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## UPDATE TO INVESTORS AND CREDITORS – 26 August 2019

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

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

#### Update on Court applications

##### [Letter of request](#)

As previously advised, on 29 and 30 July 2019, the Federal Court of Australia heard our initial application requesting that the Federal Court issue to the High Court of New Zealand a letter of request seeking cooperation from the High Court in relation to the coordination of the Australian and New Zealand hearings.

On 22 August 2019, Justice Gleeson handed down judgement in relation to the applications heard on 29 and 30 July 2019.

At paragraph 76 of the judgment, Her Honour noted that she accepts that **'this case presents as a classic candidate for cross-border cooperation between Courts to facilitate the fair and efficient administration of the winding up of Halifax AU (and Halifax NZ) that will protect the interests of all relevant persons, particularly the investor clients of Halifax AU and Halifax NZ...'**

Her Honour also stated, at paragraphs 59 to 60 of her judgment, that she did not have 'any difficulty with the general proposition that this Court and the New Zealand High Court **should endeavour to cooperate to the extent possible** to promote the objectives of the liquidations of Halifax AU and Halifax NZ. **Nor do I have any difficulty with the general idea that such cooperation could include a concurrent hearing of this court and the New Zealand High Court, if the New Zealand High Court were amenable to such a hearing.** ... One means by which the New Zealand High Court might act in aid of and be auxiliary to this Court ... might be **to participate in a concurrent hearing** of the proposed NZ application with the hearing of the interlocutory process' in the Australian Application'.

However, her Honour stated that it would be 'premature' to issue the letter of request at this early stage of the proceedings and that the Liquidators should undertake the process of identifying and appointing representative respondents to the proceedings. Once these parties have been identified, their views should be sought as to the most efficient and effective way of proceeding in this case.

Her Honour indicated that, after the views of the representative respondents (and any other investors wishing to be joined to the court applications as respondents) have been ascertained, the Liquidators will be free to renew their application for the issue of a letter of request for a concurrent hearing.

##### [Funding application](#)

On 29 and 30 July 2019, an application was also heard before the Court in relation to the release of funds in the amount of \$12.8 million held by Halifax AU to meet the costs of maintaining Halifax's investor platforms, as well as any further and reasonable trading expenses incurred by Halifax.



The Orders made on 22 August 2019 advised that the Liquidators are justified in using the identified funds for the purposes outlined in the application. Please note that the Orders do not at this stage extend to payment of legal fees or payment of the remuneration of the Administrators or Liquidators.

Pursuant to the Orders, any person affected by the Orders may make an application to the Court in respect of the Orders on three business days' notice. If any person wants to make such an application, the application is to be made within 14 days of being notified of the Orders (which the Liquidators do by this update).

### **Next steps**

In the coming weeks, Investors will be issued with a further update from the Liquidators in relation to how the process of seeking representative respondents to the proceedings will be undertaken, as well as the process which must be followed by any other investor who wants to become a respondent to the court applications or to be otherwise permitted to make submissions in the proceedings. This update will include an updated timeframe in relation to the proceedings.

The Liquidators of Halifax NZ anticipate commencing proceedings in the High court of New Zealand within the next 10 business days.

### **Court documents**

To ensure all investors are kept informed, various Court documents, including the Judgment and Orders made on 22 August 2019, have been made available to investors at the following link:

<https://www.ferrierhodgson.com/au/creditors/halifax-investment-services-pty-ltd>

In certain instances, these documents have been redacted where they contain personal and confidential investor information. This is in line with Orders of the Court.

### **Further information**

Please visit the links to the following websites for a copy of the 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>

The Liquidators have recently been made aware that certain Investors may have received misinformation purporting to relate to the liquidation of Halifax AU. Please note that the Liquidators have not authorised the dissemination of information or updates concerning the progress of the liquidations of either Halifax AU or Halifax NZ by any third party. The Liquidators do not recommend that any Investor relies on information purporting to relate to the liquidations of either Halifax AU or Halifax NZ unless it is information circulated by the Liquidators and made available on the above websites. Investors should direct any concerns or queries that they may have to the Liquidators.