



Level 38 Tower Three, 300
Barangaroo Avenue, Sydney
NSW 2000

PO Box H67 Australia Square,
Sydney NSW 1215
Australia

ABN: 51 194 660 183
Telephone: +61 2 9335
7000
Facsimile: +61 2 9335 7001
DX: 1056 SYDNEY
www.kpmg.com.au

INVESTOR UPDATE – 2 June 2021

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

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

Court process

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>

Key elements of the orders

The purpose of the following table is to provide a high-level summary of the key elements of the orders to assist Investors with understanding what the orders mean for them.

The table below:

- is not intended to be a re-statement or interpretation of the Orders; and
- is not intended to be a complete record of the Orders in their entirety but rather summarises *some* of the Orders made by the Courts.

In circumstances where Investors consider that there are inconsistencies between the paraphrased descriptions below and the orders themselves, the orders should be relied on as the most accurate record.

Key element	Comments
Category 3 Shares (orders 2 – 6) The Liquidators are justified in organising for the shares of Investors of Halifax AU and Halifax NZ that were transferred from another broker to the IB AU, MT5 or the IB NZ platform, and were never traded (the Category 3 Shares) to be transferred	Investors with open share positions on the IB AU, MT5 or IB NZ platform will be issued with separate correspondence in relation to Category 3 in the coming weeks. The 35 day timeframe in Orders 4 and 6 does not commence until this separate correspondence has been issued.

<p>to the Investor in whose account those shares are currently recorded.</p>	
<p><u>Category 5 Shares (orders 7-11)</u></p> <p>The Liquidators are justified in organising for the shares of the following categories to be returned. Investors who:</p> <ul style="list-style-type: none"> ▪ transferred shares from another broker to the Saxo platform and never traded in those shares, which shares were transferred from the Saxo platform to the IB AU platform or the IB NZ platform and were recorded in a client account on the MT5 platform, the IB AU platform or the IB NZ platform; ▪ purchased shares through the IB NZ platform prior to 1 July 2013 and never traded in those shares; or ▪ purchased shares through the IB AU platform, the IB NZ platform or the MT5 platform prior to 1 May 2012 and never trade in those shares. 	<p>Investors with open share positions on the IB AU, IB NZ or MT5 platforms will be issued with separate correspondence in relation to Category 5 in the coming weeks.</p> <p>The 35 day timeframe in Orders 9 and 11 does not apply until this separate correspondence has been issued.</p>
<p><u>Date of calculation (order 14)</u></p> <p>The Liquidators are justified in adopting 27 November 2018 as the date at which the proportionate entitlements of Investors are to be calculated.</p>	<p>Please refer to paragraphs 325 to 339 of the judgment of Justice Markovic of the Federal Court of Australia for a useful summary as to the reasons for this decision.</p>
<p><u>Close out and distribution (orders 15-18)</u></p> <p>Following the return of shares in accordance with the Category 3 and Category 5 Orders as well as the return of the pre and post-appointment deposits outlined above, the Liquidators are justified in calculating Investor entitlements using the <i>pari passu</i> approach and closing out all open positions currently held on the various platforms.</p> <p>The Liquidators are also justified in pooling the funds in the bank accounts operated by the Halifax Group.</p>	<p>With the exception of the Category 3 and Category 5 shares, all distributions will be paid in cash to Investors.</p>
<p><u>Distribution process (order 19)</u></p> <p>The Liquidators are justified in adopting the following process to distribute Investor entitlements:</p> <ul style="list-style-type: none"> ▪ The Liquidators will send via email to each Investor, a notification providing unique login details to a secure, web-based portal (the 	<p>We anticipate Investors will receive correspondence providing log in details to the Investor Portal in July 2021.</p> <p>There is no need for Investors to write to the Liquidators to provide details prior to receiving this correspondence. Personal information (including bank details) will need to be provided via the</p>

<p>Investor Portal). Investors will be notified of the value of their entitlement for the purpose of the distribution via the Investor Portal.</p> <ul style="list-style-type: none"> Investors will be required to verify their identity, confirm the value of their entitlement and provide bank details for the distribution of the entitlement. Investors will be given 21 days to complete this information. <p>The Orders also provide for a dispute process in circumstances where Investors do not agree with the account balance (as at 27 November 2018) shown in the Investor Portal.</p>	<p>Investor Portal, even if you have sent this information to Halifax and / or KPMG previously.</p>
<p><u>Offsetting balances (order 20)</u></p> <p>The Liquidators are justified in doing the following:</p> <ul style="list-style-type: none"> Where an Investor has multiple accounts on the various platforms, combining the balances of those accounts to calculate the net position of the Investor; and Setting off positive account balances credited to a particular Investor against negative account balances incurred by the same Investor. 	
<p><u>Credit balances of less than \$100 (order 21)</u></p> <p>The Liquidators are justified in treating Investors who have a credit balance of AU\$100 or less as having no right to participate in the distribution of funds by the Liquidators.</p>	<p>This means that Investors with an account balance of less than AU\$100 as at 27 November 2018 will not receive funds in the distribution.</p>
<p><u>Return of pre-appointment and post-appointment deposits (orders 12 -13)</u></p> <p>Orders have been made in respect of the return of funds held in various accounts operated by the Halifax Group on the day prior to and shortly after the appointment of the Voluntary Administrators.</p>	<p>The quantum of the funds to be returned in accordance with these Orders is approximately AU\$150,000. Investors to which this relates will be contacted separately.</p>
<p><u>Indemnity costs against Majority Holders (order 23)</u></p> <p>The Majority Shareholders (being Mr Worboys and Hong Kong Capital, an entity controlled by the Former Director) are required to pay costs on an indemnity basis in the amount of AU\$351,810.05 in respect of expenses incurred by the Liquidators by reason of the joinder of the Majority Shareholder to the proceedings and contentions raised by them.</p>	



Next steps for Investors

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

- Attend to the return of the pre-and post-appointment deposits (orders 12 and 13 in the above table). These amounts will be paid out following the expiration of the appeal period and total approximately \$150,000.
- Issue correspondence to Investors with open positions on the MT5, IB AU and IB NZ platform to request that Investors advise the Liquidators as to whether they believe they have an entitlement to the Category 3 and/or Category 5 shares. Investors will have 35 days to respond to this correspondence. The Liquidators anticipate that it will then take approximately 8 weeks to review these claims, undertake the verification work and attend to the transfer of the relevant shares. The Liquidators will aim to issue the correspondence in early June 2021, following which we will commence the verification work with a view to having the Category 3 and Category 5 shares transferred to the relevant Investors by September 2021;
- The Liquidators will issue correspondence to all Investors which will provide details and instructions for the Investor Portal which will allow Investors to log in and submit their claims and provide bank details. We expect that this correspondence will be sent out to Investors in July 2021; and
- We then anticipate that it will take a number of months to attend to the tracing and transfer of the Category 3 and Category 5 shares, deal with Investor disputes in relation to account balances, close out open positions and pay the distribution to Investors. On this basis, we anticipate being in a position to pay an interim distribution to Investors by the end of 2021.

We have previously advised Investors that it will take at least 6 months to make a distribution following receipt of Court directions. The above timeline is consistent with this estimate.

However, please be advised that 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 (including the pursuit of recoveries against various third parties). Events which may delay the payment of the distribution include:

- the lodgement of an appeal by one or more parties to the judgments in the client money proceedings (the deadline for which is 16 June 2021 in Australia and 17 June 2021 in New Zealand);
- 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.



Estimate of funds to be received

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 exact quantum of costs to be incurred by the Liquidators in undertaking the distribution is difficult to accurately predict at this stage.

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.