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HALIFAX INVESTMENT SERVICES PTY LTD (IN LIQUIDATION) (Halifax AU) HALIFAX NEW ZEALAND LIMITED (IN LIQUIDATION) (HALIFAX NZ) Investor FAQ – 7 December 2021

1. What is the current status of the Court proceedings?

Their Honours Justice Markovic and Justice Venning of the Federal Court of Australia and the High Court of New Zealand respectively handed down their judgments and made consequential orders in the client money proceedings on 19 May 2021.

The judgments and orders are available at the following links:

<https://assets.kpmg/content/dam/kpmg/au/pdf/creditors/halifax-investment-services/halifax-judgment-justice-markovic-19-may-2021.pdf>

<https://assets.kpmg/content/dam/kpmg/au/pdf/creditors/halifax-nz-limited/halifax-nz-judgment-justice-venning-19-may-2021.pdf>

On 15 and 16 June 2021, the solicitors for the First Defendant, Mr Loo, filed an Application for an extension of time and leave to appeal in the Federal Court of Australia and a Notice of Appeal in the Court of Appeal of New Zealand. In summary, the First Defendant's position is that their Honours erred in concluding that the Liquidators of Halifax AU and Halifax NZ were justified in adopting 27 November 2018 as the date at which the proportionate entitlements of the Investors were to be calculated (see FAQ (4) below) and that the date at which proportionate entitlements are calculated should be as close as possible to the distribution date and, in any event, only after the Liquidators have realised all extant investments.

On 26 October 2021, both Courts delivered their judgments in respect of the Appeal. Both Courts ordered that the Appeal should be dismissed. As a result, the date on which the proportionate entitlements of Investors to the assets of Halifax AU and Halifax NZ is to be calculated, remains 27 November 2018.

Copies of the orders made by the Courts and the reasons are available at the following links:

<https://assets.kpmg/content/dam/kpmg/au/pdf/creditors/halifax-investment-services/halifax-orders-middleton-beach-moshinsky-26-october-2021.pdf>

<https://assets.kpmg/content/dam/kpmg/au/pdf/creditors/halifax-nz-limited/halifax-nz-judgment-26-october-2021.pdf>

2. When will I receive a distribution?

At this stage, it is likely that an interim cash distribution will be paid to Investors in the first half of 2022.

This timeline is an estimate only and is subject to change. Please note that there is likely to be an interim distribution of funds to Investors, with a final distribution to follow once various matters are finalised. Events which, if they occur, *may* delay the payment of the distribution include:



- The possibility of a large number of Investors disputing their account balance as at 27 November 2018;
- The possibility of Investors making an application to the Court in relation to their account balance which would have the effect of delaying payment to all Investors; and
- Issues which may arise with the operation of the Investor Portal including difficulties with verifying the identities of Investors.

The next Investor Update, to be issued in December 2021, will provide Investors with information regarding access to the Investor Portal and the cash distribution process.

3. How much will I receive in the distribution?

At this stage, we estimate that Investors will receive approximately 100 cents in the dollar based on their account balance as at 27 November 2018. In relation to this estimate, please be advised of the following:

- This is a high-level estimate only and is subject to change;
- This estimate does not account for any movement in the market value of assets after 30 April 2021. As various Investor positions are still open, market movements may materially impact the estimated return to Investors;
- This estimate does not take into account the likely reduction in the pool of assets available to Investors who are eligible to have their shares transferred pursuant to the Category 3 and Category 5 Orders. However, at this stage we do not anticipate that this will have a material impact on the assets available for distribution;
- For the purposes of calculating the estimated return to Investors, we have assumed that minimal funds will be recovered from overseas merchant facilities and antecedent transactions. Our investigations in relation to the conduct of the Director, Former Director and various third party advisors are ongoing but confidential and we are not in a position to quantify the potential recoveries at this stage. This estimate does not take into account any costs incurred in pursuing these potential recoveries; and
- All costs estimates including legal fees and Liquidators' remuneration are calculated based on high-level estimates only and are subject to significant variances. The quantum of costs to be incurred by the Liquidators in undertaking the distribution is difficult to accurately predict at this stage.
- We will provide Investors with a more up to date estimate in respect of the amount of the distribution once the remaining open positions have been closed out.

4. As of what date will my proportionate entitlement be calculated?

The Courts have made Orders that the Liquidators are justified in adopting 27 November 2018, being the date of the appointment of the Voluntary Administrators to Halifax NZ as the date at which the proportionate entitlements of Investors are to be calculated. This means that your account balance as at 27 November 2018 will be used to calculate your entitlement to the assets available for distribution.

5. What is the value of assets currently held by the Halifax Group?

As at 31 August 2021, the value of total assets held by Halifax AU and Halifax NZ was approximately AU\$275 million. A further update in respect of the value of assets held by Halifax AU and Halifax NZ will be provided once all open positions have been closed out. In relation to the total assets available to be distributed to Investors, we note the following:



- The value of the assets held by Halifax AU and Halifax NZ is constantly changing as a result of fluctuations in the value of open positions held with Interactive Brokers. As a result, the value of the total assets held by Halifax AU and Halifax NZ when positions are closed out, may be more or less than the amount of AU\$275 million. In circumstances where the value of open positions decreases between now and when positions are closed out, this may result in a reduced asset pool for distribution to Investors.
- The value of the total assets held by Halifax AU and Halifax NZ does not represent the amount that will be distributed to Investors because certain funds will need to be retained by the Liquidators to pay various expenses of the liquidations **as approved by the Courts**, including wages, rent, operational expenses, platform expenses, legal fees and the remuneration of the Liquidators.

6. In the event that the value of assets to be distributed to Investors is greater than AU\$213 million (being the value of the assets of the Halifax Group as at 27 November 2018), will Investors receive these additional funds?

All assets held by Halifax AU and Halifax NZ (subject to payment of the Court approved costs and expenses of the liquidation) will be paid out to Investors. As at 27 November 2018, the value of Investor account balances was approximately AU\$213 million. Investors will receive their proportionate entitlement of whatever the amount available is for distribution (that is, the Investor account balances at the date at which open investments are liquidated less the costs and expenses of the liquidation).

As set out at (4) above, your account balance as at 27 November 2018, will be used to calculate your proportionate entitlement to the assets of Halifax AU and Halifax NZ which are available for distribution. That proportionate entitlement will be applied to the total amount available to be distributed to Investors after all assets are liquidated.

This is best illustrated by way of a worked example.

As at 27 November 2018, Investor A's account balance is \$1 million. Total investor account balances as at 27 November 2018 are \$10 million. This means that Investor A's proportionate claim to the assets of Halifax is 10% (being \$1 million divided by \$10 million).

By 1 November 2021, all open positions have been closed out and the assets available to distribute to Investors is now \$15 million (as a result of significant increases in the value of open positions). This means that Investor A receives 10% of \$15 million, being \$1.5 million which is 150% of their account balance as at 27 November 2018.

Given the Court has determined that the date of calculation of the proportionate entitlement of each Investor is 27 November 2018, any gains in your account balance subsequent to that date reflects gains in the pool of funds available to Investors of which you will receive your proportionate entitlement (and the proportion to be applied will be that proportion calculated as of 27 November 2018), although bear in mind that other Investors' accounts may have made losses, which losses will reflect a reduction in the pool of funds available to Investors (to which the same proportionate entitlement – calculated as at 27 November 2018 – will be applied).

7. What is Category 3 and Category 5 and when will Investor Applications be finalised?

The Court Orders issued on 19 May 2021 stated that the Liquidators were justified in transferring shares to Investors who met certain eligibility criteria. The Liquidators subsequently wrote to potentially eligible Investors (those with open positions recorded within their account), outlining the eligibility criteria and inviting Investors to Apply for Category 3 and/or Category 5 should they wish to receive an in specie distribution of shares.



The process of reviewing Applications is a complex task. A high level summary of the work undertaken by the Liquidators is as follows:

- Identifying open positions recorded within the Investors' account that met the eligibility criteria determined by the Courts;
- Determining and verifying whether the original acquisition of open positions recorded within the Investors' account were as a result of a transfer from an external broker or an acquisition from a Halifax platform prior to the periods specified by the Courts;
- Tracing account activity from the time of the original transfer from external broker or acquisition from a Halifax platform, to determine whether the remaining open positions had been traded by the Investor;
- Where open positions had been traded, calculating the volume of eligible and ineligible shares included within the remaining balance recorded within the Investors' account;
- Determining the impact of corporate actions (e.g. share splits, merges, name changes) to the volume of both eligible and ineligible shares;
- Calculating the value of eligible shares as at 27 November 2018, in order to determine the adjustment to apply to Investors account balances in recognition of an in specie distribution of shares;
- Issuing an Outcome Statement and share transfer form to affect the transfer from a Halifax platform to the Investors nominated brokerage account; and
- Correspondence with Investors regarding the Liquidators' determination.

We note that the timeframe to apply for Category 3 and/or Category 5 has expired, and the majority of Category 3 and Category 5 Applicants have now received an Outcome Statement. We are continuing to progress the remaining Applications as a matter of priority.

In order to proceed with the cash distribution process, Investor accounts subject to a Category 3 or Category 5 Application have been quarantined from the close out process.

8. What do I need to do now?

There is nothing that Investors need to do at the moment. Please await further correspondence from the Liquidators regarding the Investor Portal and Distribution process which will be issued in December 2021.

In early January 2022, Investors will be sent a Distribution Notice which will contain a unique code to register and login to the investor portal. You will need to submit your claim and confirm your bank details at this time.

9. Will the distribution be in cash or shares?

With the exception of the Category 3 and Category 5 shares, the distribution will be paid in cash in accordance with the Orders made by the Courts. The Liquidators are only able to deal with the assets of the Halifax Group in accordance with the Orders that have been handed down and on this basis, we will not consider requests from Investors to have their shares transferred *in specie*.



10. When will I receive instructions to access the Investor Portal?

Investors will receive instructions regarding the Investor Portal and distribution process within the next Investor Update which will be issued in December 2021. We anticipate that a Distribution Notice, containing a unique code to register and log in to the Investor Portal will be sent to Investors in January 2022.

11. I have already provided a proof of debt early on in the Administration or Liquidation. Do I need to provide my details again via the Investor Portal when it becomes available?

Yes. The initial proofs of debt submitted by Investors were informal only. All Investors who wish to receive a distribution will need to log onto the Investor Portal (once it is available) and provide their details even if the information has been sent previously to Link Market Services or to KPMG.

12. Why will it take until early 2022 to receive a distribution? Why can't the Liquidators pay me straight away?

The Appeal regarding the date on which the proportionate entitlements of Investors is to be calculated delayed the release of the Investor Portal. The Liquidators were unable to determine the claim amounts to populate within the Portal whilst this matter was before the Courts.

The Appeal was dismissed on **26 October 2021** and as such, the Liquidators are now able to finalise claim amounts within the Portal for Investors' consideration. The process of calculating Investor claims and attending to the payment of Investor entitlements for the Halifax Group which has an Investor base of 12,000 is a time consuming and complex task.

A high level summary of next steps to be taken by the Liquidators in the distribution process is as follows:

- Review claims received by Investors in respect of their entitlement to Category 3 and Category 5 shares. The Liquidators issued correspondence in early July 2021, following which we have been proceeding with the verification work and have commenced transferring shares to eligible Category 3 and Category 5 Investors;
- Close out remaining open positions held within the various Halifax platforms in order to distribute cash proceeds to Investors. As noted within the updated dated 29 November 2021, steps were taken to commence the close out process on 30 November 2021. Shares which are subject to Investor claims in respect of Category 3 and Category 5 have been quarantined from the close out process;
- Populate the Investor Portal with Investor account balances as at 27 November 2018. The Liquidators will process various adjustments to a small number of Investor account balances where necessary. Reasons for adjustments include:
 - A reduction in account balance and claim amount due to the transfer of shares, or pending transfer of shares to the Investor pursuant to a Category 3 and/or Category 5 application;
 - Adjustment made to correct unearned bonus credits recorded within the Halifax Account; and
 - Known and clearly identifiable account errors that had not previously been corrected due to the freezing of the Halifax platforms.

Investors will be notified within the Investor Portal if any adjustment has been applied to their account balance, the reason, and the amount of the adjustment.



- The Liquidators will issue correspondence to all Investors which will provide instructions for the Investor Portal, including how to log on and submit their claims, verify their identity, and provide bank details. We expect that this correspondence will be sent to Investors in December 2021;
- The Liquidators will issue Distribution Notices to Investors which will contain a unique code to register and log in to the investor portal. The issue of Distribution Notices will trigger the commencement of the claim timetable and response deadlines determined by the Courts; and
- The Liquidators will assist Investors in submitting claims, consider any disputes received, and provide notices to Investors in response to disputed claim amounts.

Once claims are settled, the Liquidators will pay a first cash Distribution to Investors.

Investor Portal access and the distribution procedures have been determined by the Courts. The Orders issued on 19 May 2021 outline the various steps, claim periods, dispute mechanisms, and the distribution process. We estimate that the process (once commenced via issue of Distribution Notices), will take approximately **three months** to progress to payment of the first Distribution. The estimated timing of the Distribution is made on the assumption of minimal Investor disputes and no further Court applications. Court applications submitted by Investors are likely to delay payment of the Distribution to all Investors.

On this basis, the Liquidators are of the view that the process should commence in the new year. This will provide Investors with an uninterrupted period in which to submit claims, seek assistance and personal advice (if required), whilst avoiding disruptions due to public holidays.

13. What should I do if I have further questions?

Please direct any queries to KPMG via email at au-fmhalifax@kpmg.com.au.