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

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

INVESTOR UPDATE – 24 August 2020

Update on joinder application filed by Majority Shareholders

As foreshadowed in our previous update to Investors dated on 7 August 2020, an application was filed by the majority shareholders in Halifax AU (**Majority Shareholders**), Jeffrey John Worboys (the Director of Halifax AU) and Hong Kong Capital Holdings Pty Limited (a company wholly owned by Matthew Barnett, the Former Director of Halifax AU), to be joined to the proceedings.

The Liquidators understand the argument, in a very short form, put forward by the Majority Shareholders is that clients of Halifax AU who paid the full purchase price to Halifax AU in respect of shares were not beneficial owners of those shares but rather had contractual entitlements as if they had entered into “contracts for difference” in respect of which Halifax AU was the counter party. This is, according to the Majority Shareholders, even though investors may have believed that they were entering into transactions to acquire shares. As a consequence, investors would be creditors of Halifax AU (rather than beneficiaries of a trust). The Majority Shareholders argue that Investor claims should be valued as at 23 November 2018, with any surplus assets above the 23 November 2018 balance of the portfolio (taking into account the deficiency) to be paid to them.

Having regard to legal advice that has been received, the Liquidators believe that this claim will not be successful and do not consider that it will result in a reduction to the pool of funds available to Investors, other than potentially in respect of additional costs incurred in relation to the joinder which the Liquidators do not expect to be significant.

The Liquidators requested that in circumstances where Orders are made by the FCA to join the Majority Shareholders to the proceedings, an amount be paid as security for further costs which may be incurred as a result of the joinder.

Other than opposing the application (which they did so at the directions hearing held on 31 July 2020), the Liquidators do not have any control over whether or not the Majority Shareholders are joined to the proceeding, this is a matter to be determined by the Court.

On 13 August 2020, orders were made by Justice Gleeson of the Federal Court of Australia that the Majority Shareholders be joined to the proceeding on the condition that they provide security for costs incurred by the Liquidators by reason of their joinder in the amount of \$50,000.

A copy of the Orders made by Justice Gleeson in relation to the joinder is available at the following link:

<https://assets.kpmg/content/dam/kpmg/au/pdf/creditors/halifax-investment-services/halifax-judgment-justice-gleeson-13-august-2020.pdf>



Movement in equity balances

We have prepared an analysis of the movement in investor equity balances between 23 November 2018 and 31 July 2020. These equity balances represent the balance of client accounts on the trading platforms and are not an indication of the value of assets held by Halifax AU and Halifax NZ. The values are calculated using exchange rates as at 23 November 2018 and 31 July 2020.

The following table indicates that the increase in the value of equity balances is relatively evenly split across platforms (with the exception of MT4 which does not hold a significant volume of stocks).

Platform	Portfolio value as at 23/11/2018 AU\$	Portfolio value as at 31/07/2020 AU\$	Movement since appointment AU\$	Movement since appointment %
IB NZ	44,367,970	54,510,595	10,142,624	23%
IB AU	110,045,790	142,181,312	32,135,522	29%
MT4	23,911,032	24,939,392	1,028,360	4%
MT5	33,277,030	43,166,370	9,889,340	30%
Total	211,601,822	264,797,669	53,195,846	25%

Movement in asset position

As at 23 November 2018, there was an estimated deficiency of \$19 million, representing 9% of client equity positions. That is, the total amount of assets held on trust for clients of Halifax AU and Halifax NZ was \$192.6 million and client equity positions totalled \$211.6 million.

As at 31 July 2020, the estimated deficiency of \$33.1 million represents 13% of client equity positions (as at 31 July 2020), with the total amount of assets held on trust for clients of Halifax AU and Halifax NZ being \$231.6 million and client equity positions being \$264.8 million.

Account	Balance as at 23/11/2018 AU\$	Balance as at 31/07/2020 AU\$
Total cash and assets held	196,269,496	231,660,748
Less: Company funds	(3,668,446)	(13,924)
Client Moneys held	192,601,050	231,646,824
Client equity positions	211,601,823	264,797,669
Deficiency in Client Moneys	(19,000,773)	(33,150,845)

The increase in the deficiency from 23 November 2018 to 31 July 2020 reflects market fluctuations in respect of unhedged positions and the costs of the Voluntary Administration and Liquidation including platform costs, wages, rent, legal fees and remuneration of the Voluntary Administrators and Liquidators and other operating costs which have been incurred and paid (with approval of the court as required) totalling approximately \$14 million.



Disclaimer

It is important to note the following:

- Investor equity balances and assets held continue to be subject to market fluctuations given open positions which continue to be held on the trading platforms.
- Costs, expenses and remuneration continue to be incurred for the period from 1 August 2020.
- Distribution of the Client Moneys is subject to the outcome of the Court proceedings and any distribution process determined by the Court. The Court hearing date at which the distribution will be considered is scheduled to commence on 30 November 2020.
- The investor equity balances set out above have not been the subject of an audit since the appointment of the voluntary administrators on 23 November 2018.

This update should not be interpreted as providing Investors with an update as to the quantum of the distribution they should expect to receive following the resolution of the Court process. The Liquidators will shortly be using an Estimated Outcome Statement to assist Investors in this regard.

Further information

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

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

Halifax NZ: <https://home.kpmg/au/en/home/creditors/halifax-nz-limited.html>

An updated FAQ which provides further information in relation to the status of our investigations of the conduct undertaken by the Director and Former Director is available at the following link:

<https://assets.kpmg/content/dam/kpmg/au/pdf/creditors/halifax-investment-services/halifax-investor-faq-update-10-august-2020.pdf>

Enquiries

Please direct any queries you may have via email to halifax@kpmg.com.au.