



**Halifax New Zealand Limited
(In Liquidation) (the Company)**

**Company Number 2130897
NZBN 942 903 274 8079**

Liquidators' ninth report

20 April 2023

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1 Introduction

Morgan Kelly, Phil Quinlan and Stewart McCallum were appointed as Administrators of the Company on 27 November 2018 pursuant to Section 239I of the Companies Act 1993 (the **Act**). The appointment followed the appointment of the same Administrators to the Australian entity, being Halifax Investment Services Pty Limited (**Halifax AU**) on 23 November 2018.

At the watershed meeting held on 22 March 2019, creditors resolved that the Company be wound up pursuant to Section 239ABA of the Act and that the Administrators be appointed as Liquidators of the Company. As previously advised, Stewart McCallum has since resigned as Liquidator of the Company effective from 9 May 2019. On 15 December 2022, Peter Gothard was appointed joint and several Liquidator of the Company upon the resignation of Morgan Kelly. Phil Quinlan remains as Liquidator for both Halifax NZ and Halifax AU.

For the purposes of this Report, the Company and Halifax AU are collectively referred to as the Halifax Group. Investor clients of the Halifax Group are referred to as Investors.

2 Statutory reporting

This report has been prepared pursuant to section 255(2)(d) of the Act and covers the six-month period from 23 September 2022 to 22 March 2023 (**This Report**).

This Report should be read in conjunction with the Liquidators' previous reports and updates, and in particular the Liquidators' updates to Investors dated 23 November 2022 and 15 December 2022, as well as the report to Investors and creditors dated 17 March 2023.

These documents are available at the following links:

<https://assets.kpmg.com/content/dam/kpmg/au/pdf/creditors/halifax-investment-services/halifax-update-to-investors-23-november-2022.pdf>

<https://assets.kpmg.com/content/dam/kpmg/au/pdf/creditors/halifax-investment-services/halifax-update-to-investors-15-december-2022.pdf>

<https://assets.kpmg.com/content/dam/kpmg/au/pdf/creditors/halifax-investment-services/halifax-report-to-investors-creditors-17-march-2023.pdf>

Copies of all previous reports and updates are available at the following link:

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

3 Restrictions

This Report has been prepared in accordance with and for the purpose of section 255 of the Act. It is prepared for the sole purpose of reporting on the state of affairs of the Company in liquidation and the conduct of the liquidation. It is not the intention that This Report is available for general circulation, nor should it be reproduced in full or in part without the Liquidators' written consent.

In preparing This Report, the Liquidators have relied upon information, documentation and explanations provided to them by various parties. The information, documentation and explanations have not been independently verified or audited as at the date of compiling This Report. The Liquidators accept no responsibility for the completeness or accuracy of the information contained in This Report, nor do they accept liability for any losses occasioned to any party due to the circulation, publication, reproduction, or use of This Report.

The Liquidators reserve the right to review and amend This Report in light of any additional information and explanations that become available, although they are under no obligation to do so.

All amounts are in NZD unless specified.

4 Current position

4.1 Matters addressed during the liquidation

In conjunction with the liquidation of Halifax AU, key actions taken to date include:

- Investigations and reconciliation of the assets of Halifax NZ and Halifax AU to determine the deficiency in client funds;
- Attending to complex court proceedings in New Zealand and Australia;
- Close out of portfolio of assets held by Halifax NZ and Halifax AU on behalf of Investors;
- Managing the claims distribution process for over 8,000 Investor claims;
- Assessing over 150 claims for in-specie distribution of shares;
- Responding to a large volume of Investor queries, including over 20,000 emails;
- Distributing funds to over 4,000 Investors located in over 40 countries;
- Issuing more than 50 Investor Updates and FAQ documents; and
- Investigating misconduct and assessing recoveries on behalf of Investors.

4.2 Future tasks to finalisation of the liquidation

In conjunction with the liquidation of Halifax AU, the Liquidators are continuing to progress the following key tasks:

- Finalising payment of the remaining first and second interim distributions to eligible Investors;
- Payment of a third interim distribution to eligible Investors commencing in June 2023;
- Progressing claims against third parties to recover further funds for the benefit of Investors;
- Continuing to report to regulators as required;
- Realisation of the remaining largely illiquid investments; and,
- Payment of a final distribution to eligible Investors.

4.3 Liabilities

No secured creditors have filed claims since our last report. It is not necessary for preferential or unsecured creditors who have already lodged a proof of debt to lodge another proof of debt at this stage. No distributions have been made to unsecured or preferential creditors.

Total preferential creditors are estimated to be \$116,360. Unsecured creditors are estimated to total \$17,592, however this amount includes approximately 2,100 contingent (Investor) creditors of the Company for the value of \$1.

A list of preferential and unsecured creditors is provided at **Annexure F**.

4.4 Summary of receipts and payments

A summary of receipts and payments for the period 27 November 2018 to 22 March 2023 is provided at **Annexure A**. Please note that this relates only to the Liquidators' operating account which includes all operating receipts and payments for the Voluntary Administration and Liquidation period and excludes any receipts and payments from the pre-appointment trust accounts and pre-appointment accounts controlled by Halifax NZ on appointment which are summarised at **Annexure B** and **Annexure C** respectively.

A list of the receipts and payments for the period 27 November 2018 to 22 March 2023 for all other accounts opened subsequent to the appointment of the Voluntary Administrators which contain funds held in segregated accounts is provided at **Annexure D**.

5 Investigation into the Company's affairs

As previously advised, the Liquidators are currently assessing recovery steps in relation to the conduct of the Company's director, former directors, and the Company's former auditor.

The Liquidators of Halifax AU have obtained litigation funding and are progressing recovery action in the Federal Court of Australia against Halifax AU's former auditors and lawyers. These proceedings are ongoing.

In the event of a successful outcome of these proceedings, recoveries from claims may contribute to the pool of funds of Halifax AU and Halifax NZ available for distribution to Investors after payment of agreed costs and expenses associated with the proceedings including the funding of the proceedings.

6 Outcome of Client Moneys proceedings

The Liquidators applied to the Federal Court of Australia (**FCA**) for judicial advice and / or directions as to how to distribute the commingled investor funds held by Halifax AU. The Liquidators also filed a mirror application to the High Court of New Zealand (**NZHC**) in respect of funds held by Halifax NZ, including in their capacity as trustees appointed by the Financial Markets Authority pursuant section 246(2) of the Financial Markets Conduct Regulations 2014. The Liquidators sought a joint sitting of the NZHC and FCA to provide consistent directions on the distribution of investor funds.

Proceedings commenced in the FCA on 3 July 2019 and the NZHC on 25 September 2019 in respect to the aforementioned applications. The FCA and the HCNZ agreed to coordinate the conduct and hearing of the Australian proceedings and the New Zealand proceedings. The final hearing was set down for 30 November 2020.

Their Honours Justice Markovic and Justice Venning of the FCA and the HCNZ respectively handed down their judgments and made consequential orders in the Client Moneys proceedings on 19 May 2021. Their Honours determined 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.

The First Defendant filed a Notice of Appeal in mid-June 2021. The position taken by Mr Loo in the Appeal was 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.

The Appeal was held on 23 September 2021. On 26 October 2021, both Courts delivered their judgments and ordered that the Appeal should be dismissed. As a result, the date on which the proportionate entitlements of Investors to the assets of Halifax AU and Halifax NZ should be calculated remains as 27 November 2018.

7 Professional fees

The hourly rates of the Liquidators and their team members, as follows:

Position	Hourly rate AU\$
Partner	695
Director	625
Associate Director	575
Manager	525
Executive	475
Analyst	375
Support Staff	225

The Liquidators have incurred fees of AU\$2.84m (excluding GST) for the period 22 March 2019 to 30 September 2022, representing an average hourly rate of AU\$520. This remuneration has been approved by the HCNZ.

A breakdown of fees incurred by staff level and key task area is outlined at **Annexure E**.

The remuneration incurred by the Liquidators for the period 1 October 2022 to 22 March 2023 has not yet been approved or paid but is estimated to be approximately AU\$240,000.

8 Distributions

8.1 Actual and forecast distributions

The majority of client accounts were consolidated on 30 November 2021 to enable the Liquidators to realise the portfolio. This is therefore the last date at which the majority of Investors' trust entitlements can be determined.

However, in accordance with the Client Money Orders, the proportion of available funds to be distributed to each Investor in light of the deficiency is calculated by reference to Investor account balances as at 27 November 2018. For the majority of Investors, this is the amount verified on the Investor Portal.

A summary of distributions paid to date, including future estimates, is as follows:

Distribution	Amount as % of Investor account balances as at 27 November 2018	Payment date
First interim distribution	50%	From May 2022
Second interim distribution	50%	From November 2022
Third interim distribution	10%	Estimated from June 2023
Final distribution	2%	To be determined
Total estimated distributions	112%	

The references to percentage distributions are made in reference to Investor account balances at 27 November 2018. This is not reflective of each Investor's beneficial entitlement, but rather to provide an indication of the amount Investors can expect to receive.

It is important to note that the beneficial entitlement of Investors, or the amount to which Investors are entitled as a result of the Client Money Orders is not capped at their 27 November 2018 account balance.

8.2 Eligible Category 3 and 5 distribution in-specie

In accordance with the Client Money Orders, Category 3 and Category 5 Investors were able to apply for an in-specie distribution of shares that met certain eligibility criteria.

In-specie distributions to eligible Investors have now been completed and shares valued at a combined total of AU\$27.6m (at the time of transfer) have been transferred to eligible Category 3 and Category 5 Investors.

9 Statement of assets and liabilities

Based on our investigations to date, the Company has the following assets and liabilities:

Summary of assets and liabilities				
Assets	Note	Previous est. value (\$)	Revised est. value (\$)	Recovered value (\$)
Opening cash balances at Liquidation appointment		479,185	479,185	479,185
Plant & equipment		850	850	850
Total assets	1	480,035	480,035	480,035
Liabilities				
Preferential creditors		116,360	116,360	
Unsecured creditors		17,952	17,952	
Total liabilities	2	134,312	134,312	
Net assets		345,723	345,723	

Note:

1. Trust assets are not included in this statement of assets.
2. The figures in the table are before costs and exclude any recoveries.

10 Reporting obligations

The Liquidators are obligated to evaluate the actions of management, review antecedent transactions and if necessary, report any adverse findings to the appropriate authorities and/or institute proceedings for recovery of funds dissipated.

Should you have any information that you believe would benefit our enquiries then please set out details in writing, attaching copies of all documentary evidence, and send it to the Liquidators. Please note that the Liquidators can only act on written information as undocumented information is deemed to be hearsay only and is inadmissible in court.

11 Future reporting

Reports on the conduct of the liquidation and on proposals for completion of the liquidation will be prepared and distributed six monthly in accordance with section 255 of the Act. A final report will also be prepared and distributed in accordance with section 257 of the Act at the completion of the liquidation.

12 Queries

Questions regarding the Liquidation should be directed to the Liquidators via email at au-fmhalifax@kpmg.com.au.

Dated 20 April 2023



Phil Quinlan

Joint and Several Liquidator of **Halifax New Zealand Limited (In Liquidation)**

Annexures

A – Liquidators' operating account receipts & payments to 22 March 2023

Liquidators' operating account (NZ\$)	Voluntary Administration	Liquidation	Total
	27 November 2018 to 21 March 2019	22 March 2019 to 22 March 2023	
Opening cash balance at appointment	-	479,185	
Receipts			
Debtor collections	506	-	506
Receipts from pre-appointment accounts	899	1,706,404	1,707,303
Receipt from pre-appointment term deposit	1,113,565	-	1,113,565
Receipts from other post-appointment accounts	-	4,890,257	4,890,257
Unclaimed monies	21,437	-	21,437
Plant & equipment	-	850	850
Cash at bank	95,447	-	95,447
Funds received from Interactive Brokers	-	59,294,203	59,294,203
Total receipts	1,231,853	65,891,714	67,123,567
Payments			
Administration expenses	(7,911)	(249,394)	(257,305)
Administrator/Liquidator disbursements	-	(201,466)	(201,466)
Administrator/Liquidator fees	(455,500)	(2,570,227)	(3,025,727)
Bank charges	(112)	(7,121)	(7,232)
Employee expenses	(52,519)	(57,399)	(109,918)
Foreign currency loss	-	(78,085)	(78,085)
Funds paid to Halifax AU by Halifax NZ (term deposit)	-	(57,978,843)	(57,978,843)
Investor receipts	-	(41,271)	(41,271)
Licence expenses	-	(26,644)	(26,644)
Platform & IT expenses	-	(6,729)	(6,729)
Other expenses	-	(9,606)	(9,606)
Occupancy expenses	(9,152)	(45,944)	(55,096)
Legal fees & disbursements	(227,475)	(2,400,937)	(2,628,411)
Total expenses	(752,668)	(63,673,668)	(64,426,336)
Closing balance for appointee account	479,185	2,697,231	

B – Company pre-appointment trust accounts receipts and payments to 22 March 2023

Pre-appointment trust account or s981 account (NZ\$)	Voluntary Administration	Liquidation	Total
	27 November 2018 to 21 March 2019	22 March 2019 to 22 March 2023	
Opening cash balance at appointment	1,764,981	1,811,069	
Receipts			
Investor deposits	44,011	39,000	83,011
Reversal of bank charges	-	65	65
Interest	2,507	5,185	7,692
Total receipts	46,518	44,250	90,768
Payments			
Transfer to Appointee Account	-	(1,664,980)	(1,664,980)
Other expenses	-	(1,000)	(1,000)
Bank charges	(429)	(195)	(624)
Total payments	(429)	(1,666,175)	(1,666,605)
Closing balance	1,811,069	189,144	

Please note, all foreign currency accounts have been converted to NZD based on the RBNZ exchange rate as at 27 November 2018

C – Other company pre-appointment accounts receipts and payments to 22 March 2023

Pre-appointment company accounts (NZ\$)	Voluntary Administration	Liquidation	Total
	27 November 2018 to 21 March 2019	22 March 2019 to 22 March 2023	
Opening cash balance at appointment	1,209,910		
Receipts			
Reversal of bank charges		877	877
Total receipts	-	877	877
Payments			
Funds swept into appointee trading account	(1,209,910)	-	(1,209,910)
Bank charges	-	(877)	(877)
Total payments	(1,209,910)	(877)	(1,210,787)
Closing balance	-	-	

D – Appointee segregated accounts receipts and payments to 22 March 2023

Appointee segregated accounts (NZ\$)	Voluntary Administration	Liquidation	Total
	27 November 2018 to 21 March 2019	22 March 2019 to 22 March 2023	
Opening cash balance at appointment		(8)	
Receipts			
Funds withdrawn from Interactive Brokers as per July 2020 Funding Orders	-	8,210,925	8,210,925
Total receipts	-	8,210,925	8,210,925
Payments			-
Interaccount transfers	-	(984,151)	(984,151)
Legal fees & disbursements	-	(1,968,917)	(1,968,917)
Administration expenses	-	(1,737)	(1,737)
Administrator/Liquidator fees	-	(68,055)	(68,055)
Administrator/Liquidator disbursements	-	(200)	(200)
Transfer to appointee account	-	(3,954,000)	(3,954,000)
Bank charges	(8)	(332)	(340)
Total payments	(8)	(6,977,392)	(6,977,400)
Closing balance	(8)	1,233,525	

E – Detailed analysis for fees incurred from 22 March 2019 to 30 September 2022

Staff Classification	Hourly rate / AU\$	FMCR / FMA Trust	Hours per phase								Total (Hrs)	Total AU\$	Average rate per hour (AU\$)
			Investigation	Creditors	Trade on	Assets	Employees	Administration	Dividend	Other Professional Services			
Partner	695	13.0	414.5	99.7	18.5	1.8	0.5	103.0	51.2	6.3	708.4	492,331	695
Executive Director	650	-	3.3	9.4	-	-	-	3.5	-	-	16.2	10,530	650
Director	625	18.7	393.1	55.0	5.7	4.4	-	51.0	27.0	4.3	559.0	349,381	625
Associate Director	575	1.3	353.6	251.5	67.6	7.6	0.2	76.1	250.4	7.9	1,016.1	584,258	575
Manager	525	8.4	622.3	215.1	22.4	18.4	-	29.9	114.2	25.3	1,055.8	554,282	525
Assistant Manager	475	-	6.1	1.8	-	-	-	9.1	-	-	17.0	8,075	475
Executive	475	-	131.0	145.0	50.6	6.3	4.0	24.5	280.4	4.8	646.3	307,004	475
Senior Analyst	425	-	142.2	75.8	40.9	1.5	-	13.8	-	-	274.2	116,535	425
Analyst	375	-	161.3	274.6	95.2	55.8	-	79.1	351.2	6.7	1,023.9	383,972	375
Accountant	325	-	0.2	0.4	26.6	0.5	-	14.9	-	-	42.6	13,845	325
Undergraduate			-	4.0	3.0	-	-	-	68.3	-	75.3	16,948	225
Vacationer	225	-	1.9	0.3	0.1	-	-	0.3	-	-	2.6	585	225
Accounts Supervisor	225	-	0.3	-	22.0	0.3	-	0.4	7.6	-	30.5	6,868	225
Total		41.4	2,229.6	1,132.5	352.5	96.6	4.7	405.4	1,150.1	55.2	5,468.0	2,844,614	520

F – List of creditors

The following table provides a summary of the list of creditor claims the Liquidators have received to date. The Liquidators have not admitted any preferential or non-preferential unsecured creditors' claims.

Creditor	Preferential unsecured (NZ\$)	Non-preferential unsecured (NZ\$)
Digital Island	-	224
Employee entitlements	79,454	-
Get More Traffic HQ	-	79
HD NET	-	454
Inland Revenue Department	36,906	8,724
Iris Samia	-	739
Miriam Samia	-	2,081
NZME Radio	-	345
Packaging Recyclers (1992)	-	12
Receipt Bank Ltd	-	20
Simply Energy	-	536
StaffChecks	-	191
Tech Management Group	-	541
Unlimited Internet	-	10
UPWORK	-	2,931
Verifi Identity Services Ltd	-	531
Voyager	-	65
We Clean U	-	109
Total	116,360	17,592

Please note that due to the quantity of contingent creditors it is not practical to replicate the list in full in this report. As such the above table does not include a list of individual Halifax NZ client Investors which make up approximately 2,100 contingent creditors of Halifax NZ for the value of \$1.

G – Declaration of Independence, Relevant Relationships, and Indemnities (DIRRI)

There have been no changes to the DIRRI since the updated DIRRI contained in the Investor Update dated 15 December 2022 prepared pursuant to Section 255A of the Companies Act 1993.

Dated 20 April 2023



Phil Quinlan

Joint and Several Liquidator of **Halifax New Zealand Limited (In Liquidation)**