

The views contained within this document do not necessarily reflect the views of the liquidators

**IMPORTANT NOTICE:**

**REQUEST FOR YOUR COMMENT ON SUBMISSIONS THAT INVESTORS WITH ACCOUNT BALANCES UNDER AUD\$100 OUGHT NOT RECEIVE A DISTRIBUTION**

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

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

**Elysium Business Systems Pty Ltd (Elysium)**

**Part 1: Purpose of this Notice**

Elysium is the representative defendant for ‘Category 2’ investors in proceedings in the Federal Court of Australia and the High Court of New Zealand. The representative defendants are required to file and serve written submissions upon which they intend to rely at Hearing by 16 November 2020. The Hearing is due to commence on 30 November 2020 with a duration of 2 weeks. Elysium would like to hear from Category 2 investors about Elysium’s proposed response to the proposition that investors with account balances under AUD\$100 ought not receive a distribution from the liquidators.

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**Part 2: Who is a Category 2 Investor?**

Please refer to the FAQ Investor update posted by the Liquidators on 15 November 2019. If you still require further clarification to determine which category of investor you belong to, please contact the Liquidators.

**Part 3: Elysium’s Submissions on Small Balances**

In our Investor Notice distributed on 7 August 2020, we notified Category 2 Investors that we would be making submissions to the effect that the Liquidators ought be under no obligation to calculate and disburse entitlements to clients with holdings worth less than \$100.

Since that Investor Notice, the parties to the proceedings have been provided evidence by Morgan Kelly, one of the Liquidators, that 34.2% of Category 2 Investors have entitlements worth equal to or less than \$100.<sup>1</sup> Therefore, 34.2% of Category 2 Investors would be disadvantaged by such a ruling.

In our view, this is a very high proportion of potential Category 2 Investors to be impacted by such a ruling. However, if distributions are made to all investors with holdings worth less than \$100, the costs

<sup>1</sup> Affidavit of Morgan John Kelly dated 14 September 2020, at paragraph 24(b).

of doing so could disproportionately affect the remaining 65.8% of Category 2 Investors, who will see their distributions reduced further to cover the cost of making distributions to those with small account balances.

In the circumstances, we propose to inform the Courts that approximately 34.2% of Category 2 Investors will be negatively impacted should the Courts decide that the Liquidators ought not make distributions to investors with holdings worth less than \$100. However, given the competing interests within Category 2, we will neither consent to nor oppose such an order being made.

**Part 4: Information We Need From You by 12 November 2020**

If you have any views or comments that you wish to be presented to the Courts on this issue, please do not hesitate to make contact with us. We will put the Courts on notice of all views on this issue, in support, against or otherwise.

If you wish to have your say, please contact TurksLegal and provide your comments by no later than **Thursday 12 November 2020**.

You can contact TurksLegal by email as follows:

**Email:** [halifaxcat2@turkslegal.com.au](mailto:halifaxcat2@turkslegal.com.au)

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