

**Sonray Capital Markets Pty Ltd
(Administrators Appointed)**

Second creditors' meeting

27 October 2010



Chairman's introduction

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- Administrators – George Georges and John Lindholm
- Appointed on 22 June 2010 over the four companies in the Group
- Norton Rose Lawyers act as Administrators' Solicitors
- This meeting is for Sonray Capital Markets Pty Ltd only as the other three companies in the Group are already in liquidation
- George Georges and John Lindholm will co-chair the meeting
- Live sites in Sydney and Brisbane

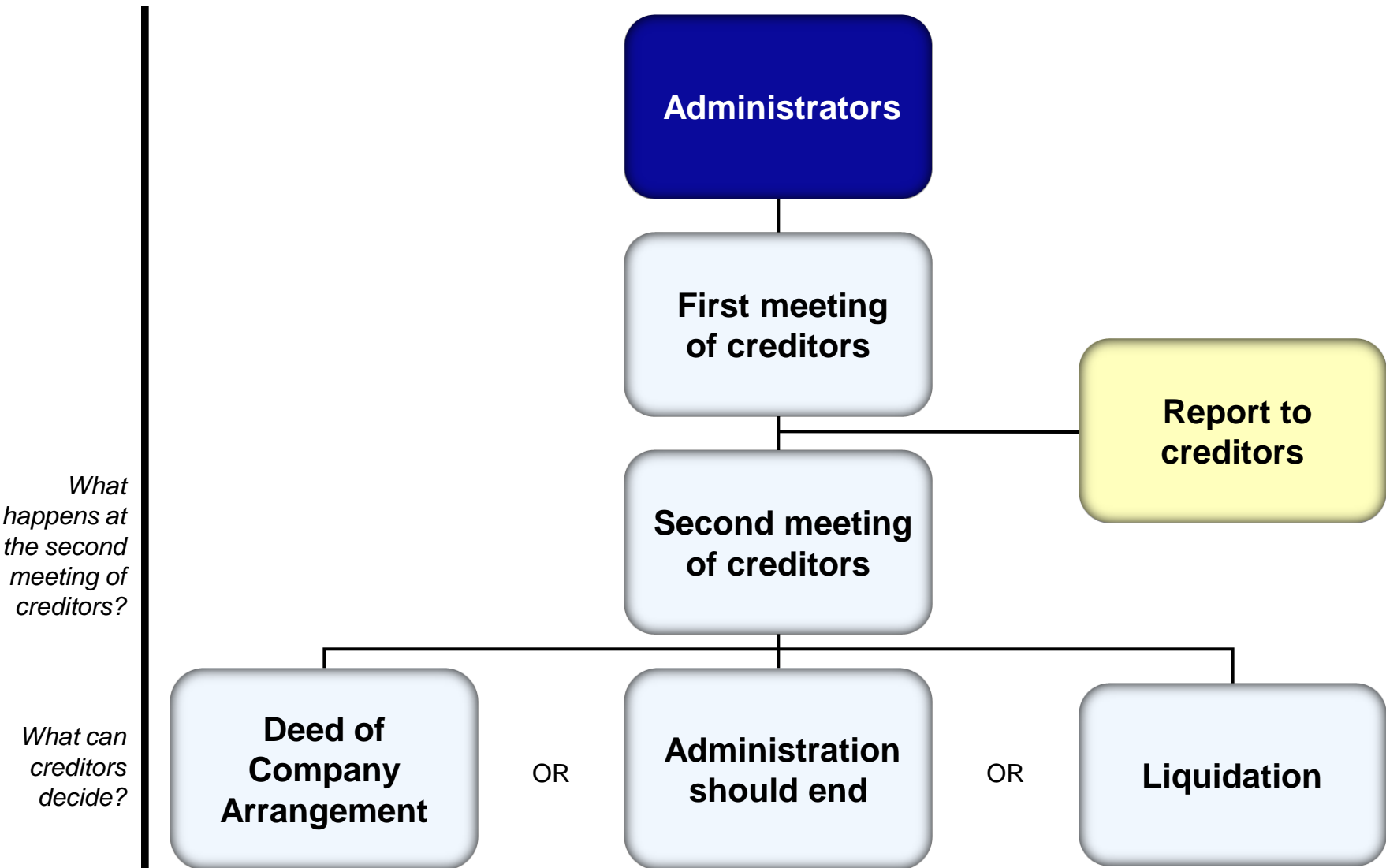
Housekeeping

- Please turn off all mobile phones during the meeting
- Chairman will invite questions at appropriate time
- All questions to be directed to Chairman
- When asking a question, please present your attendance card to the microphone attendant

Introduction of meetings

- Second meeting of creditors
- Purpose of meeting
- Admission of proxies
- Amount admitted – voting purposes only
- Quorum
- Voting and resolutions

Voluntary administration process



Group overview

Sonray

■ Background

- Established in 2003
- One of the first companies in Australia to provide advice on Contracts For Difference (“CFDs”)

■ Products

- Equities
- Options
- Futures
- CFDs
- Margin Foreign Exchange
- Exchange Traded Funds (“ETFs”)

Sonray

- Operated four trading platforms
 - **Sonray Global** – Interactive Brokers (**IB**)
 - Futures & Futures Options
 - Options
 - Margin FX
 - Equities
 - **Sonray Trader** – Saxo Bank
 - Managed Equities
 - CFDs
 - ETFs
 - Futures & Margin Forex
 - **Web Trader** – The Wholesale platform
 - **Agency** – E*Trade & UBS for HIN shares

Action taken by the Administrators

Action taken by the Administrators

- Notified and met with ASIC
- Terminated staff
- Commenced investigations into the allegations of the shortfall
- Interviewed the director and senior staff
- Forensically imaged all the Group's computer records, laptops and Blackberrys
- Issued preliminary notices to all unsecured creditors and investors
- Notified all landlords
- Wrote and spoke with all counterparties and platform providers

Action taken by the Administrators

- Met with Saxo Bank's legal representatives
- Wrote to the Company's auditors
- Dealt with numerous investor and creditor queries
- Met with former employees of interest
- Reviewed the Company's books and records
- Reviewed the Company's accounting systems
- Suspended all trading to minimise any further exposure to Sonray and clients
- Conducted public examination of Mr Russell Johnson (Director) and Mr Scott Murray (CEO)

Initial findings

Initial findings

- Account record keeping deficiencies
- A minimal number of employees with knowledge of events leading to the cause of the appointment or a knowledge of the accounting systems
- No Financial Controller employed at time of appointment
- Minimal funds on hand in the Sonray general operating account (circa \$300,000)
- General confusion by Investors as to how their accounts were managed and controlled by Sonray
- Misunderstanding by clients as to how the "segregated" accounts operated

Initial findings

- Year end financial accounts were audited by HLB Mann Judd with the 30 June 2009 accounts being signed off on 18 February 2010
- Various Compliance Framework and Solvency Reviews were performed by PwC

Investigation results

Investigation results

■ Deficiency in the Client Segregated Account

	\$m
Gross investor position	83.4
Less "House accounts"	(7.4)
Less approximate funds on hand	(30.0)
Approx. deficiency in Client Segregated Account	(46.0)

Investigation result

■ Causes for deficiency

	\$m
1. Overdrawn commissions	3.0
2. Unfunded transactions	35.6
3. Unfunded rebates	5.9
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	44.5
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Investigation results

1. Overdrawn commissions

- We carried out a full reconciliation of commissions for the period January 2007 to 22 June 2010
- Accounts overstated by approximately \$2m
- \$3m was inappropriately withdrawn from the Client Segregated Account
- Errors partly caused by inaccurate commission calculation by Saxo

Investigation results

2. Unfunded transactions

- ❑ 135 investor accounts affected
- ❑ 900 deposits and withdrawals traced
- ❑ 240 unfunded deposits totalling \$48.7m
- ❑ 78 unfunded withdrawals totalling \$13.1m
- ❑ We have traced 96% (\$47m) of the unfunded deposits and 94% (\$12.4m) of the unfunded withdrawals

Investigation results

3. Unfunded rebates

- ❑ Over 1,000 rebate transactions processed
- ❑ Approximately \$5.9m in transactions
- ❑ Almost \$5m of the total affected only 35 investor accounts
- ❑ \$1.5m of “rogue” trader transactions included in the review
- ❑ Audit log identifies Scott Murray as processing the majority of the transactions

Investigation results

Hedging

“...entering into trades that had the opposite exposure to positions taken by investors...”

Why?

- Early 2008 elevation in margin calls by Saxo
- Needed to send cash across to Saxo or reduce positions
- Could not do either
- One client account contained the majority of the unfunded hedging transactions
- Occurred up to the date of our appointment

Investigation results

Misuse of monies from Client Segregated Account

- To fund personal expenses
- Repay personal debt
- Inject working capital
- Loan funds to others

Investigation results

- Approximately \$425,000 used by Mr Johnson
- Approximately \$683,000 used by Mr Murray
- \$441,000 used to pay a personal debt of Mr Johnson
- \$400,000 provided to Swann Global (now recovered)

Investigation results

- \$5.205m in cash drawn from the Client Segregated Account and used as an equity injection to fund working capital
- Made up of 15 deposits between July 2008 and March 2009 totalling \$3.215m
- One deposit totalling \$1.990m (funds from one investor whose money was meant to be paid into the Client Segregated Account)

Investigation results

Sorrento property

- Approximately \$350,000 in payments recorded as “disaster recovery” made to meet ANZ loan payments between August 2003 and June 2010
- Property sold for \$1.12m recently
- Equity held in a trust account pending execution of Settlement Deed in favour of the Administrators

Investigation results

Saxo

- Problems started in 2006
 - Difficulties in reconciling commissions payable by Saxo
 - Fund transfers continually delayed
 - Daily reconciliation of fund movements
- Saxo agreed to
 - An adjustment to the margin call of \$800,000
 - Allow Sonray the ability to “upload” transactions onto the platform before any money went across to Saxo

Investigation results

Saxo

- By 2008 Sonray stopped sending Saxo any client funds
- By February 2009 Saxo demands
 - Transfer of \$1m
 - Explanation of where and how funds not held with Saxo are held and in what form
 - Provide third party confirmation about the funds held
- No money, nor explanation provided to Saxo though relationship continued

Investigation results

Saxo

- In May 2010 Mr Johnson meets Saxo personnel in Singapore
- Saxo informed of the deficiency at that time estimated at \$15m
- Saxo representatives agree to fly to Melbourne for due diligence with intention to take over Sonray
- No agreement reached. No certainty obtained about the size of the “hole”. “Hole” appears to be \$35m.

Investigation results

Auditors – HLB Mann Judd

- Audited accounts for 2006, 2007, 2008, 2009 and restated accounts for 2009 in February 2010

- Did not:
 - Review the Client Segregated Account in any year
 - Appear to understand the nature of the Company's business
 - Qualify the 2008 or 2009 accounts from a going concern perspective
 - Identify the “disaster recovery” expense sham rental payments for the Sorrento property

Investigation results

- Did not:
 - Question the recoverability of the Sonray Qld loan account when Sonray Qld plainly had no ability to repay the debt
 - Identify the nature of the fraudulent capital contributions allegedly made by Mr Johnson
 - Understand the relationship between Saxo and the Company
 - Review any reconciliations, albeit none were ever performed, between the Company's and Saxo's records

Investigation results

PwC

- Conducted two compliance reviews in October 2009 and March 2010
- Conducted two solvency reviews. One on the audited 30 June 2009 accounts and one on the 31 December 2009 accounts
- Did not identify any anomalies
- Have refused to provide their work papers, notes or analysis
- Preparing to issue summons for public examination

Mediation

Mediation

- \$500,000 limited recourse Mediation Funding Deed
- Repayable only from proceeds of any settlement which Saxo agrees to pay Sonray or out of any judgement sum a court orders Saxo to pay
- Options to funding agreement
 - Court approval to use Client Segregation Account funds; or
 - Litigation funder (normal premium is 25 – 40%)

Mediation

- If successful would likely produce the best outcome for investors both in terms of return and timelines
- To be successful we need to complete our investigations
- Issues requiring additional investigations:
 - Further analysis of the approximate 135 investor accounts which have been identified as unfunded in order to assist in distinguishing the legitimate investors from the illegitimate investors and the total of legitimate investors' entitlements.
 - Further analysis of the trading which occurred in the unfunded accounts and the effect of the trading on the amounts held in the Client Segregated Account and the cash and financial instruments held by third party providers for the benefit of the Company's clients.

Mediation

- ❑ The circumstances surrounding withdrawal of money from unfunded accounts within the Client Segregated Account and the identity and circumstances of the recipients of such money.
- ❑ The management and conduct of the Client Segregated Account and the arrangements between the Company, its customers, and third party providers.
- ❑ The terms of engagement, and the investigations that were done by the auditors of the Company, including the scope of the investigation into the compliance of the Client Segregated Account and the controls and procedures in relation to the management of the Client Segregated Account.
- ❑ The terms of the engagement and the work that was conducted by PwC during a compliance and solvency review conducted in 2009 and in further updated reports.

Mediation

- ❑ The nature and timing of the dealings between Saxo and the Company during the time that the Administrators' investigations have revealed improper conduct and a lack of proper management of the Client Segregated Account.
- ❑ Further analysis of the size of the deficiency in the Client Segregated Account over time.

Court application

- Types of matters possibly requiring direction from the Court:
 - Questions that arise during the mediation
 - The ability of parties to exercise certain powers, such as a power to liquidate financial instruments so that proceeds may be paid into the Client Segregated Account
 - How to determine the value of the assets held by third party providers and whether positions held may be closed and liquidated
 - Whether the financial instruments may be claimed by individual investors or are the subject of a constructive trust and, if the latter, whether they ought to be separated into distinct pools on trust for separate classes of beneficiaries or treated as a single pool on trust with one class of beneficiary

Court application

- How to determine who are the beneficiaries of the assets in the Trust Fund
- What is the appropriate method to use to assess the entitlement of beneficiaries to assets and money in the Trust Fund
- Approval of any negotiated outcome

Options and recommendations

Options

- Administration to end; or
- Company executes a DOCA; or
- Company be wound up

Recommendations

- Wind up the company
- Important to be aware that winding up or liquidating the Company does NOT mean liquidating open positions currently held by counterparties
- Any extension of the convening period is presently unnecessary
- If recoveries are made and a DOCA is deemed to be the best vehicle to use, then a resolution can be re-put to creditors to place the company back into voluntary administration and then DOCA

Estimated outcome

- Any return to creditors/investors is unlikely to occur before 30 June 2011
- Even in a worst case scenario where no result from mediation or litigation we estimate a return of 25 to 30 cents in the dollar
- Ordinary unsecured creditors unlikely to receive any return at this stage

Fees

- In our first report estimated fees were forecast to be at between \$300,000 to \$400,000 for the first month

- Now four months later:
 - Extension of the convening period sought and obtained from Federal Court

 - Public examinations of Mr Russell Johnson and Mr Scott Murray conducted

 - HLB Mann Judd supplied all working papers and files

 - Computers imaged with over 7.5m documents captured

 - 1000's of transactions reviewed and funds traced

 - Funding agreement executed by Saxo

Fees

- Mediation agreement settled
 - Court application / affidavits prepared
 - Swann Global funds recovered
 - Sorrento property equity held in trust pending execution of settlement deed
 - Preliminary agreement reached with Mr Johnson for repayment of funds drawn
-
- Fees incurred to 1 October 2010 are \$1.595m
 - Fees estimated going forward are \$900,000

Frequently asked questions

Frequently asked questions

1. Q. What has ASIC done?

A.

- Held section 19 interviews with relevant parties
- Served section 33 notices on the Administrators to provide documents
- Been in regular dialogue with the Administrators
- ASIC's investigations are continuing
- Likely to be in a position to press charges soon

Frequently asked questions

2. Q. Have Russell Johnson and Scott Murray co-operated?

A. After initial reluctance they are now fully co-operating and providing us with a great deal of information regarding Saxo and the auditors

Both have volunteered to come in and review emails received and sent.

3. Q. When will the mediation process start?

A.

- Funding agreement needs to be ratified by the Court
- Parties – Saxo, HLB Mann Judd, PwC, Russell Johnson, Scott Murray and others to be invited to participate
- Hopeful of commencing before the end of December 2010

Frequently asked questions

4. Q. What is the position of IB and investors?

A.

- Currently viewed as investors like all others
- We recognise the issues / different claims made by these investors
- Will form part of the questions we will put to the Court
- Funds have been co-mingled before passing to IB

5. Q. Can I still get my account statement at 30 June 2010 for my tax return?

A. Access is still possible online. Need to get your own tax advice.

Frequently asked questions

6. Q. “Will I get all my money back?”

A. Investors and creditors are very different. Based on our preliminary investigations, it is unlikely that unsecured creditors will receive any dividend.

Investors on the other hand, are likely to receive a dividend of approx \$0.25 to \$0.30 in the dollar even if there are no additional recoveries made, and a higher return if a mediated outcome or successful litigation is achieved

Frequently asked questions

- 7. Q.** “Why did Ferrier Hodgson say that Investors are likely to be unsecured creditors?”
- A.** Investors are likely to be regarded as beneficiaries of a trust, the assets of which are the available “pooled” funds arising out of the Client Segregated Account. Any shortfall from the available pool where the beneficiaries rank *pari passu*, are likely to be unsecured claims against Sonray.
- 8. Q.** “Why aren't the funds in the Client Segregated Account regarded as mine?”
- A.** When funds were deposited into the segregated account, they were pooled with other investor funds and have lost their identity. Funds held in the Client Segregated Account are pooled for the benefit of all investors who had funds deposited.

Frequently asked questions

9. Q. Do you expect to get millions for the trading platform?

A. The platform is not worth the millions allegedly spent on it. There is no interest in the trading platform.

We may be in a position to sell the client list only.

Formal items of business

Resolutions

- (a) That Sonray Capital Markets Pty Ltd be wound up

Resolutions

AND

- (b) That the Administrators' remuneration in respect of general administration tasks, as set out in Annexure 1 of the s. 439A report ("Creditors' Report"), for the period 22 June to 30 September 2010 in the amount of \$554,139.50 plus GST, be approved and that the Administrators be authorised to draw those fees when funds come to hand.

- (c) That the Administrators' estimated remuneration in respect of general administration tasks, as set out in Annexure 1 of the Creditors' Report, for the period 1 October to the end of the administration in an amount not exceeding \$75,000 plus GST, be approved and that the Administrators' be authorised to draw those fees when funds come to hand

Resolutions

AND

- (d) That the Administrators' remuneration in respect of tasks related to dealing with the Client Segregated Account, as set out in Annexure 1 of the Creditors' Report, for the period 22 June to 30 September 2010 in the amount of \$1,040,523.50 plus GST, be approved and that the Administrators be authorised to draw those fees when funds come to hand.

- (e) That the Administrators' estimated remuneration in respect of tasks related to dealing with the Client Segregated Account, as set out in Annexure 1 of the Creditors' Report, for the period 1 October to the end of the administration in an amount not exceeding \$80,000 plus GST, be approved and that the Administrators be authorised to draw those fees when funds come to hand.

Committee of Inspection

- Consult with and receive reports from the Liquidators
- Assist the Liquidators as a “sounding board” for proposals
- Approve the Liquidators’ remuneration

Resolutions

AND

- (f) That the meeting appoint a Committee of Inspection for Sonray Capital Markets Pty Ltd and if so, accept nominations for members of the Committee of Inspection;

Resolutions

AND

- (g) That the Liquidators' remuneration in respect of general liquidation tasks, as set out in Annexure 1 of the Creditors' Report, for the period 28 October 2010 to the end of the liquidation, be approved up to the sum of \$150,000 plus GST but subject to upward revision by resolution of creditors, and that the Liquidators be authorised to make periodic payments on account of such accruing remuneration.

- (h) That the Liquidators' remuneration in respect of tasks related to dealing with the Client Segregated Account, as set out in Annexure 1 of the Creditors' Report, for the period 28 October 2010 to the end of the liquidation, be approved up to the sum of \$750,000 plus GST but subject to upward revision by resolution of creditors, and that the Liquidators be authorised to make periodic payments on account of such accruing remuneration.

Resolutions

AND

- (i) That the Liquidators are authorised under s. 477(2A) of the *Corporations Act 2001* to compromise a debt owed to Sonray Capital Markets Pty Ltd up to an amount of \$50,000;
- (j) That the books and records of Sonray Capital Markets Pty Ltd be disposed of 12 months after dissolution of Sonray Capital Markets Pty Ltd or earlier at the discretion of ASIC

Closure of meetings

- Other business
- Final questions
- Next steps:
 - Continuing investigations into the inappropriate use of the Client Segregated Account
 - Continuing investigations into the role of various parties in the Company's collapse
 - Seeking Court directions in relation to, inter alia, the rights of investors
 - Commencement of mediation
- Thank you for attendance