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INVESTOR UPDATE – 11 August 2021

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

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

Court process

As outlined in the FAQ document dated 22 June 2021, the solicitors for the First Defendant, Mr Loo, filed an Application for extension of time and leave to appeal in the Federal Court of Australia and a Notice of Appeal in the Court of Appeal in New Zealand on 15 and 16 June 2021 (**the Appeal**). The position taken by Mr Loo in the Appeal 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 Investors are calculated 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 once all remaining open positions have been realised by the Liquidators.

The Liquidators requested that the Appeal be heard in August 2021. However, on 22 July 2021 the Courts made Orders confirming that the Appeal is scheduled to be held by way of a joint hearing between the Courts in Australia and New Zealand on **23 September 2021**.

Despite the Appeal, the Liquidators have continued to take steps to progress the following matters, which are not impacted by the Appeal:

- **Categories 3 and 5** - review of claims received in response to correspondence issued to Investors with open positions on the MT5, IB AU and IB NZ platforms which requested that Investors advise the Liquidators as to whether they believe they have an entitlement to the Category 3 and/or Category 5 shares. The Liquidators are working through all claims received to date;
- **Close out of Investor positions** - determination of the appropriate method and timing of the close out of Investor positions (which cannot be commenced until the distribution of shares to Category 3 and Category 5 Investors is concluded); and
- **Recoveries** - investigations with respect to potential recoveries from the Director and other third-party advisors.

Timing of distribution to Investors

The Courts have now confirmed a hearing date for the Appeal (being 23 September 2021). This means that the timing of the distribution to Investors as set out in the Investor Update - 2 June 2021 and the FAQ document dated 22 June 2021 will be delayed.

As noted above, the matter the subject of the Appeal is the date at which the Liquidators are justified in calculating the proportionate entitlement of Investors. If the Appeal is successful, the judicial advice / directions that the Liquidators have obtained could change. As a result:



- a) the Liquidators will not, before the outcome of the Appeal is known, issue correspondence to Investors providing a link to the Investor Portal (being the method by which Investors will submit their claims to the Liquidators), which we had anticipated sending in July 2021; and
- b) the Liquidators are not able to pay an interim distribution to Investors prior to the resolution of the Appeal.

We are not able to estimate with any degree of accuracy how long it will take the Courts to determine the Appeal and deliver judgment, however we anticipate that it will take at least 3 months to make a distribution following the resolution of the Appeal. That being the case, it is now unlikely that a distribution will be paid to Investors before the end of 2021. It is more likely that Investors will receive a distribution in early 2022.

This timeline is an estimate only and is subject to change. Further events which may delay the payment of the distribution include:

- the length of time between the hearing of the Appeal and the judgments being delivered by the respective Courts;
- a large number of Investors disputing their account balance as at the date at which the proportionate entitlements of Investors are calculated;
- 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.

Please visit the links to the following websites for a copy of the correspondence issued to investors:

— **Halifax Australia:** <https://home.kpmg/au/en/home/creditors/halifax-investment-services.html>

— **Halifax New Zealand:** <https://home.kpmg/au/en/home/creditors/halifax-nz-limited.html>

Please submit all queries in writing to the Liquidators via email to au-fmhalifax@kpmg.com.au.