000 Chartered Accountant, say on oath:

1. I am a Director in the Deals, Tax & Legal Restructuring Services team of KPMG Australia, under the supervision of Morgan John Kelly and Philip Alexander Quinlan (**Liquidators**), the Plaintiffs in this proceeding and partners of KPMG.
2. I believe the information contained in this affidavit is true.
3. The following facts are within my own personal knowledge except as otherwise stated.
4. This is my third affidavit in relation to these proceedings. On 26 June 2019, I affirmed an affidavit in these proceedings (**First Affidavit**). On 26 July 2019, I affirmed a second affidavit to correct and qualify certain matters addressed in my First Affidavit.
5. On 14 November 2019, this honourable Court made orders in the proceedings (**Orders**). A sealed copy of the Orders are annexed to this affidavit and marked "**IPS-2**". These orders require, inter alia, the Liquidators to serve certain documents on investors by email in the case of all investors for whom they held email addresses.
6. I was responsible, on behalf of the Liquidators, for implementing the service requirements contained in each of those orders.

Order 3a: Email (where an email address is known)

7. As a result of the combined effect of those orders, and mirror orders obtained in the High Court of New Zealand, the Liquidators intended to send the following documents by way of attachments to an email to each such investor (**Proposed Email**):
 - (a) Investor Notice – 15 November 2019




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- (b) Investor Notice – Annexure A
- (c) Investor Notice – Annexure B
- (d) Investor Notice – Annexure C
- (e) Originating application for directions (25 September 2019)
- (f) Orders of Venning J – 2 October 2019
- (g) Orders of Venning J – 8 November 2019
- (h) Orders of Gleeson J – 14 November 2019

8. The Liquidators engaged Link Market Services Limited (**Link**) to send the Proposed Email to each investor in respect of which the Liquidators held email addresses.

9. Annexed to this affidavit and marked "**IPS-3**" is a copy of the Proposed Email without its attachments.

10. On Friday 15 November 2019 at 5:01pm AEDT, Link advised me via email that, in their opinion, the Proposed Email would not be able to be sent to investors due to the large file sizes of the attachments. A copy of the email from Adam Dajani of Link outlining the reasons given by the Link mail-house is annexed to this affidavit and marked "**IPS-4**".

11. Following Link's advice, I arranged for the Notice and Annexures to be emailed by Link in one PDF document (**Amended Email**). This occurred on Friday 15 November 2019. The email provided links to the following documents:

- (a) Originating application for directions (25 September 2019)
- (b) Orders of Venning J – 2 October 2019
- (c) Orders of Venning J 8 November 2019
- (d) Orders of Gleeson J – 24 November 2019

12. A copy of the Amended Email without its attachments is annexed to this affidavit and marked "**IPS-5**".

13. On 16 November 2019, I arranged for a further email to be sent to investors (**Further Email**).

14. The Further Email informed investors that:

- (a) they would have received an earlier email on 15 November 2019 attaching the Investor Notice;
- (b) due to size constraints, copies of the following orders could not be attached to the email on 15 November 2019:
 - (i) Originating application for directions (25 September 2019)




- (ii) Orders of Venning J – 2 October 2019
- (iii) Orders of Venning J – 8 November 2019
- (iv) Orders of Gleeson J – 14 November 2019
- (c) for convenience, links were provided to these documents, which can be viewed on the Ferrier Hodgson website.

15. A copy of the Further Email dated 16 November 2019 is annexed to this affidavit and marked "IPS-6".

Order 3b: Post to the postal address that has been provided to Halifax Investment Services Pty Ltd (In Liquidation) (Halifax AU)

16. I arranged for the following documents to be sent to the postal addresses provided by the respective investors for whom we did not have an email address (**Posted Notice**):

- (a) Investor Notice – 15 November 2019
- (b) Investor Notice – Annexure A
- (c) Investor Notice – Annexure B
- (d) Investor Notice – Annexure C
- (e) Originating application for directions (25 September 2019)
- (f) Orders of Venning J – 2 October 2019
- (g) Orders of Venning J – 8 November 2019
- (h) Orders of Gleeson J – 14 November 2019

17. The Posted Notice was sent to a total of 1,574 investors.

Order 3c: KPMG or Ferrier Hodgson website

18. I caused the Investor Notice and a copy of these orders to be posted on the Ferrier Hodgson website.

Order 3d: Halifax AU website

19. I arranged for the Investor Notice and a copy of these orders to be posted on the Halifax AU website, as well as the Halifax New Zealand Limited (In Liquidation) (**Halifax NZ**) website.

Order 3e: Publishing a message on the Halifax AU platforms

20. I caused a message to be published on the Halifax AU platforms (as well as the Halifax NZ platforms) directing investors to the KPMG or Ferrier Hodgson and/or Halifax AU / Halifax NZ websites where the Investor Notice and a copy of these orders has been posted.

Order 4: Responses to Notices

21. The Liquidators have received 11 responses to Investor Notice: Annexure A, copies of which are exhibited to this affidavit and marked "**IPS-7**".
22. The Liquidators have received 96 responses to Investor Notice: Annexure B, copies of which are exhibited to this affidavit and marked "**IPS-8**".
23. The Liquidators have received 68 responses to Investor Notice: Annexure C, copies of which are exhibited to this affidavit and marked "**IPS-9**".
24. In relation to response C53 which is located at Tab C53 "**IPS-9**", it appears that the investor has completed an annexure taken from the draft Investor Notice annexed to the Orders made by the Federal Court of Australia which were emailed to the investors and published on the websites as described above.

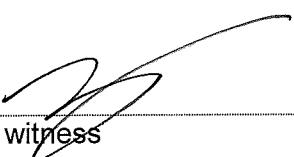
Sworn by the deponent
at Sydney
in New South Wales
on 11 December 2019
Before me:

)
)
)
)
)



Signature of deponent

Signature of witness



Name of witness: Katherine Marie Smith
Address of witness: Level 31, 1 O'Connell Street, Sydney NSW 2000
Qualification of witness: Solicitor

IPS-2

Rule 29.02(8)

Certificate identifying annexure

No. NSD 2191 of 2018

Federal Court of Australia

District Registry: New South Wales

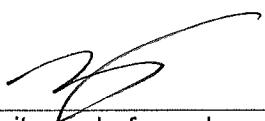
Division: General

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

**MORGAN JOHN KELLY AND PHILIP ALEXANDER QUINLAN IN THEIR CAPACITY AS
JOINT AND SEVERAL LIQUIDATORS OF HALIFAX INVESTMENT SERVICES PTY LTD (IN
LIQUIDATION) ACN 096 980 522 AND OTHERS NAMED IN THE SCHEDULE**

Plaintiffs

This is the annexure marked "IPS-2" to the affidavit of **Ian Phillip Sutherland** sworn on 11 December 2019 before me:



Signature of witness before whom the
affidavit is sworn

Name of witness: *Katherine Marie Smith*
Address of witness: Level 31, 1 O'Connell
Street, Sydney NSW 2000
Qualification of witness: Solicitor

Filed on behalf of	Morgan John Kelly and Philip Alexander Quinlan in their capacity as joint and several liquidators of Halifax Investment Services Pty Ltd (in liquidation) ACN 096 980 522, Plaintiffs		
Prepared by	Jason Opperman and Katherine Smith		
Law firm	K&L Gates		
Tel	+61 2 9513 2300	Fax	
Email	jason.opperman@klgates.com	and	
DX	170 Sydney	Ref	
Address for service Level 31, 1 O'Connell Street, Sydney NSW 2000			



Federal Court of Australia

District Registry: New South Wales

Division: General

No: NSD2191/2018

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

MORGAN JOHN KELLY AND PHILIP ALEXANDER QUINLAN AS JOINT AND SEVERAL LIQUIDATORS OF HALIFAX INVESTMENT SERVICES PTY LTD (IN LIQUIDATION) (ACN 096 980 522) and another named in the schedule
First and Second Plaintiffs

ORDER

JUDGE: JUSTICE GLEESON

DATE OF ORDER: 14 November 2019

WHERE MADE: Sydney

THE COURT ORDERS THAT:

1. Pursuant to s 90-15 of the Insolvency Practice Schedule (Schedule 2) to the *Corporations Act 2001* (Cth) (IPS), the plaintiffs are to provide a communication to investors in the form attached to these orders (**Investor Notice**).
2. Pursuant to s 90-15 of the IPS, investors in Halifax Investment Services Pty Ltd (In liquidation) (**Halifax AU**) are to complete the relevant form(s) annexed to the Investor Notice and return them to the plaintiffs in the manner indicated in the form(s) within 15 working days of the notice being provided to investors if they wish to be heard in relation to the matters identified in those forms.
3. Pursuant to s 90-15 of the IPS, the plaintiffs are to notify investors in Halifax AU of orders 1 and 2 above, and to provide them with the Investor Notice by:
 - a. email (where an email address is known to the plaintiffs); or
 - b. post to the postal address that has been provided to Halifax AU (if a postal address, but not an email address, is known to the plaintiffs);
 - c. posting the Investor Notice and a copy of these orders on the KPMG or Ferrier Hodgson website;
 - d. posting the Investor Notice and a copy of these orders on the Halifax AU website;



- e. publishing a message on the Halifax AU platforms directing investors to the page on the KPMG or Ferrier Hodgson website and/or the Halifax AU website which contain a copy of the Investor Notice and these orders.
4. The plaintiffs are to ensure that any responses received from clients are conveyed to the Court before the case management hearing referred to in order 5.
5. The matter is listed for a case management hearing at 2.15 pm on Friday 13 December 2019.

Date that entry is stamped: 14 November 2019

Wendy Soden
Registrar



Schedule

No: NSD2191/2018

Federal Court of Australia

District Registry: New South Wales

Division: General

Third Plaintiff

HALIFAX INVESTMENT SERVICES PTY LTD (IN
LIQUIDATION) (ACN 096 980 522)



Annexure A

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Australia

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IMPORTANT NOTICE:

INVESTOR REPRESENTATION AND OPPORTUNITIES TO BE HEARD

Halifax Investment Services Pty Limited (In Liquidation) (Halifax AU)
Halifax New Zealand Limited (In Liquidation) (Halifax NZ)

Part 1: Purpose of this Notice

This Notice outlines the opportunities which investors have to be heard in the court proceedings relating to the liquidations of Halifax AU and Halifax NZ. It prescribes the procedure which must be followed by investors wishing to be heard.

There is no requirement for investors to respond to this notice. Investor participation in this process is optional. The Trustees of the trust funds and the Liquidators of the two companies (referred to together below as the Liquidators) will be guided by the courts in determining how to return investor funds, and all investors (whether or not they participate directly in Court proceedings) will have that amount of their investments returned to them which the Court directs.

There are three matters in particular of which investors are put on notice:

1. The opportunity to be heard in respect of the Liquidators' applications for proposed cooperation between the Federal Court of Australia (**Australian Court**) dealing with the Halifax AU liquidation and the High Court of New Zealand (**NZ Court**) dealing with the Halifax NZ liquidation.
2. The opportunity to suggest to the Liquidators other issues, not already captured by the Liquidators' proposed represented investor groups, which investors believe bear on the proper way to distribute the trust funds, and the opportunity to indicate an interest in being a representative of a group, or to seek to be heard by the Australian and New Zealand Courts in respect of any relevant individual circumstances, in particular, the traceability of their individual investments.
3. The opportunity to be heard in respect of the Liquidators' application for directions and/or judicial advice to the effect that the Liquidators would be justified in selling, directing the sale of, closing out, or directing the closing out of open investments, open positions, and realising investments through various platforms.

These are dealt with in Part 4 of this Notice.

Part	Explanation
Part 1	Purpose of the notice
Part 2	Brief summary of Liquidator's investigations
Part 3	Court process in Australia and New Zealand
Part 4	Issues on which investor responses are invited
Part 5	Next steps

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Part 2: Brief summary of Liquidators' investigations

There are two primary issues that the Liquidators face in determining how to return investor funds (**Client Moneys**) to investors in Halifax AU and Halifax NZ: the **deficiency**, and the fact that investor funds of Halifax AU and Halifax NZ are **commingled**.

Deficiency

The deficiency in Client Moneys as at 23 November 2018 is estimated to be approximately \$19.0 million before costs and any recoveries. The deficiency is equal to approximately 9% of Client equity positions.

The Liquidators' initial views as to the reasons for the deficiency is the improper application of Client Moneys, including to fund operational losses.

Commingling

In addition, investor funds across the majority of platforms and accounts operated by Halifax AU and Halifax NZ are commingled. This commingling is so extensive that it is not practically feasible in almost all cases for the Liquidators to identify which assets held on trust by either Halifax AU or Halifax NZ belong to which investor. Similarly, the Liquidators cannot identify which part of the \$19 million deficiency is attributable to the investments of which investors of which company and on which investment platform.

As a result of the commingling, in the Liquidators' view there is a single deficient mixed fund.

The Liquidators' investigations indicate that about 98% of funds held on trust by the Halifax Group for the benefit of investors are affected by commingling across all investors and platforms and between Halifax AU and Halifax NZ.

Tracing

The Liquidators' investigations have determined that it is not practically feasible to trace the majority of individual investor deposits. The costs of tracing each individual investor (of which there are 11,900+) would be severely disproportionate to the amount of the deficiency and, therefore, to the benefit that investors would obtain from such an exercise.

The practical inability to trace is a result of the commingling and the deficiency.

There is one category of investors whose assets appear likely to be traceable: investors who transferred shares into Interactive Brokers (IB) through other stockbrokers, and have not sold or traded in the shares.



Part 3: The Court processes

Having regard to the extensive commingling of investor funds and to our investigations, which indicate that it is not practically feasible to trace individual investor entitlements, it is necessary for the Liquidators to seek directions from the Australian and NZ Courts as to how to proceed and to enable a distribution to investors.

Applications

The Liquidators have sought directions from the Australian Court (**Australian Application**) and the NZ Court (**NZ Application**).

The Australian Application can be seen here: <https://www.ferrierhodgson.com/au/-/media/ferrier/files/documents/corp-recovery-matters/halifax-investment-services/1-redacted-interlocutory-process-3-july-2019-filed-31719.pdf>

The New Zealand Application can be seen here: [LINK](#).

The Liquidators have also requested that the Australian Court (**Australian Cooperation Application**) and the NZ Court (**NZ Cooperation Application**) cooperate in determining the Australian Application and the New Zealand Application.

The Liquidators consider this to be important given the commingling of assets held in two jurisdictions, to ensure that they are not faced with inconsistent directions and/or judicial advice from the Courts in respect of the same commingled pool of funds.

Federal Court of Australia

There has been an initial hearing of the Australian Cooperation Application.

The basis of that application was summarised by Gleeson J of the Australian Court in paragraphs 19 – 26 of her Honour's judgment dated 22 August 2019 (<https://www.ferrierhodgson.com/au/-/media/ferrier/files/documents/corp-recovery-matters/halifax-investment-services/kelly-in-the-matter-of-halifax-investment-services-pty-ltd-in-lig.pdf>).

By way of summary:

- The liquidators have identified 61 accounts held in the name of Halifax AU with a balance of AU\$147,810,754.04 as at 23 November 2018 and 14 accounts held in the name of Halifax NZ with a balance of NZ\$51,671,556.36 as at 27 November 2018.
- The Liquidators' investigations have identified a total deficiency as at 23 November 2018 of approximately AU\$19 million.
- The investigations show that it is not practically feasible to identify the total proportion of the deficiency attributable to each particular investor of Halifax AU and Halifax NZ or any particular statutory trust account in Halifax AU and Halifax NZ, or to trace investor deposits.
- The Liquidators' investigations indicate 98% of funds held on trust by the Halifax Group are affected by commingling, with this commingling being across all platforms and between Halifax AU and Halifax NZ.



- On the basis of the Liquidators' analysis, there was substantial commingling of funds held on trust by Halifax AU and Halifax NZ with the result that Halifax AU or its investors may have claims in relation to funds held in the name of Halifax NZ and vice versa.

Her Honour considered that this was a "classic candidate for cross-border cooperation between courts to facilitate the fair and efficient administration of the winding up of Halifax AU (and Halifax NZ) that will protect the interests of all relevant persons, particularly the investor clients of Halifax AU and Halifax NZ".

Her Honour also said that she did not have any difficulty with the idea that such cooperation could include concurrent hearings by the two Courts, provided that the NZ Court had no objection to that course.

To that end, the Committee of Inspection of Halifax AU resolved on 20 September 2019 that it had "no objection to the Australian Court proceedings (in respect of Halifax AU) and the NZ Court (in respect of Halifax NZ) progressing by way of one or more joint sittings".

High Court of NZ

The NZ Court has delivered a Minute in respect of the New Zealand Application ([LINK](#)) In that Minute, Venning J (the Chief Judge of the New Zealand Court) said:

[8] Subject to any recoveries from third parties the corporate funds of each of Halifax NZ and Halifax AU appear minimal. The trust funds which following the realisation of all investments made by those who invested through the Halifax Group will be held by Halifax NZ (or the Trustees) and/or Halifax AU as Trustees for those clients and they appear to comprise one deficient mixed fund ... There is therefore a deficiency of approximately AUD19 million (NZD20.4 million).

[9] Approximately 98 per cent of funds held by the Halifax Group are co-mingled across each of the trading platforms across the vast majority of the client accounts in the Halifax Group and as between clients investing through Halifax AU and clients investing through Halifax NZ. The Liquidators' view is that the funds held by the Halifax Group are essentially one deficient mixed trust fund. The affected New Zealand clients therefore have a direct interest in any directions the Federal Court of Australia may give with respect to how to deal with the co-mingled funds and the affected Australian clients have a direct interest in any directions this Court may give with respect to how to deal with the co-mingled funds in accordance with the liquidation of Halifax NZ.

Venning J also noted that "[I]n due course the applicants anticipate seeking further applications/interlocutory directions as to coordinating a hearing and case management of the substantive directions application [in the NZ Court] and the substantive directions application in the Australian Court together with various case management, (including representative) orders".



Part 4: Issues on which investor responses are invited

Investors are now invited to respond in relation to the following issues. Each of these issues will be addressed in further detail in this section. In particular, investors are invited:

- to notify the Liquidators if they wish to be heard as to any particular objection they may have to the proposed cooperation between the Australian Court dealing with the Australian Application and the NZ Court dealing with the NZ Application (which may include the possibility of the two Courts sitting together and deliberating together, even though ultimately deciding each application separately). Those investors proposing to object to that course will be informed of the date of the next hearing of the Australian Application and the NZ Application respectively at which the Liquidators anticipate those investors will have the opportunity to be heard as to their objections, ahead of any joint hearing.
- To suggest to the Liquidators other issues, not already captured by the Liquidators' proposed represented investor groups, which they believe bear on the proper way to distribute the trust funds, or to indicate their intention to be a representative of an investor group or to seek to be heard by the Court in respect of arguments unique to them (in particular in relation to the traceability of their own investments).
- to notify the Liquidators if they wish to be heard in respect of the application for directions and/or judicial advice in respect of selling, directing the sale of, closing out, or directing the closing out of open investments, open positions, and realising investments through various platforms. The Liquidators consider this to be a relatively urgent matter, and anticipate that this issue would be heard at the first joint sitting if that is an approach the Courts are prepared to accommodate.

Investors may respond in respect of one or more of these issues.

There is no obligation to respond in respect of any of them.



Cooperation between the Courts

It is the Liquidators' intention to seek cooperation between the Australian Court and the NZ Court and coordination of the proceedings in each Court. The Liquidators intend to ask the Courts to make directions to facilitate this cooperation and coordination.

If any investor wishes to be heard by way of objection to the AU Cooperation Application or the NZ Cooperation Application, they should notify the Liquidators by completing the form at Annexure A and returning it to the Liquidators by 4pm on [DATE TO BE INSERTED] in the manner indicated on that form. Those investors will be invited to appear at the next hearing of the Australian Court in respect of the Australian Application and of the NZ Court in respect of the New Zealand Application to make their objection and to articulate the reasons for it. All investors will be notified of the date of those hearings.



Participation in proceedings

It is the Liquidators' intention to facilitate the appointment of representative investors for particular issues (if the Courts agree) to ensure that all investors have an opportunity to be represented before the Courts in relation to issues that affect them, and that arguments are presented (both for and against) in relation to the issues to be determined by the Courts. The Liquidators consider that the appointment of representative investors is likely to assist with ensuring a timely and cost effective court process.

At this stage, it appears to the Liquidators that it may be that the categories of investors with common factual circumstances which may be relevant to the determination of the issues to be considered by the Australian Court and/or the NZ Court are:

- Investors whose proportionate entitlement to or share of funds from the single deficient mixed fund will be greater after the realisation of all investments by all investors than it was on the date administrators were appointed in November 2018;
- Investors whose proportionate entitlement to or share of funds from the single deficient mixed fund will be lower after the realisation of all investments by all investors than it was on the date administrators were appointed;
- Investors who transferred shares into the IB platforms from another stockbroker, and have not traded in those shares (and whose investments are therefore fully traceable) (and who wish to argue that they should not therefore share in the deficiency);
- Investors whose investments are not traceable (who wish to argue that all investors should share in the deficiency).

Membership of the first two of these groups, if the Court agrees to form such groups, would be finalised after all investments by all investors have been fully realised.

Further explanation in respect of each of these categories is available here: [LINK](#)

Investors are invited to suggest to the Liquidators other issues, which they believe bear on the proper way to distribute the trust funds. Other issues which investors give notice that they wish to argue may or may not involve factual circumstances that are sufficiently common to the factual circumstances of other investors to justify the formation of additional represented groups.

It will ultimately be the Courts that determine whether a particular issue common to a group of investors justifies being dealt with by way of the represented group procedure, on the basis that the Courts consider that:

- the proposed group would contain sufficient investors with common factual circumstances relevant to the determination of that issue;
- the relevant issue bears on the appropriate way to distribute the trust funds.

It will also be the Courts that determine whether it is appropriate that the costs of having the relevant issue dealt with should be funded from investor funds.

Investors seeking to be appointed as a representative investor will need to be prepared to be an active participant in the process. They will need to engage a firm of lawyers with appropriate qualifications, instruct those lawyers in relation to the preparation of detailed submissions and appearances at hearings and have a responsibility to represent a large body of investors (i.e. not just act in their own personal interest).



It may be that the Liquidators will make or support an application to the Courts to allow representatives' legal fees to be funded from investor funds, depending on the nature of the issue which is sought to be advanced.

Any individual investors who do not fall into any of the represented investor groups but who may have arguments unique to them (in particular in relation to the traceability of their own investments) will be given the opportunity to make submissions to the Court.

Any investor who wishes to:

- suggest an issue not captured by the categories proposed by the Liquidators which should be considered by the Court because it bears on the way in which the trust fund should be distributed;
- nominate themselves to be a representative of any such group;
- have the opportunity to be heard about their individual circumstances, in particular, the traceability of their investment(s)

is invited to complete the form at Annexure B to this Paper and to return it to the Liquidators by 4pm on [DATE TO BE INSERTED] in the manner indicated on that form. The Liquidators will then email those investors to provide further information and detail in relation to the process.



Closing out

The Liquidators have sought directions and/or judicial advice in each of the Australian Application and the NZ Application that they would be justified in selling, directing the sale of, closing out, or directing the closing out of open investments, open positions, and realising investments through various platforms.

Retaining open investments and positions requires the maintenance of investment trading platforms, which incurs a significant ongoing cost, as well as some risk particularly given the foreign ownership of the platforms and resulting limited control which the Liquidators have over their continuation. If open positions and investments are closed, the Liquidators may be able to reduce or even eliminate those ongoing costs and risk.

The Liquidators consider this to be relatively urgent, and a matter which ought to be dealt with at the first joint or coordinated hearing of the Australian Court and the NZ Court, assuming the Courts take that approach.

If any investor wishes to be heard on the Liquidators' application in relation to selling, directing the sale of, closing out, or directing the closing out of open investments, open positions, and realising investments through various platforms, they should notify the Liquidators by completing the form at Annexure C and returning it to the Liquidators by 4pm on [DATE TO BE INSERTED] in the manner indicated on that form. The Liquidators will then email those investors to provide further information and detail in relation to the process.



Part 5: Next Steps

Step 1: The Liquidators anticipate that the next step will be an initial hearing before the NZ Court in respect of the New Zealand Application in order to:

- hear the attitude of investors through Halifax NZ to cooperation between the Courts;
- ascertain whether any investors wish to be heard on selling, directing the sale of, closing out, or directing the closing out of open investments, open positions, and realising investments through various platforms;
- obtain directions in respect of the next steps to be taken in the proceedings.

Step 2: The Liquidators intend that a hearing in the Australian Court in respect of the same issues as they relate to the Australian Application will take place soon after the hearing in the NZ Court.

Step 3: Subject to the attitude of the Courts, the Liquidators envisage a joint (audio-visually linked) case management hearing of the NZ Court and the Australian Court soon after the separate hearings referred to above at which the Courts would:

- ascertain the number and identity of investors who wish to be heard;
- ascertain whether or not there are any investors who intend to raise additional issues which they consider impact on the questions for the Courts;
- make directions in respect of a substantive joint hearing at which the Courts would determine the groups to be represented and by which person and whether any individuals who wish to be heard should be granted leave to do so;
- give directions and/or judicial advice in respect of selling, directing the sale of, closing out, or directing the closing out of open investments, open positions, and realising investments through various platforms;
- deal with other case management issues, including subsequent hearings, the extent to which those hearings should be linked/coordinated/joint and matters to be determined at those hearings.



Please return this form by no later than 4pm NZDT / 2pm AEDT on [DATE TO BE INSERTED] to KPMG on AU-FMhalifax@kpmg.com.au

INVESTOR QUESTIONNAIRE: ANNEXURE A

Cooperation between the Federal Court of Australia and the High Court of New Zealand

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

Halifax New Zealand Limited (In Liquidation) (Halifax NZ) (together the Halifax Group)

Any investor who **objects to cooperation between the NZ Court and the Australian Court** should notify the Liquidators by completing this form and returning it to the Liquidators by 4pm NZDT / 2pm AEDT on [DATE TO BE INSERTED] by sending it to the Liquidators by email to: AU-FMhalifax@kpmg.com.au.

Investors who wish to object to cooperation between the NZ Court and the Australian Court may do so by seeking to be heard at a hearing of the NZ Court or of the Australian Court, or in writing. Any investor who wishes to be heard should indicate their intention in response to the questions in section 1. below. Any investor who wishes to summarise their objection in writing may do so by completing section 2. below. Those investors should also complete section 1. below.

The Liquidators will notify each investor who indicates in section 1. below that they wish to be heard in opposition to cooperation between the Courts of the time, date and place of the relevant hearing or hearings at which they may seek to be heard.

The Liquidators will draw any written objection to cooperation set out in section 2. below to the attention of the relevant Court at the relevant hearing.

INVESTORS ARE NOT OBLIGED TO COMPLETE THIS FORM, AND IT IS NOT NECESSARY THAT THEY APPEAR BEFORE A COURT. The Liquidators are not providing any advice about whether investors should do either of those things.

1. Investor details

a) Name: _____

b) Contact details

- Phone: _____
- Email: _____
- Postal address: _____

c) Account number: _____

d) Platform: _____

e) Do you intend to seek to be heard at a hearing or hearings in opposition to cooperation between the Courts?



Please return this form by no later than 4pm NZDT / 2pm AEDT on [DATE TO BE INSERTED]
to KPMG on AU-FMhalifax@kpmg.com.au

2. Please provide below any submissions which you consider the Liquidators should draw to the attention of the Court in relation to the issue of cooperation between the courts, including a joint or coordinated sitting between the Courts in Australia and New Zealand.



Please return this form by no later than 4pm NZDT / 2pm AEDT on [DATE TO BE INSERTED]
to KPMG on AU-FMhalifax@kpmg.com.au

INVESTOR QUESTIONNAIRE: ANNEXURE B

Investor representation

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

Halifax New Zealand Limited (In Liquidation) (Halifax NZ) (together the Halifax Group)

Any investor who wishes to be heard in one of the three ways described below, and described in Part 4 of the Notice, should notify the Liquidators by completing this form and returning it to the Liquidators by 4pm NZDT / 2pm AEDT on [DATE TO BE INSERTED] by sending it to the Liquidators by email to: AU-FMhalifax@kpmg.com.au.

INVESTORS ARE NOT OBLIGED TO COMPLETE THIS FORM, NOR IS IT NECESSARY THAT THEY APPEAR BEFORE THE COURT. The liquidators are not providing any advice about whether investors should do either of those things.

The Liquidators will contact any investor who completes this form with a view to co-ordinating investor representation. The Liquidators anticipate that it will be decided which investors will be heard, and which investor groups should be formed and represented by a single Representative, at an early joint or coordinated sitting of the NZ Court and the Australian Court if the Courts agree to take a joint or coordinated approach. All investors will be notified of the date of the relevant hearing.

1. Investor details

a) Name: _____

b) Contact details

- Phone: _____
- Email: _____
- Postal address: _____

c) Account number: _____

d) Platform: _____



Please return this form by no later than 4pm NZDT / 2pm AEDT on [DATE TO BE INSERTED] to KPMG on AU-FMhalifax@kpmg.com.au

2. Please indicate on which of the following matters you wish to be heard

I am interested in being appointed as a representative investor of the following group:

- Investors whose proportionate entitlement to or share of funds from the single deficient mixed fund will be greater after the realisation of all extant investments than it was on the date administrators were appointed;
- Investors whose proportionate entitlement to or share of funds from the single deficient mixed fund will be lower after the realisation of all extant investments than it was on the date administrators were appointed;
- Investors who transferred shares into the IB platforms from another stockbroker, and have not traded in those shares (and whose investments are therefore fully traceable) (and who wish to argue that they should not therefore share in the deficiency);
- Investors whose investments are not traceable (who wish to argue that all investors should share in the deficiency).

Please provide a brief description of why you consider yourself to be an appropriate representative

Have you engaged legal representation? If so, please state the name of the firm and solicitor engaged.

I wish to suggest the following issues which I believe bear on the proper way of distributing the trust funds (in addition to the categories outlined in Part 4 of the Notice):

I DO / DO NOT wish to have the opportunity to be heard in relation to that issue or those issues.

I would like the opportunity to be heard about the individual traceability of my investments. Please specify the reasons why you consider your investment to be traceable and/or why your circumstances differ to the wider investor body:



Please return this form by no later than 4pm NZDT / 2pm AEDT on [DATE TO BE INSERTED]
to KPMG on AU-FMhalifax@kpmg.com.au

INVESTOR QUESTIONNAIRE - ANNEXURE C

Closing out of investor positions

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

Halifax New Zealand Limited (In Liquidation) (Halifax NZ) (together the Halifax Group)

Any investor who wishes to seek to be heard on the closing out of investor positions as explained in Part 4 of the Notice should notify the Liquidators by completing this form and returning it to the Liquidators by 4pm NZDT / 2pm AEDT on [DATE TO BE INSERTED] by sending it to the Liquidators by email to: AU-FMhalifax@kpmg.com.au.

Investors who wish to be heard on the issue of closing out investor positions may do so by seeking to be heard at a hearing of the NZ Court or the Australian Court, or in writing. Any investor who wishes to be heard should indicate their intention in response to the questions in section 1. below. Any investor who wishes to summarise their objection in writing may do so by completing section 2. below. Those investors should also complete section 1. below.

The Liquidators will request that the issue of closing out of investor positions will be determined at an early joint or coordinated sitting of the NZ Court and the Australian Court if the Courts agreed to take a joint or coordinated approach. All investors will be notified of the date of the relevant hearing.

The Liquidators will draw any submissions about closing out of investor positions, which are included by investors in this form, to the attention of the relevant Court at the relevant hearing, whether or not the investor seeks to be heard at the hearing.

INVESTORS ARE NOT OBLIGED TO COMPLETE THIS FORM, NOR IS IT NECESSARY THAT THEY APPEAR BEFORE THE COURT. The Liquidators are not providing any advice about whether investors should do either of those things.

1. Investor details

a) Name: _____

b) Contact details

▪ Phone: _____

▪ Email: _____

▪ Postal address: _____

c) Account number: _____

d) Platform: _____

e) Do you intend to seek to be heard at any hearing at which this issue is heard? _____



Please return this form by no later than 4pm NZDT / 2pm AEDT on [DATE TO BE INSERTED]
to KPMG on AU-FMhalifax@kpmg.com.au

2. Please provide below any submissions which you consider the Liquidators should draw to the attention of the Court in relation to the issue of closing out of investor positions.



Link: Explanation as to potential categories of representative investors

A brief explanation of the potential categories identified by the Liquidators is below.

Category	Explanation	Example
<p>Investors whose proportionate entitlement to or share of funds from the single deficient mixed fund will be greater after the realisation of all investments by all investors than it was on the date administrators were appointed in November 2018.</p>	<p>Whether an investor is in this potential category does not depend on whether the investor's equity balance has increased. It depends on whether the investor's equity balance has increased in percentage terms by more than the Halifax portfolio as a whole.</p> <p>Investors in this potential category will have an equity balance which is higher, as a proportion of the whole, at the time all investors' investments have been fully realised than it was as in November 2018 when the Administrators were appointed.</p> <p>Membership of this group, if the Court agrees to form such a group, would be finalised after all investments by all investors have been fully realised.</p>	<p>Investor A has an equity balance of \$5 million when the Administrators were appointed in November 2018 and \$7 million as at the date of completion of realisation of all investments made by all investors, an increase of 40%. As at the date the Administrators were appointed in November 2018, Investor A had an entitlement of 2.4% of the single deficient commingled fund (Fund) (\$5m / \$211.6m). If as at the later date the value of the fully realised trust funds is, say, \$245m, then, Investor A has a 2.86% entitlement to the Fund (\$7m / \$245m). Investor A's proportionate entitlement has increased. This investor will be better off in circumstances where the date of adjudication of claims is the later date when all investments of all investors have been fully realised. This is because their portfolio has increased by more (40%) than the Halifax portfolio as a whole (15.8%).</p>
<p>Investors whose proportionate entitlement to or share of funds from the single deficient mixed fund will be lower after the realisation of all investments by all investors than it was on the date administrators were appointed.</p>	<p>Whether an investor is in this potential category does not depend on whether the investor's equity balance has decreased. It depends on whether the investor's equity balance has either decreased, or increased by less in percentage terms than the Halifax portfolio as a whole.</p> <p>Investors in this potential category will have either:</p> <ul style="list-style-type: none"> ▪ An equity balance which is lower at the time of realisation of those investors' investments than it was as at the date the Administrators were appointed in November 2018; or 	<p>Investor B has an equity balance of \$5 million as at the Administrators were appointed in November 2018 and \$5.5 million as at the date of completion of realisation of all investments made by all investors, an increase of 10%. As at the date the Administrators were appointed in November 2018, Investor B had an entitlement of 2.4% to the Fund (\$5m / \$211.6m). As at the later date, Investor B had an entitlement of 2.2% of the Fund (\$5.5m / \$245.3m) Accordingly, Investor B has a greater proportionate entitlement to the Fund as at the date the Administrators were appointed in November 2019 than the later date when all investors' investments have been fully realised.</p>



	<ul style="list-style-type: none"> ▪ An equity balance which is higher at the time of realisation of those investors' investments than it was as at the date the Administrators were appointed in November 2018 but whose equity balance has increased by a lower percentage than the Halifax portfolio as a whole. ▪ Investors who held only cash and therefore there has not been any movement in equity value. <p>Investors in this potential category will be better off in circumstances where the date of adjudication of investor claims is determined by the Court to be the date when the Administrators were appointed in November 2019.</p> <p>Membership of this group, if the Court agrees to form such a group, would be finalised after all investments by all investors have been fully realised.</p>	<p>This is because their portfolio has increased by less (10%) than the Halifax portfolio as a whole (16%).</p> <p>Investor C has an equity balance of \$5m as at the date the Administrators were appointed in November 2018 and \$4m as at the later date when all investors' investments have been fully realised, a decrease of 20%. As at the date the Administrators were appointed in November 2018, Investor C had an entitlement of 2.4% to the Fund (\$5m / \$211.6m).</p> <p>As at the later date, Investor C has a 1.6% entitlement to the Fund (\$4m / \$245.3m). Investor C's proportionate entitlement has decreased.</p>
Investors who transferred shares into the IB platforms from another stockbroker, and have not traded in those shares (and whose investments are therefore fully traceable) (and who wish to argue that they should not therefore share in the deficiency).	<p>Investors who may be in this potential category will have transferred stocks into Halifax from another broker. In these circumstances, and where the stocks have not been traded, the assets transferred did not pass through any of the accounts affected by the commingling.</p>	<p>Investor D transferred shares into a Halifax IB account in June 2017. The shares were transferred from the third party broker directly to Investor D's IB segregated account, and Investor D has never traded those shares, and therefore they are not subject to the commingling.</p> <p>It may be the case for investors in this potential category that a portion of their portfolio is not subject to the commingling, while another portion is.</p>
Investors whose investments are not traceable (who wish to argue that all investors should share in the deficiency).	<p>Investors who may be in this potential category may be of the view that all investors should share in the deficiency, including stocks transferred into the IB platforms from another stockbroker. Investors in this potential category may believe that all investor funds should be treated as one pool and distributed accordingly such that the deficiency is shared proportionately amongst all investors.</p>	

IPS-3

Rule 29.02(8)

Certificate identifying annexure

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

**MORGAN JOHN KELLY AND PHILIP ALEXANDER QUINLAN IN THEIR CAPACITY AS
 JOINT AND SEVERAL LIQUIDATORS OF HALIFAX INVESTMENT SERVICES PTY LTD (IN
 LIQUIDATION) ACN 096 980 522 AND OTHERS NAMED IN THE SCHEDULE**

Plaintiffs

This is the annexure marked "IPS-3" to the affidavit of **Ian Phillip Sutherland** sworn on 11 December 2019 before me:



Signature of witness before whom the affidavit is sworn

Name of witness: *Katherine Marie Smith*
 Address of witness: Level 31, 1 O'Connell
 Street, Sydney NSW 2000
 Qualification of witness: Solicitor

Filed on behalf of	Morgan John Kelly and Philip Alexander Quinlan in their capacity as joint and several liquidators of Halifax Investment Services Pty Ltd (in liquidation). ACN 096 980 522, Plaintiffs		
Prepared by	Jason Opperman and Katherine Smith		
Law firm	K&L Gates		
Tel	+61 2 9513 2300	Fax	
Email	jason.opperman@klgates.com	and	
DX	170 Sydney	Ref	
Address for service	Level 31, 1 O'Connell Street, Sydney NSW 2000		

From: [Insolvency No Reply/MB/LMS](#)
To: [Adam Dajani](#)
Subject: Halifax Investment Services Pty Ltd (In Liquidation) & Halifax New Zealand Limited (In Liquidation) - Important Investor Notice
Date: Friday, 15 November 2019 4:03:32 PM
Attachments: [Investor Notice -15 November 2019.pdf](#)
[Investor Notice - Annexure A .docx](#)
[Investor Notice - Annexure B.DOCX](#)
[Investor Notice - Annexure C.docx](#)
[Orders of Venning J \(2 October 2019\).pdf](#)
[Orders of Venning J \(8 November 2019\).pdf](#)
[Originating application for directions \(25 September 2019\).pdf](#)
[HIS Orders 14 Nov 2019 - Investor Notice.pdf](#)
[ATT00001.txt](#)

Dear Sir/Madam,

Halifax Investment Services Pty Limited (In Liquidation) (Halifax AU)
Halifax New Zealand Limited (In Liquidation) (Halifax NZ) (together the Halifax Group)

Halifax AU and Halifax NZ - Investor Notice

The New Zealand High Court (**NZHC**) and the Federal Court of Australia (**FCA**) have made orders requiring the issue of a notice to investors of the Halifax Group (**Investor Notice**).

This is an important document and the Liquidators encourage all Investors of Halifax AU and Halifax NZ to read the Investor Notice carefully.

The following documents which relate to the Investor Notice are attached and also available on the Halifax AU and Halifax NZ websites (links below):

1. Investor Notice dated 15 November 2019
2. Annexure A - Questionnaire regarding cooperation between the FCA and the NZHC
3. Annexure B - Questionnaire regarding Investor representation
4. Annexure C - Questionnaire regarding the closing out of investor positions

Halifax NZ: Application to the New Zealand High Court

An originating application for directions (**Directions Application**) was filed in the NZHC on 25 September 2019 by Morgan Kelly and Philip Quinlan (in their capacities as liquidators of Halifax NZ and as trustees of a trust created by regulation 246 of the Financial Markets Conduct Regulations 2014) and Halifax NZ.

Copies of the following documents (with certain confidential information redacted from the affidavits and their exhibits in accordance with confidentiality orders made by the NZHC) can be found on the Halifax NZ websites (links below):

- Directions Application (see attached)
- Orders of the NZHC (see attached)
- Affidavit of Morgan John Kelly affirmed 24 September 2019
- Exhibits to the affidavit of Morgan John Kelly (Volumes A and C)
- Affidavit of Ian Phillip Sutherland sworn 24 September 2019 (including exhibits)

Halifax AU: Application to the Federal Court of Australia

The most recent update regarding the proceedings in the FCA can be found here
[\[https://www.ferrierhodgson.com/au/-/media/ferrier/files/documents/corp-recovery-\]](https://www.ferrierhodgson.com/au/-/media/ferrier/files/documents/corp-recovery-)

<matters/halifax-new-zealand-limited/update-to-investors--18-october-2019.pdf>.

A copy of the orders made by the FCA regarding the Investor Notice is attached to this email.

Further information

Further information can be found at the links below:

Halifax NZ

<https://www.ferrierhodgson.com/au/creditors/halifax-new-zealand-limited>

<https://www.halifaxonline.co.nz/>

Halifax AU

<https://www.ferrierhodgson.com/au/creditors/halifax-investment-services-pty-ltd>

<https://halifax.com.au/>

halifaxonline.com.au

Contact details

All queries in relation to the Investor Notice should be directed to Link Market Services via email, details below:

Halifax NZ

Email: halifaxnz@linkmarketservices.com.au

Halifax AU

Email: halifax@linkmarketservices.com.au

Kind regards,

On behalf of the Liquidators of the Halifax Group

IPS-4

Rule 29.02(8)

Certificate identifying annexure

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**

**MORGAN JOHN KELLY AND PHILIP ALEXANDER QUINLAN IN THEIR CAPACITY AS
JOINT AND SEVERAL LIQUIDATORS OF HALIFAX INVESTMENT SERVICES PTY LTD (IN
LIQUIDATION) ACN 096 980 522 AND OTHERS NAMED IN THE SCHEDULE**

Plaintiffs

This is the annexure marked "IPS-4" to the affidavit of **Ian Phillip Sutherland** sworn on 11 December 2019 before me:



Signature of witness before whom the
affidavit is sworn

Name of witness: *Katherine Marie Smith*
Address of witness: Level 31, 1 O'Connell
Street, Sydney NSW 2000
Qualification of witness: Solicitor

Filed on behalf of	Morgan John Kelly and Philip Alexander Quinlan in their capacity as joint and several liquidators of Halifax Investment Services Pty Ltd (in liquidation) ACN 096 980 522, Plaintiffs		
Prepared by	Jason Opperman and Katherine Smith		
Law firm	K&L Gates		
Tel	+61 2 9513 2300	Fax	
Email	jason opperman@klgates.com	and	
DX	170 Sydney	Ref	
Address for service	Level 31, 1 O'Connell Street, Sydney NSW 2000		

From: Adam Dajani
To: Livanos, Martie; Kamran Beiglari
Cc: Josephine Tong; Sutherland, Ian; Arnfield, Sarah; Ribot, Jonathan
Subject: RE: Email Blast 1 Approval
Date: Friday, 15 November 2019 5:02:14 PM

Dear Martie

The mail-house has advised that in their professional opinion and due to the following reason there is likely to be a very high rate of bounce backs on this blast.

Reasons given by the mail-house and the information from their service providers:

- Many Internet Service Providers and end-users block emails above a certain size.
- If you send an Attachment with your email this can increase the size of your message, and therefore increasing the risk of your email getting blocked.
- When sending emails with attachments from any bulk mailing service you may find that most content and virus-scanning programs see attachments as a potential security threat and either block the attachment or the email entirely.
- Attachments for large lists use a lot of bandwidth and hence delay in transmission times.
- Linking to your attachments also makes it easier for your customers to access information as and when they want it instead of being forced to download upon delivery.

Therefore, please confirm and advise if you would like us to proceed with this blast.

Regards,
Adam Dajani

Insolvency Solutions Assistant Manager
 Link Market Services
 Level 12, 680 George Street, Sydney NSW 2000
 T +61 (0)2 9375 7797 M +61 (0)4 5222 0852
 E adam.dajani@linkmarketservices.com.au
linkmarketservices.com.au
 Part of **Link Group** | Corporate Markets
 Please consider the environment before printing this email

From: Livanos, Martie <mlivanos@kpmg.com.au>
Sent: Friday, 15 November 2019 12:57 PM
To: Adam Dajani <Adam.Dajani@linkmarketservices.com.au>; Kamran Beiglari <kamran.beiglari@linkmarketservices.com.au>
Cc: Josephine Tong <Josephine.Tong@linkmarketservices.com.au>; Sutherland, Ian <isutherland@kpmg.com.au>; Arnfield, Sarah <sarnfield@kpmg.com.au>; Ribot, Jonathan <jribot@kpmg.com.au>
Subject: RE: Email Blast 1 Approval

Approved – thank you

From: Adam Dajani [<mailto:Adam.Dajani@linkmarketservices.com.au>]
Sent: Friday, 15 November 2019 12:55 PM
To: Kamran Beiglari <kamran.beiglari@linkmarketservices.com.au>; Livanos, Martie <mlivanos@kpmg.com.au>
Cc: Josephine Tong <Josephine.Tong@linkmarketservices.com.au>; Sutherland, Ian <isutherland@kpmg.com.au>; Arnfield, Sarah <sarnfield@kpmg.com.au>; Ribot, Jonathan <jribot@kpmg.com.au>
Subject: Email Blast 1 Approval

Hi Martie,

Please find email blast 1 attached for your urgent approval.

Regards,
Adam Dajani
 Insolvency Solutions Assistant Manager
 Link Market Services

Level 12, 680 George Street, Sydney NSW 2000

T +61 (0)2 9375 7797 M +61 (0)4 5222 0852

E adam.dajani@linkmarketservices.com.au

linkmarketservices.com.au

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IPS-5

Rule 29.02(8)

Certificate identifying annexure

No. NSD 2191 of 2018

Federal Court of Australia

District Registry: New South Wales

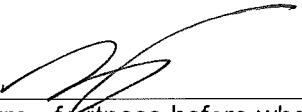
Division: General

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

**MORGAN JOHN KELLY AND PHILIP ALEXANDER QUINLAN IN THEIR CAPACITY AS
JOINT AND SEVERAL LIQUIDATORS OF HALIFAX INVESTMENT SERVICES PTY LTD (IN
LIQUIDATION) ACN 096 980 522 AND OTHERS NAMED IN THE SCHEDULE**

Plaintiffs

This is the annexure marked "IPS-5" to the affidavit of **Ian Phillip Sutherland** sworn on 11 December 2019 before me:



Signature of witness before whom the
affidavit is sworn

Name of witness: *Katherine Marie Smith*
Address of witness: Level 31, 1 O'Connell
Street, Sydney NSW 2000
Qualification of witness: Solicitor

Filed on behalf of	Morgan John Kelly and Philip Alexander Quinlan in their capacity as joint and several liquidators of Halifax Investment Services Pty Ltd (in liquidation) ACN 096 980 522, Plaintiffs		
Prepared by	Jason Opperman and Katherine Smith		
Law firm	K&L Gates		
Tel	+61 2 9513 2300	Fax	
Email	jason opperman@klgates.com	and	
DX	170 Sydney	Ref	
Address for service	Level 31, 1 O'Connell Street, Sydney NSW 2000		

From: [Insolvency No Reply/MB/LMS](#)
To: [Josephine Tong](#)
Subject: Halifax Investment Services Pty Ltd (In Liquidation) & Halifax New Zealand Limited (In Liquidation) - Important Investor Notice
Date: Friday, 15 November 2019 6:32:28 PM
Attachments: [Investor Notice -15 November 2019 - Including Annexures.pdf](#)
[ATT100001.txt](#)

Dear Sir/Madam,

**Halifax Investment Services Pty Limited (In Liquidation) (Halifax AU)
Halifax New Zealand Limited (In Liquidation) (Halifax NZ) (together the Halifax Group)**

Halifax AU and Halifax NZ - Investor Notice

The New Zealand High Court (**NZHC**) and the Federal Court of Australia (**FCA**) have made orders requiring the issue of a notice to investors of the Halifax Group (**Investor Notice**).

This is an important document and the Liquidators encourage all Investors of Halifax AU and Halifax NZ to read the Investor Notice carefully.

The following documents which relate to the Investor Notice are attached and also available on the Halifax AU and Halifax NZ websites (links below):

1. Investor Notice dated 15 November 2019
2. Annexure A - Questionnaire regarding cooperation between the FCA and the NZHC
3. Annexure B - Questionnaire regarding Investor representation
4. Annexure C - Questionnaire regarding the closing out of investor positions

Please refer to the following link to access word versions of Annexure A to Annexure C:

<https://www.ferrierhodgson.com/au/creditors/halifax-investment-services-pty-ltd>

The following Court orders can be found at the links listed below:

5. Sealed Orders of Gleeson dated 14 November 2019
6. Sealed Orders of Venning dated 8 November 2019
7. Sealed Orders of Venning dated 2 October 2019
8. Directions Application - 25 September 2019

<https://www.ferrierhodgson.com/au/-/media/ferrier/files/documents/corp-recovery-matters/halifax-investment-services/his-orders-14-nov-2019--investor-notice.pdf>

<https://www.ferrierhodgson.com/au/-/media/ferrier/files/documents/corp-recovery-matters/halifax-new-zealand-limited/sealed-orders-of-venning-j-8-november-2019.pdf>

<https://www.ferrierhodgson.com/au/-/media/ferrier/files/documents/corp-recovery-matters/halifax-new-zealand-limited/sealed-orders-of-venning-j-2-october-2019.pdf>

<https://www.ferrierhodgson.com/au/-/media/ferrier/files/documents/corp-recovery-matters/halifax-new-zealand-limited/directions-application-25-september-2019.pdf>

Halifax NZ: Application to the New Zealand High Court

An originating application for directions (**Directions Application**) was filed in the NZHC on 25 September 2019 by Morgan Kelly and Philip Quinlan (in their capacities as liquidators of Halifax NZ and as trustees of a trust created by regulation 246 of the Financial Markets Conduct Regulations 2014) and Halifax NZ.

Copies of the following documents (with certain confidential information redacted from the affidavits and their exhibits in accordance with confidentiality orders made by the NZHC) can be found on the Halifax NZ websites (links below):

- Directions Application (see attached)
- Orders of the NZHC (see attached)
- Affidavit of Morgan John Kelly affirmed 24 September 2019
- Exhibits to the affidavit of Morgan John Kelly (Volumes A and C)
- Affidavit of Ian Phillip Sutherland sworn 24 September 2019 (including exhibits)

Halifax AU: Application to the Federal Court of Australia

The most recent update regarding the proceedings in the FCA can be found here [<https://www.ferrierhodgson.com/au/-/media/ferrier/files/documents/corp-recovery-matters/halifax-new-zealand-limited/update-to-investors--18-october-2019.pdf>].

A copy of the orders made by the FCA regarding the Investor Notice is attached to this email.

Further information

Further information can be found at the links below:

Halifax NZ

<https://www.ferrierhodgson.com/au/creditors/halifax-new-zealand-limited>
<https://www.halifaxonline.co.nz/>

Halifax AU

<https://www.ferrierhodgson.com/au/creditors/halifax-investment-services-pty-ltd>
<https://halifax.com.au/>
halifaxonline.com.au

Contact details

All queries in relation to the Investor Notice should be directed to Link Market Services via email, details below:

Halifax NZ

Email: halifaxnz@linkmarketservices.com.au

Halifax AU

Email: halifax@linkmarketservices.com.au

Kind regards,

On behalf of the Liquidators of the Halifax Group

IPS-6

Rule 29.02(8)

Certificate identifying annexure

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**

**MORGAN JOHN KELLY AND PHILIP ALEXANDER QUINLAN IN THEIR CAPACITY AS
JOINT AND SEVERAL LIQUIDATORS OF HALIFAX INVESTMENT SERVICES PTY LTD (IN
LIQUIDATION) ACN 096 980 522 AND OTHERS NAMED IN THE SCHEDULE**

Plaintiffs

This is the annexure marked "IPS-6" to the affidavit of **Ian Phillip Sutherland** sworn on 11 December 2019 before me:



Signature of witness before whom the
affidavit is sworn

Name of witness: *Katherine Marie Smith*

Address of witness: Level 31, 1 O'Connell
Street, Sydney NSW 2000

Qualification of witness: Solicitor

Filed on behalf of	Morgan John Kelly and Philip Alexander Quinlan in their capacity as joint and several liquidators of Halifax Investment Services Pty Ltd (in liquidation) ACN 096 980 522, Plaintiffs		
Prepared by	Jason Opperman and Katherine Smith		
Law firm	K&L Gates		
Tel	+61 2 9513 2300	Fax	
Email	jason opperman@klgates.com	and	
DX	170 Sydney	Ref	
Address for service	Level 31, 1 O'Connell Street, Sydney NSW 2000		

From: AU-FM Halifax Court AU-NZ
Subject: Halifax Group - Investor Correspondence

Dear Sir/Madam

Last Friday 15 November you received an email attaching an important notice relating to upcoming hearings before the High Court of New Zealand and the Federal Court of Australia.

We were ordered by the Courts to deliver by email some additional documents to you, being:

- Sealed orders made by the Federal Court of Australia on 14 November 2019;
- Sealed orders made by the High Court of New Zealand on 8 November 2019;
- Sealed orders made by the High Court of New Zealand on 2 October 2019;
- Directions Application made to the High Court of New Zealand of 25 September 2019.

The size of these attachments meant that they could not be attached to the emails of Friday as we had intended. We will inform both Courts about that omission and ask for a variation of the order that they be served by email. Instead they have been made available on the Ferrier Hodgson website. You may access those documents through the following links:

<https://www.ferrierhodgson.com/au/-/media/ferrier/files/documents/corp-recovery-matters/halifax-investment-services/his-orders-14-nov-2019--investor-notice.pdf>

<https://www.ferrierhodgson.com/au/-/media/ferrier/files/documents/corp-recovery-matters/halifax-new-zealand-limited/sealed-orders-of-venning-j-8-november-2019.pdf>

<https://www.ferrierhodgson.com/au/-/media/ferrier/files/documents/corp-recovery-matters/halifax-new-zealand-limited/sealed-orders-of-venning-j-2-october-2019.pdf>

<https://www.ferrierhodgson.com/au/-/media/ferrier/files/documents/corp-recovery-matters/halifax-new-zealand-limited/directions-application-25-september-2019.pdf>

Because the Courts ordered that those documents be delivered to you by email, it is important that you access the above links to view those documents as the Courts intended you should.

Kind regards,

On behalf of the Liquidators of the Halifax Group