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## **INVESTOR UPDATE – 24 August 2022**

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

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

#### **Investor FAQ 24 August 2022 – Claims against former lawyers and auditors by Halifax AU**

The purposes of this document is to respond to queries received and provide further information in relation to the Notification to Investors dated 16 August 2022.

#### **1. What is the nature of the claims being made by the Liquidators?**

The Liquidators' claims against former lawyers and auditors relate to services provided to Halifax AU prior to the appointment of the Voluntary Administrators on 23 November 2018. The details of the claims against the former lawyers and auditors are confidential but will be made available to Investors once proceedings have been issued.

#### **2. Are the Liquidators pursuing claims against the former directors of Halifax?**

The applications being made in the Federal Court of Australia and the High Court of New Zealand relate to the entry into a proposed litigation funding agreement to fund the legal costs and disbursements associated with progressing the claims against former lawyers and auditors. These applications do not relate to claims or potential claims against former directors. Further information in relation to the status of investigations into the directors of Halifax will be provided in a report to creditors which will be issued shortly.

#### **3. Will the Liquidators be using funds recovered from the sale of the Halifax Portfolio to pay legal fees and Liquidators' remuneration incurred in connection with claims against former lawyer and auditors?**

The proposed funding agreement will provide for the funder to meet all of the Liquidators' legal costs and disbursements as well as protecting Halifax AU and the Liquidators from any adverse cost orders, including orders for security for costs. The costs to be incurred by the Liquidators in providing instructions and information to their legal representatives during the proceedings are proposed to be met from the commingled pool of funds which include recoveries already made by the Liquidators to date. This remuneration is subject to review by an independent third party and following that review, approval by the Federal Court of Australia and the High Court of New Zealand. Based on the Liquidators' estimate of their costs, it is anticipated that the costs incurred by the Liquidators will be less than the recoveries already made by the Liquidators to date.

#### **4. Will Investors receive any proceeds from these claims?**

In the event of a successful outcome, recoveries from claims may contribute to the pool of funds of Halifax AU and Halifax NZ available for distribution to Investors after payment of agreed costs and expenses associated with the proceedings including the funding of the proceedings.



#### **5. What happens if the Liquidators are unsuccessful?**

In the event of an unsuccessful outcome the proposed litigation funder will pay the legal costs incurred (including any adverse costs). The only exposure of investors will be for the costs incurred by the Liquidators in providing instructions and information during the proceedings (as outlined in question 3 above).

#### **6. Will pursuing these claims delay the payments of distributions to Investors?**

Whilst the final distribution to investors may be delayed, if the Liquidators are successful in respect of the claims they intend to pursue (either following a settlement of those claims or following litigation), the value of that distribution may be significantly higher. Importantly, most of the investor funds will be distributed well before that time. Irrespective of the duration of any proceedings, the Liquidators will continue to make interim distributions from the funds currently held to eligible investors. The final distribution will be made once all matters arising in the liquidations have been resolved. A further update will be provided shortly to investors regarding the status of distributions.

#### **7. Information regarding potential claims was provided in reports issued by the Liquidators in August 2020. Why is this matter only being taken to court now?**

The Liquidators and their legal team have been investigating potential claims for some time in order to formulate claims which they believe will have a high probability of a success. This is a lengthy and time-consuming process which includes the review of all relevant documents, the formulation of claims and obtaining advice on the prospects of those claims. Most significantly, the Liquidators have been liaising with potential funders which culminated in the present offer of funding which was received on 11 July 2022 in order to ensure that investor funds are not significantly exposed by the pursuit of these claims.

#### **8. How do I attend the Federal Court of Australia application hearing?**

The hearing is 'in person' at the Federal Court of Australia, Queen's Square, Phillip Street, Sydney NSW 2000 on Thursday, 25 August 2022 at 10.15am AEST. It is anticipated, however, that some of that hearing will be in closed Court because of the confidential nature of the details of the proposed claim and the funding arrangements.

#### **9. Will there be a similar application hearing in New Zealand?**

An application (although in more limited terms) has also been filed by the Liquidators in the High Court of New Zealand and is expected to be determined in the week between 29 August 2022 and 2 September 2022. That application may be determined on the papers rather than by way of a Court hearing.

#### **10. I would like to attend the Federal Court of Australia application hearing but do not reside in Australia. Am I able to attend via phone or video conference?**

At this stage, the hearing is in person only.

Please continue to monitor your inbox and the [KPMG website](#) for future updates. All queries relating to the Interim Distribution and/or Investor Portal should be directed to [au-fmhalifaxportal@kpmg.com.au](mailto:au-fmhalifaxportal@kpmg.com.au).