



## UPDATE TO INVESTORS – 13 March 2020

### HALIFAX INVESTMENT SERVICES PTY LTD (IN LIQUIDATION) (HALIFAX AU)

### HALIFAX NEW ZEALAND LIMITED (IN LIQUIDATION) (HALIFAX NZ)

#### Update to investors

Investors will be aware that a joint hearing of the Federal Court of Australia and the High Court of New Zealand took place (by way of audio-visual link) on 18 February 2020. At this hearing the Liquidators sought a direction that the Liquidators would be justified in:

- considering further the range of complex issues identified by investors in response to that part of the Investor Notice dated 15 November 2019 relating to closing out, so as to be able to determine the way forward; and
- consequently, refraining from closing out investor positions until after 3 April 2020.

Justice Venning, the Chief Judge of the High Court of New Zealand, in his minute of 21 February 2020 stated (at paras [31] and [32]) that:

[31]: *“While I am sympathetic to the position the liquidators find themselves in I do not consider that this Court can give the advice sought at this time. The liquidators have not made a decision about closing out but have postponed that decision. They will need to consider the further responses from investors before making a decision. They may need to take further legal advice on the issue. It is likely that the liquidators will still not be in a position to advise the Court formally as to a final position as to closing out even at the hearing on 3 April 2020.”*

[32]: *“The Court, like the liquidators, at present lacks sufficient information to give the advice sought. **What the Court can do is record that on the information currently available to the Court it is reasonable for the liquidators to seek further information and input from affected investors before making a decision about closing out”.***

On 3 March 2020, Justice Gleeson delivered reasons saying that her Honour agreed with the observation of Justice Venning in paragraph 32 of his minute as to the Court presently lacking sufficient information to provide the advice sought.

A full version of the minute of Justice Venning and of the reasons of Justice Gleeson can be seen at:

**Minute of Justice Venning:** <https://www.ferrierhodgson.com/au/-/media/ferrier/files/documents/corp-recovery-matters/halifax-new-zealand-limited/halifax-nz--minutes-18-february-2020.pdf>

**Reasons of Justice Gleeson:** <https://www.ferrierhodgson.com/au/-/media/ferrier/files/documents/corp-recovery-matters/halifax-investment-services/judgment--in-the-matter-of-halifax-number-7--3-march-2020.pdf>

The Liquidators have now decided to refrain from realising outstanding investments until the Courts determine all matters at the final hearing, subject to obtaining judicial advice/directions from the Courts that they would be justified in doing that.

The reasons for that decision will be detailed in evidence before the Courts which will be provided to investors in due course. However, in short, the issues raised by investors in response to the Investor Notice are intertwined with the issues that will be determined as part of the Liquidators’ overall application in relation to the distribution of funds.

The Liquidators are now preparing formal documents for the Courts in relation to this application for judicial advice. The application may or may not be heard by the Courts on 3 April.



The Liquidators remind all Investors that it is open to them to close out their positions should they deem this to be appropriate (although investors' ultimate entitlements to funds and the manner in which funds will be distributed will be determined by the Courts). However, it is not the role of the Liquidators to provide investment advice and nothing in this update should be construed as such.

#### **Further information**

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

- **Halifax Australia:** <https://www.ferrierhodgson.com/au/creditors/halifax-investment-services-pty-ltd>
- **Halifax New Zealand:** <https://www.ferrierhodgson.com/au/creditors/halifax-new-zealand-limited>

#### **Enquiries**

Please direct any queries you may have via email to [au-fmhalifax@kpmg.com.au](mailto:au-fmhalifax@kpmg.com.au).