

**Halifax Investment Services  
Pty Ltd (In Liquidation)  
ACN 096 980 522**

Statutory Report by Liquidator

14 June 2019

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## 1 Executive Summary

Question		Section Ref
<b>What is the purpose of this Report?</b>	<p>The purpose of this Report is to provide an update on the progress of the Liquidation to date and the status of the Court application to be made by the Liquidators.</p> <p>This report should be read in conjunction with the information contained in our previous correspondence and in particular to the Voluntary Administrators' Report dated 12 March 2019 as well as the Circular to Creditors dated 17 April 2019.</p> <p>All Investor and creditor correspondence can be accessed as the following link:</p> <p><a href="https://www.ferrierhodgson.com/au/creditors/halifax-investment-services-pty-ltd">https://www.ferrierhodgson.com/au/creditors/halifax-investment-services-pty-ltd</a></p>	2
<b>What is the current status of the Company?</b>	<p>The Company was placed into liquidation at the second meeting of creditors on 20 March 2019.</p> <p><b>All investor accounts remain frozen and switched to 'close only' mode,</b> i.e. it is not possible to enter into new positions, nor is it possible to withdraw money from Client accounts, however it is possible to close out current positions. <b>We do not expect that this position will change in the short to medium term.</b></p>	2

Question	Section Ref
<p><b>What have the liquidators done since the second meeting of creditors?</b></p>	<p>The primary focus since the commencement of the Liquidation has been:</p> <ol style="list-style-type: none"> <li>1. Preparing Court applications (in Australia and New Zealand) for directions to enable the distribution to investors of the funds held on their behalf as soon as possible; and</li> <li>2. The pursuit of antecedent transactions to seek to maximise the return to Investors and creditors.</li> </ol> <p>More specifically, the following tasks have been undertaken since the date of liquidation:</p> <p><b>Direction on return of Client Monies</b></p> <ul style="list-style-type: none"> <li>– Liaising with our Australian and New Zealand legal representatives to define an aligned legal strategy to seek Court direction in both Australia and New Zealand;</li> <li>– Liaising with our legal representatives, in relation to the preparation of evidence and other documentation for the purposes of making an application with the Federal Court of Australia so as to obtain directions from the Court as to the ultimate distribution of Client Monies.</li> <li>– Liaising with our legal representatives in relation to various complex matters around the tracing and testing of Investor deposits and preparation of individual case studies;</li> <li>– Reviewing over 35,000+ additional transactions to provide detailed documentary evidence to support an application to Court for direction on the treatment of Client Monies; and</li> <li>– Pursuing client monies held with Chinese merchant providers.</li> </ul> <p><b>Investigations and antecedent transactions</b></p> <ul style="list-style-type: none"> <li>– Continuing investigations into monetary recoveries from third parties against whom there may be claims by the Company for the benefit of creditors;</li> <li>– Continuing investigations in relation to the reasons for the deficiency in client funds;</li> <li>– Regular liaison with ASIC on the status of our investigations; and</li> <li>– Responding to information requests from ASIC to assist in their investigations into potential director misconduct.</li> </ul>
<p><b>What is the estimated deficiency in client funds?</b></p>	<p>Our initial estimate was that the deficiency in Client Monies for the Halifax Group as at 23 November 2018 is approximately <b>\$19.7 million</b> (not taking into account funds which will have to be applied to the costs of the liquidation or recoveries from third parties.</p> <p>The deficiency is equal to approximately <b>9%</b> of Client equity positions (valued as at 23 November 2018).</p>

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Question	Section Ref
<p><b>How extensive does the co-mingling appear?</b></p>	<p>We have now substantially completed our tracing work in relation to the flow of funds through the Halifax account structure and our initial view that the co-mingling is extensive and affects the majority of investors across all platforms, has not changed.</p> <p style="text-align: right;"><b>6</b></p>
<p><b>What is the estimated return to Clients and creditors?</b></p>	<p>We estimate that a dividend of approximately <b>83 to 94 cents</b> in the dollar will be payable to Investors in their capacity as beneficiaries of the Client Monies held on their behalf by Halifax.</p> <p><b>This estimate is preliminary only and may be subject to revision.</b></p> <p>Given the deficiency in Client Monies, it appears that there is likely to be a shortfall to Investors from trust assets. Investors will have an unsecured claim against the Company in the event of a shortfall in trust assets, however any return to unsecured creditors is contingent on future recoveries of Company assets from third parties.</p> <p style="text-align: right;"><b>8</b></p>
<p><b>What will happen next?</b></p>	<p>The Liquidators will shortly be making an application to the Federal Court of Australia for directions in relation to:</p> <ul style="list-style-type: none"> <li>– Following realisation of all investments (in accordance with the Court’s directions), pooling together of all Client Monies which are deemed to be co-mingled;</li> <li>– Distributions to Investors of Client Monies; and</li> <li>– Costs and expenses of the administration and of the liquidation (including the Voluntary Administrators’ and Liquidators’ remuneration), both in respect of the making of such distributions and in respect of the liquidation in general.</li> </ul> <p style="text-align: right;"><b>7</b></p>
<p><b>What is the status of claims against third parties?</b></p>	<p>The Liquidators are continuing to investigate <b>potential voidable transactions (in respect of company assets transferred to third parties) in the amount of \$4.8 million</b> and to investigate the possibility of monetary recoveries from other third parties against whom Halifax may have claims.</p> <p style="text-align: right;"><b>5</b></p>
<p><b>How long will it take for Investors to receive a distribution?</b></p>	<p>This will primarily be dependent on the length of time taken for Court directions.</p> <p>Following the receipt of Court directions which, given the need to accommodate submissions to the Court on behalf of those investors who wish to be heard, we anticipate will be in early 2020, <b>we anticipate it will take at least 6 months to:</b></p> <ul style="list-style-type: none"> <li>– Liquidate stocks; and</li> <li>– Adjudicate on approximately 12,600 investor claims</li> </ul> <p style="text-align: right;"><b>8.2</b></p>
<p><b>Will there be an interim distribution to Investors?</b></p>	<p>Upon further analysis and legal review, it is <b>unlikely to be feasible</b> to make an interim distribution to Investors in the <b>short to medium term</b>.</p> <p>The reason for this is that, given the co-mingling of funds, it is not feasible for the Liquidators to deal with trust funds in the absence of specific directions from the Court.</p> <p style="text-align: right;"><b>8.2</b></p>

Question	Section Ref
<p><b>How am I able to participate in the process and ensure that my views are heard?</b></p>	<p>Clients and other interested parties will be given an opportunity to be represented and have submissions made on their behalf.</p> <p><b>All Clients and creditors will be informed of the Court application and Orders sought in a separate update to be issued shortly.</b> This update will also contain information in relation to Investor and creditor participation in this process.</p> <p style="text-align: right;"><b>7.3</b></p>
<p><b>Where can I get more information?</b></p>	<p>If you require any further information, please see the Ferrier Hodgson website and/or contact Link Market Services below:</p> <p><b>Phone:</b> 1300 910 051 (within Australia)</p> <p><b>Phone:</b> +61 1300 910 051 (from overseas)</p> <p><b>Email:</b> <a href="mailto:halifax@linkmarketservices.com.au">halifax@linkmarketservices.com.au</a></p> <p><b>Website:</b> <a href="https://www.ferrierhodgson.com/au/creditors/halifax-investment-services-pty-ltd">https://www.ferrierhodgson.com/au/creditors/halifax-investment-services-pty-ltd</a></p> <p style="text-align: right;"><b>9</b></p>

## 2 Introduction

At the meeting of creditors held on 20 March 2019, creditors resolved that the Company be wound up under Section 439C(c) of the Act and Phil Quinlan, Stewart McCallum and I were appointed Liquidators of the Company. On 13 May 2019, Stewart McCallum retired as a liquidator.

We now take this opportunity to report to you on the following matters relating to the liquidation of the Company:

- An update on the progress of the Liquidation;
- An update on operations and cash flow management during the Liquidation;
- An update in relation to our investigation into the Company's affairs and the conduct of the Director and Former Director;
- An update on the work undertaken to determine the extent of the co-mingling of funds and ability to trace individual investor deposits;
- The status of the impending Court application to be made by the Liquidators; and
- An update in relation to the likely timing of a dividend to be paid to Investors.

This report should be read in conjunction with the information contained in the Voluntary Administrators' Report dated 12 March 2019 and other updates to investors and creditors:

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

We estimate that a dividend of approximately **83 to 94 cents** in the dollar will be payable to investors in their capacity as beneficiaries with an entitlement to claim trust monies.

## 3 Current position

### 3.1 Matters addressed during the Liquidation

The primary focus since the commencement of the Liquidation has been:

1. Preparing Court applications (in Australia and New Zealand) for directions to enable the distribution to investors of the funds held on their behalf as soon as possible; and
2. The pursuit of monetary recoveries from third parties to seek to maximise the return to Investors and creditors.

More specifically, the following matters have been attended to:

#### Action taken towards achieving distribution of Client Monies

- Liaising with our Australian and New Zealand legal representatives to define an aligned legal strategy to seek directions from the Courts in both Australia and New Zealand;
- Liaising with our legal representatives in relation to the preparation of evidence and other documentation for the purposes of making an application to the Courts in both Australia and New Zealand on the treatment and distribution of Client Monies;
- Liaising with our legal representatives in relation to various complex matters around the tracing of Investor deposits;
- Reviewing over 35,000+ additional transactions to provide detailed documentary evidence to support an application to Court for direction on the treatment of Client Monies; and
- Seeking to recover Client Monies held with Chinese merchant providers.

### Investigations and antecedent transactions

- Continuing investigations and pursuit of potential monetary recoveries from third parties and other actions for the benefit of investors and creditors;
- Continuing investigations in relation to the reasons for the deficiency in Client Monies;
- Regular liaison with ASIC on the status of our investigations; and
- Responding to information requests from ASIC to assist in their investigations into potential director misconduct.

### Other tasks

- Attending to ongoing operational matters to maintain the trading platforms and a basic back office infrastructure;
- Liaising with former employees and the Department of Employment in relation to the payment of outstanding employee entitlements under the Fair Entitlements Guarantee Scheme; and
- Attendance to statutory requirements.

## 3.2 Liquidators' realisations to date

The assets of Halifax are classified into two categories:

- **Trust assets:** Assets held on trust for the benefit of Investors
- **Company assets:** Non-trust assets / available Company funds

**Please note that the following sections do not include trust assets and company assets in relation to Halifax New Zealand Pty Limited.**

### 3.2.1 Trust assets

Asset	Liquidators ERV \$000s	Realised / Balance as at 31 May 2019 \$000s	Section Ref
Cash held in trust accounts	1,695	1,695	3.2.1.1
Funds and stocks held by Interactive Brokers*	154,518*	154,518*	3.2.1.2
Trust assets held by third parties	5,856	4,612	3.2.1.3
<b>Total</b>	<b>162,069</b>	<b>160,825</b>	

\*Open positions fluctuating with market movements

#### 3.2.1.1 Cash held in trust accounts

To date we have secured cash held on trust in various accounts operated by Halifax in the amount of \$1.7 million:

Asset	Balance as at 23 November 2018 \$000s	Balance as at 31 May 2019 \$000s
Foreign currency trust accounts	816	1,029
Australian dollar trust accounts	572	666
<b>Total</b>	<b>1,388</b>	<b>1,695</b>



The funds outlined above were frozen by the Administrators immediately following appointment. These funds are currently being held separately to Company funds in segregated bank accounts controlled by the Liquidators.

### 3.2.1.2 Funds and stocks held by Interactive Brokers (IB)

Account	Balance at 23 November 2018 \$000s	Balance at 31 May 2019 \$000s
IB Client Accounts	110,045	120,678
IB Prop Account	27,292	32,486
IB Master account	1,321	1,354
<b>Total</b>	<b>138,658</b>	<b>154,518</b>

The figures outlined above represent the total of various assets held by IB including cash, stocks and other securities.

The above table indicates that the value of open positions held in accounts controlled by IB has increased significantly since the date of the appointment of the Administrators.

The realisable value of the assets held with IB is an estimate only and is subject to change and market fluctuations. Factors impacting the final value of assets realised include:

- The unrealised profit or loss position for open trades on appointment; and
- Currency and stock fluctuations.

### 3.2.1.3 Trust assets held by third parties

To date we have realised trust funds held by third parties in the amount of \$4.6 million. The below realisations are being held in segregated accounts controlled by the Liquidators:

Asset	Liquidators' ERV \$000s	Realised to date \$000s
<b>Hedging providers</b>		
Invast	4,631	3,906
Gain	401	401
<b>Chinese Merchant providers</b>		
GSD Pay	306	-
Neteller	305	305
Payment Asia	209	-
RPN Pay	4	-
<b>Total</b>	<b>5,856</b>	<b>4,612</b>

Key points to note:

- Invest has retained a balance of approximately \$725k to hedge against remaining open positions. The balance payable to the Company (to be held in a segregated account) once all positions have been closed may fluctuate depending on the movement of hedged positions;
- All Chinese Merchant providers were put on notice to freeze all funds on hand immediately on our appointment as Voluntary Administrators;
- Except for Neteller, all merchant providers have been uncooperative to date in returning the funds which should be frozen; and
- We are engaging legal advisors in Hong Kong to pursue the return of funds.

### 3.2.2 Non-trust assets

Asset	Liquidators ERV / current balance \$000s	Realised to date \$000s	Section Ref
Recovery of potential antecedent transactions	4,776	-	3.2.2.1
Company bank accounts	2,210*	2,210	3.2.2.2
Term deposits to support leases	100	-	3.2.2.3
Debtors	10	-	3.2.2.4
Plant and equipment	10	-	3.2.2.5
<b>Total</b>	<b>7,106</b>	<b>2,210</b>	

\*On 25 January 2019, the Court granted an Order that the Company was able to utilise company funds to meet necessary operating expenses incurred by Halifax.

#### 3.2.2.1 Recovery of potential antecedent transactions

We are currently working with our legal advisors to pursue transactions entered into by the Director and the Former Director prior to the administration of the Company. Further information is outlined in section 5.1.

#### 3.2.2.2 Company cash

At the date of our appointment as Voluntary Administrators, the Company held non-trust accounts with the following institutions:

Bank	Account type	Realisations to date \$000s
ANZ/NAB	Company accounts	600
BankWest	Term deposit (solvency guarantee supporting AFSL)	1,610
<b>Total</b>		<b>2,210</b>

The BankWest term deposit in the amount of \$1.6 million supported the financial solvency guarantee for Halifax's AFSL required by ASIC.

On 25 January 2019, the Court granted an Order that the Company was able to utilise the term deposit in payment of operating expenses, administration costs (excluding Administrators' and Liquidators' remuneration and legal fees) and any further reasonable and necessary operating expenses incurred by Halifax.

The Liquidators have utilised approximately \$1.6 million of company cash on appointment to meet the ongoing costs of the external administration (excluding Administrators' and Liquidators' remuneration and legal fees). Further information is provided in section 4.1 of this Report.

### 3.2.2.3 Term deposits to support leases

The term deposits held with BankWest in the amount of \$0.3 million supported bank guarantees held by the landlords of the Sydney and Auckland premises.

It is unlikely that any recoveries will be made in respect of the bank guarantee for the Sydney head office (due to obligations on termination of the lease to "make good" the premises), however we expect that a recovery of approximately \$0.1 million will be made in respect of the Auckland office.

### 3.2.2.4 Debtors

307 Investors have negative equity balances totalling \$0.3m. We have issued correspondence to these debtors requesting repayment of these amounts and have realised \$2k to date. The Liquidators are continuing to pursue the balance of these debtors.

### 3.2.2.5 Plant and equipment

The Company owned plant and equipment including office and IT equipment with an ERV of \$0.1m. Following vacation of the Sydney office premises, the plant and equipment was collected and is in the process of being auctioned online.

## 3.2.3 Creditors

### 3.2.3.1 Employee claims

Based on our enquiries the below is a summary of employee entitlements as at 23 November 2018:

Entitlement	Amount \$000s
Unpaid superannuation	2
Annual leave	60
Long service leave	40
Redundancy / PILN	8
<b>Total employee entitlements as at 23 November 2018</b>	<b>110</b>

We have provided information in relation to the FEG scheme to all former employees in relation to payment of their outstanding employee entitlements.

### 3.2.3.2 Unsecured creditors

	Amount \$000s
Trade creditors (including statutory creditors)	719
Broker creditors – commissions	295
<b>Total</b>	<b>1,014</b>

### 3.2.3.3 Contingent creditors (trust beneficiaries)

As advised in the Voluntary Administrators' Report, Investors will be unsecured creditors to the extent of the shortfall in trust assets to meet beneficiary claims.

The following table provides a summary of client equity positions as at 23 November 2018 and 31 May 2019:

Platform	Client equity position as at 23 November 2018 \$000s	Client equity position as at 31 May 2019 \$000s
IB	110,045	120,671
Halifax Pro – MT4	23,768	25,617
Halifax Plus – MT5	32,950	36,693
<b>Total</b>	<b>166,763</b>	<b>182,882</b>

The above table excludes Halifax New Zealand Limited (Halifax NZ) Client equity positions which are estimated to be \$44.4 million as at 23 November 2018 and \$47.0 million as at 31 May 2019.

The ultimate shortfall in trust assets to meet beneficiary claims (i.e. quantum of investor unsecured claims) will be dependent on:

- The determination by the Courts of the treatment of investor claims (there may be different issues affecting the position of a number of classes of investors which may impact on the directions the Courts may make);
- Market movement in open positions; and
- Currency fluctuations.

In addition to the above, the Liquidators are aware that there were contingent claims for legal action on foot (proceedings currently stayed) by several parties which are further detailed in the Voluntary Administrators' Report.

## 4 Operations and cash flow

As advised in our Voluntary Administrators' Report, appropriate controls and systems were put in place with respect to securities trading, cash / banking, reporting of Client entitlement and asset positions.

Key points to note:

- We have continued to maintain basic infrastructure, IT systems and office operations to maintain the trading platforms

- We consider that maintaining the status quo of the platforms is essential to reconciling investor positions and distributing funds back to investors in a timely manner
- Head office headcount has been rightsized and there are currently 5 full time (or full time equivalent) Halifax employees who have been retained to assist in reconciling investor positions, responding to investor queries and providing IT support to maintain the platforms
- The office has been vacated in favour of a smaller and more cost-effective shared office
- We are continuing to assess and rationalise overheads and reduce operational costs where possible

A copy of the Liquidators' receipts and payments for the period 20 March 2019 to 31 May 2019 is provided at **Annexure A**. Please note that this relates only to the Liquidators' trading account.

A listing of all other accounts operated by Halifax and controlled by the Liquidators is provided at **Annexure B**.

#### 4.1 Funding

As outlined in the Voluntary Administrators' report, orders were made by the Court on 25 January 2019 that the BankWest Term Deposit in the amount of \$1.6 million may be used to meet the payment of:

- Ongoing operational costs of maintaining the platforms;
- Costs associated with holding the two creditor meetings during the Voluntary Administration; and
- Costs of Link Market Services managing investor correspondence.

These orders do not extend to the payment of legal fees or the remuneration of the Voluntary Administrators or Liquidators.

We anticipate that the term deposit funds will be exhausted by mid to late August 2019.

Accordingly, we intend to make a further application to Court to request that the Court grant its approval for the Liquidators to access the funds realised from the third-party hedging providers (Invast and Gain) to fund the ongoing operational costs of the Liquidation.

A further update will be provided to creditors once this application has been filed.

## 4.2 Cash flow

Receipts and payments to 31 May 2019	
Receipts (including \$1.6m term deposit)	1,817,251
<b>Trading expenses</b>	
Platform costs	(725,460)
Employment	(366,747)
Occupancy	(133,600)
Other	(133,542)
<b>Total trading expenses</b>	<b>(1,359,349)</b>
Link Market Services and meeting costs	(321,770)
<b>Net cash flow</b>	<b>136,132</b>
<b>Opening cash at bank at appointment</b>	<b>517,194</b>
<b>Net cash flow</b>	<b>136,132</b>
<b>Closing cash at 31 May 2019</b>	<b>653,326</b>

The following table provides a summary of revenue generated during the liquidation period:

Revenue item	Amount \$000s
IB revenue (commission on trades and interest on funds held)	268
Interest on funds in Halifax trust accounts	9
MT4/MT5 realised profits	2,232
Less: MT4/MT5 rebates	(442)
<b>Total</b>	<b>2,067</b>

Key points to note:

- As advised in the Voluntary Administrators' Report and given the issues in relation to the co-mingling of investor funds, we have not yet recognised this revenue and will not be utilising these funds at this stage; and
- We intend to seek directions from the Court in relation to the correct allocation of post-appointment revenue

### 4.3 Investor positions

The following table provides a summary of investor positions open (by number) on the MT4 and MT5 platforms as at 22 November 2018 and 31 May 2019:

	FX	Stock CFD	Commodities	Index CFD's	Indices	Stocks	Total
22 Nov 2018	745	143	123	53	6	2,107	3,177
31 May 2019	177	98	26	4	0	1,952	2,257
<b>% closed</b>	<b>76%</b>	<b>31%</b>	<b>79%</b>	<b>92%</b>	<b>100%</b>	<b>7%</b>	<b>29%</b>

The following table provides a summary of investor positions open (by number) on the IB AU platform:

	Stocks	Futures	Options	Futures Options	Warrants	Total
22 Nov 2018	16,431	8	1,648	170	70	18,327
31 May 2019	14,796	1	190	52	37	15,076
<b>% closed</b>	<b>10%</b>	<b>88%</b>	<b>88%</b>	<b>69%</b>	<b>47%</b>	<b>18%</b>

### 4.4 Investor correspondence

Due to the large number of Investors, we engaged Link Market Services to assist with investor and creditor communications and dealing with proofs of debt and proxies for the first and second meeting of creditors.

This has provided a cost effective and responsive solution to the large volume of correspondence received.

Enquiries received from 23 November 2018 to 7 June 2019 are as follows:

Enquiry type	Number of enquiries
Proofs of debt processed	5,403
Proxies processed	2,809
Telephone calls	2,234
Email updates	7,262
<b>Total</b>	<b>17,708</b>

## 5 Investigation into the Company's affairs

Creditors should refer to the Voluntary Administrators' Report for details on the Administrators' preliminary investigations and a summary of potential antecedent transactions that are currently being investigated by the Liquidators.

The following is a brief update on the progress of our investigation and an update on potential recovery actions identified by the Liquidators in the Voluntary Administrators' Report.

### 5.1 Voidable transactions

We are continuing to investigate potential voidable transactions involving the Director and the Former Director and potential monetary claims against other third parties.

Given the confidential nature of these investigations and the fact that they may be the subject of litigation at a future time, no further update will be provided in addition to the information already provided in the Voluntary Administrators' Report.

### 5.2 Insolvent trading

Further to the comments made in section 10.1 of the Voluntary Administrators' report, we have now received a response to our request for information from the Company's Accountants. The information contained therein does not change our view that the Company was likely insolvent from at least January 2017.

Notwithstanding the information received from the Company's Accountants, it remains the position (as stated in section 10.5 of the Voluntary Administrators' Report) that we are unable to assess the likelihood that Halifax was insolvent earlier than 1 January 2017 due to incomplete financial and accounting records.

### 5.3 Director and Former Director banning

ASIC has recently advised that the Director and Former Director have been banned from providing financial services for six years, effective from 29 April 2019.

The banning is a result of an ongoing ASIC investigation into a related entity, Australian Mutual Holdings Limited and its role in managing the Courtenay House Capital Investment Fund.

ASIC's investigation concluded that the Director and Former Director:

- Had not maintained the high standards expected of a financial services adviser
- Demonstrated a lack of integrity, judgment and professionalism;
- Could not be relied upon to discharge the duties and obligations imposed on a provider of financial services; and
- Were not competent to provide a financial service and were likely to contravene a financial services law.

We understand that ASIC's investigations into the conduct of the Director and Former Director in relation to the Company are ongoing.

### 5.4 Litigation funding

The majority of funds held by the Company are trust assets held for the benefit of Investors. The Company is presently without funds to pursue litigation for potential recoveries from antecedent transactions, insolvent trading and professional negligence claims.

The Liquidators could (subject to obtaining any required consent and subject to interest from any funder) obtain funding from litigation funders to fund legal action in the nature of monetary claims against third parties for the benefit of creditors. Such funding could cover professional costs in pursuing litigation and the liability for adverse costs if litigation is unsuccessful.

The Liquidators are in preliminary discussions with litigation funders and will keep creditors updated in this regard (subject to confidentiality obligations).

## 6 Tracing work undertaken to date

The section below should be read in conjunction with section 4 of the Voluntary Administrators report and provides an update on the tracing work undertaken to date to:

- Determine the extent of the co-mingling of Investor funds between different accounts, platforms and entities; and
- Determine whether Investor deposits can be traced into the funds in accounts on the various platforms.



## 6.1 Tracing work undertaken

We have reviewed the bank accounts operated by Halifax and Halifax NZ to determine the extent of co-mingling as a result of transfers of funds between the different accounts. This work has included a:

- Review of transactions in the BankWest accounts for the 6 months prior to the appointment of the Voluntary Administrators (4,900 transactions);
- Review of transactions in the foreign currency accounts for the 2 years prior to the appointment of the Voluntary Administrators (4,500+ transactions);
- Review of transactions between the Halifax NZ IB and Halifax IB Allocated Accounts for the 3 years prior to the appointment of the Voluntary Administrators;
- Review of all transactions to and from the IB Allocated Account (20,000+ transactions) and Halifax Pro Allocated Account (7,000+ transactions) to ascertain the quantum and volume of transactions in which funds sitting on the IB and MT4/MT5 platforms have been comingled;
- Review of the timing of transactions into the IB Allocated Account and the foreign currency accounts to identify whether the IB Platform was credited on the same day;
- Review of payments to hedging providers (Invast and Gain); and
- Review of transactions in the Halifax and Halifax NZ IB Master Accounts.

This further testing has supported our initial view that the majority of investor funds/assets held by both Halifax AU and Halifax NZ are affected by co-mingling and unlikely to be traceable to individual Investors.

We are currently finalising our work in this regard and will provide Investors with a further update upon the commencement of the application to the Federal Court of Australia (refer to Section 7 below).

## 7 Update on Federal Court application

### 7.1 Introduction

As previously advised, it will be necessary for the Liquidators to apply to the Federal Court of Australia to seek directions in relation to:

- Pooling of Client Monies and trust accounts;
- Client entitlements to trust funds and proceeds realised from investments;
- Payment of the Administrators' and Liquidators' remuneration, costs and expenses from trust monies;
- How the money in various Client accounts and on different platforms should be treated; and
- The ultimate distribution of funds.

The legal strategy is necessarily very complex given the deficiency in funds and the co-mingling of funds across two jurisdictions, requiring direction to be sought by the Liquidators from Courts in both Australia and New Zealand as to how to proceed.

We have carefully considered the legal strategy in conjunction with our Australian and New Zealand legal advisors. Whilst this has taken longer than foreshadowed, we believe that an aligned legal strategy between Australia and New Zealand (which has now been achieved) will ultimately result in a quicker resolution for investors.

We now anticipate that the applications in the Federal Court of Australia will be filed in the next 2 weeks requesting co-operation between the respective Courts and requesting directions as to how we should move forwards towards a final hearing. The application in the High Court of New Zealand will follow immediately after that.

### 7.2 Estimated timeframe

The estimated timeframe for the Court application process is as follows:

Timing	Task
June 2019	<ul style="list-style-type: none"> <li>- Filing of separate applications in the Federal Court of Australia and High Court of New Zealand</li> <li>- Seeking directions about how the Liquidators may deal with Client Monies</li> </ul>
Mid July 2019	<ul style="list-style-type: none"> <li>- Seek co-operation (and ideally jointly held hearings) between the Courts in Australia and New Zealand</li> <li>- The aim of this process is to avoid inconsistent findings in Australia and New Zealand in relation to the co-mingled pool of funds</li> </ul>
August 2019 to Feb 2020	<ul style="list-style-type: none"> <li>- Various hearings in Australia and New Zealand</li> <li>- Orders sought may include appointing as defendants, representatives of each class of Investors which may have a different position from other classes of Investors, and which wishes that position to be advocated in the Court proceedings</li> </ul>
March 2020	<ul style="list-style-type: none"> <li>- Both Courts will give judgments in relation to how the Liquidators may deal with Client Monies, but the liquidators hope that ultimately those judgments will be co-ordinated and consistent</li> <li>- Following the judgment, a distribution of funds will be made in by the Liquidators in accordance with the directions given</li> </ul>

### 7.3 Investor participation in the Court process

As previously advised, Investors and other interested parties will be given an opportunity to be represented and have submissions made on their behalf during the Court process.

**All Investors will be provided with a further update in relation to the Court application process and ways in which creditors may participate in due course.** It is premature for any steps to be taken now in that regard.

### 7.4 Interim distribution

Section 5.8 of the Voluntary Administrators' Report referred to the possibility of an interim distribution being made to Investors.

At this stage and based on further analysis and legal review, it is unlikely to be feasible to make an interim distribution to Investors in the short to medium term. The reason for this is that the co-mingling of trust funds is such that the Liquidators cannot feasibly distribute the trust funds in the absence of specific directions from the Court.

The timeframe for the completion of the Court process is difficult to predict and will depend on a number of variables, including the availability of hearing time within the Courts and the nature of the matters which may be raised by various parties.

## 8 Return to creditors

### 8.1 Return to Investors and creditors

As foreshadowed in section 13.1 of the Voluntary Administrators' Report, the decisions of the NSW Supreme Court in the BBY Limited matter suggest that the date of the appointment of the Administrators is the appropriate date at which to calculate entitlements.

On this basis 23 November 2018 is likely to be the date on which investor claims are crystallised. However, this will ultimately be determined by the Court.

As per the Voluntary Administrators' Report, the variance between possible scenarios as to the appropriate date for calculation of entitlements is significant as the market values of open investor positions have moved materially since the appointment of the Administrators (and will continue to move).

Outlined below is a summary of the movement in equity balances from 23 November 2018 to 31 May 2019:

Platform	Equity value at 23 November 2018	Equity value at 31 May 2019
	\$m	\$m
IB (Australia)	110.0	120.7
IB (NZ)	44.4	46.9
MT4	23.8	25.6
MT5	33.0	38.0
<b>Total equity position</b>	<b>211.2</b>	<b>231.2</b>

The increase in the value of open positions and exchange rates movements are the reasons for this movement in value.

The estimated return to creditors is highly dependent on the outcome of the Court applications in both Australia and New Zealand and accordingly, our estimate has not changed materially from that presented in section 13 of the Voluntary Administrators' Report.

The table below outlines an estimated low and high return for various classes of creditors in a Liquidation, taking into account amounts relating to beneficiary claims, unsecured claims and priority employee claims, valuing claims at both the date of appointment and 31 May 2019.

	31 May 2019 Low	23 November 2018 High
Investor creditors	83%	94%
Priority employee creditors	0%	100%
Unsecured creditors	0%	28%

The key assumptions used in the preparation of this estimate are outlined in section 13.3 of the Voluntary Administrators' Report.

As previously advised, given the deficiency in Client funds, it appears that there is likely to be a shortfall to Investors from trust assets. Investors will have an unsecured claim in the Company in the event of a shortfall in trust assets, however any return to unsecured creditors is contingent on future recoveries of Company assets including potential voidable transactions, together with any future Court directions in relation to the allocation of costs to these assets. The estimated return outlined above has not allocated costs against these potential recoveries and, accordingly, is subject to change.

## 8.2 Timing of a dividend

As outlined in the Voluntary Administrators' Report, we understand that Clients require access to funds held in their respective accounts as a matter of urgency. However, it is difficult at this time to provide an estimate time frame as to when a distribution may be made on the basis that this is largely dependent on the Court application process.

## 9 Conclusion

The following matters will continue to be progressed:

- Preparation of material for the Court application;
- Lodgement of Court applications (in both Australia and New Zealand) at the earliest opportunity;
- Undertaking further tracing work in relation to individual Investors and liaising with legal representatives in relation to same;
- Realising the remaining assets (funds with Chinese merchant providers, client debtors, plant and equipment);
- Continued pursuit of potential antecedent transactions;
- Completing investigations into the Company's affairs and the date on which the deficiency in Client Monies arose;
- Continuing to liaise with the Committee of Inspection;
- Continuing to liaise with ASIC and assist with ongoing investigations; and
- Attending to statutory obligations.

A separate update will be issued to creditors once the application to the Federal Court for request to the High court of New Zealand that the two Courts hear the application jointly has been determined. The further update will provide further information on the Court process and the mechanisms by which Investors and creditors may participate in this process.

Questions regarding the Liquidation should be directed to Link Market Services on:

- **Phone:** 1300 910 051 (within Australia) +61 1300 910 051 (from overseas)
- **Email:** halifax@linkmarketservices.com.au

Dated this 14<sup>th</sup> day of June 2019



**Morgan Kelly**  
Liquidator

Abbreviation	Description
ACN	Australian Company Number
Act	Corporations Act 2001
Accountant	The accountants of the Company as at 23 November 2018
Liquidators	Morgan Kelly and Phil Quinlan
Liquidation	Liquidation of Halifax Investment Services Pty Limited
ARITA	Australian Restructuring, Insolvency & Turnaround Association
ASIC	Australian Securities & Investments Commission
ATO	Australian Taxation Office
Auditors	The auditors of the Company as at 23 November 2018
BBY	BBY Limited (Receivers and Managers Appointed) (In Liquidation)
Clients	Investors that trade through the platforms. For the purposes of this report, Clients and Investors are used interchangeably
Client Monies	Funds invested by Investors into Halifax
Code	ARITA Code of Professional Practice
COI	Committee of Inspection
Company	Halifax Investment Services Pty Ltd (In Liquidation)
Director	Jeffrey John Worboys
Department of Employment	Department of Employment, Skills, Small and Family Business
EOS	Estimated Outcome Statement
ERV	Estimated Realisable Value
FAQ	Frequently asked questions
FEG	Fair Entitlements Guarantee
Former Director	Matthew Barnett
Halifax	The Company, being Halifax Investment Services Pty Ltd (In Liquidation)
Investors	For the purposes of this report, Clients and Investors are used interchangeably
IB	Interactive Brokers
SGC	Superannuation Guarantee Charge
Voluntary Administrator's Report	Voluntary Administrators' Report dated 12 March 2019



# A – Receipts & Payments

	Total \$
<b>Opening cash as at 20 March 2019</b>	<b>1,211,749</b>
<b>Receipts</b>	
Loan repayment from Halifax New Zealand Limited in relation to operational costs	44,661
<b>Total receipts</b>	<b>44,661</b>
<b>Payments</b>	
Platform expenses	(363,824)
Employee expenses	(124,828)
Link Market Services	(69,148)
Occupancy	(34,647)
Other expenses	(9,372)
Insurance	(1,264)
<b>Total payments</b>	<b>(603,083)</b>
<b>Cash at bank in appointee liquidation account as at 31 May 2019</b>	<b>653,327</b>

## B – Summary of Halifax accounts (excluding Liquidators' trading account)

The following table provides a summary of funds held in pre-appointment bank accounts in the name of Halifax and controlled by the Liquidators. The below analysis excludes the appointee trading account set out in Annexure A.

Item	Trust Account or S981b Accounts (AUD)	Company accounts (AUD)*
<b>Balance as at 23 November 2018</b>	<b>1,409,657</b>	<b>553,648</b>
<b>Receipts</b>		
Investor deposits	77,757	-
Other receipts	133,471	4,346
Interest	-	11,256
Payments	-	-
Total receipts	211,227	15,601
<b>Payments</b>		
Bank charges	(152)	(3,987)
Transfer to Liquidators' account	-	(517,194)
Total payments	(152)	(521,181)
<b>Cash in pre-appointment accounts as at 31 May 2019</b>	<b>1,620,732</b>	<b>48,068</b>

\*On 25 January 2019, the Court granted an Order that the Company was able to utilise company funds to meet necessary operating expenses incurred by Halifax.

The following table summarises the bank accounts opened subsequent to the appointment of the Voluntary Administrators which contain funds held in segregated accounts collected from third party merchant and hedging providers.

Item	Amount (AUD)
<b>Receipts</b>	
Trading credits	401,268
Funds received from merchant providers	304,573
Debtor receipts	2,301
Other receipts	3,955,595
<b>Cash in post-appointment segregated accounts as at 31 May 2019</b>	<b>4,663,736</b>

\*Please note all foreign currency accounts have been converted to AUD based on the RBA exchange rates as at 23 November 2018



# C – Updated DIRRI

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*Corporations Act 2001  
Sections 436DA, 449CA*

**Halifax Investment Services Pty Ltd (In Liquidation) (the Company)  
ACN 096 980 522**

**Declaration of Independence, Relevant Relationships and Indemnities**

This document requires the practitioner(s) appointed to an insolvent entity to make declarations as to:

- A. Their independence generally;
- B. Relationships, including
  - (i) The circumstances of the appointment;
  - (ii) Any relationships with the Company and others within the previous two years;
  - (iii) Any prior professional services for the Company within the previous two years;
  - (iv) That there are no other relationships to declare; and
- C. Any indemnities given or upfront payments made to the practitioner(s).

This declaration is made in respect of ourselves, our partners, and the related entities of Ferrier Hodgson (including Azurium, DealDocs, Ferrier Hodgson Corporate Advisory, Ferrier Hodgson Forensics, Ferrier Hodgson Management Consulting, National Consulting Group, SecuriSearch and Shield Docs) (collectively **Ferrier Hodgson**).

On Thursday 14 March 2019 it was announced that, in Australia, Ferrier Hodgson will merge with KPMG with the majority of Ferrier Hodgson's partners and staff to join the combined business (**Merger**).

**A. Declaration of independence**

We, Morgan Kelly, Phil Quinlan and Ferrier Hodgson, have undertaken a proper assessment of the risks to our independence prior to accepting the appointment as Administrators and subsequently Liquidators of the Company in accordance with the Corporations Act 2001 (Cth) (**the Act**), the Australian Restructuring Insolvency & Turnaround Association (**ARITA**) Code of Professional Practice (**the Code**) and applicable professional standards.

This assessment identified no real or potential risks to our independence. We are not aware of any reasons that would prevent us from accepting this appointment.

It remains the case, following the announcement of the Merger, that we are not aware of any reasons that would prevent us from accepting this appointment.

If any conflict arises, we will seek independent legal advice or court directions if appropriate.

If this declaration needs to be updated we will issue written notice to all known creditors as set out in the records of the Company or as otherwise known to us.

**B. Declaration of relationships**

- (i) Circumstances of appointment

This appointment was referred to us by Johnson Winter & Slattery acting on behalf of the Company. That firm is known to us on a professional basis.

We believe that this relationship does not result in a conflict of interest or duty because:

- Referrals from solicitors, business advisors and accountants are commonplace and do not impact on our independence in carrying out our duties as liquidators.
- Ferrier Hodgson has never undertaken any work for Johnson Winter & Slattery in respect of the Company.
- The work that we, or Ferrier Hodgson, undertake for Johnson Winter & Slattery will not influence our ability to fully comply with the statutory and fiduciary obligations associated with the Company's liquidation in an objective and impartial manner.

On Wednesday 21 November 2018, Morgan Kelly, Phil Quinlan and Martie Livanos (Ferrier Hodgson) met with Marcus Clarke (Johnson Winter & Slattery) and Jeffrey Worboys (the Director).

On Thursday 22 November 2018, Morgan Kelly (Ferrier Hodgson) conducted a telephone conversation with Marcus Clarke (Johnson Winter & Slattery) and Jeffrey Worboys (the Director).

We received no remuneration for any of the meeting or telephone conversations outlined above. The purpose of these meetings was as follows:

- To explain the various options available to the Company and the nature and consequences of an insolvency appointment.
- To discuss various issues which may impact the appointment.
- To obtain sufficient information about the financial position of the Company to advise the Company, its officers and its advisors on the Company's solvency.
- To provide a consent to act.

This meeting does not affect our independence for the following reasons:

- Ferrier Hodgson's advice was limited to assessing the Company's financial position, the consequences of insolvency and restructuring options.
- Advice was given to the Company only. We did not advise the directors personally or others.
- The Courts and the Code specifically recognise the need for practitioners to provide advice on the insolvency process and the options available and do not consider that such advice results in a conflict or an impediment to accepting the appointment.
- The nature of the advice is such that it would not be subject to review and challenge during the liquidation.
- The pre-appointment advice will not influence our ability to fully comply with the statutory and fiduciary obligations associated with the liquidation in an objective and impartial manner.

We have provided no other information or advice to the Company, its director and its advisors prior to our appointment beyond that outlined in this DIRRI.

(ii) Relevant relationships (excluding professional services to the Company)

We, or Ferrier Hodgson, have, or have had **within** the preceding two years, a relationship with:

Name	Nature of relationship	Reasons why no impediment or conflict of interest or duty
Halifax New Zealand Limited <b>(Halifax NZ)</b>	We were appointed Voluntary Administrators of Halifax NZ on 27 November 2018 and subsequently Liquidators of Halifax NZ on 22 March 2019.	<p>We believe that this relationship does not result in a conflict of interest or duty because:</p> <ul style="list-style-type: none"> <li>- Halifax NZ operates in conjunction with the Company. The nature of the business operations mean that the liquidations can be conducted more efficiently by one practitioner.</li> <li>- At the time of our appointment, we were not aware of any conflicts of interest between Halifax NZ and the Company.</li> <li>- Should such a conflict arise, we will keep creditors informed and take appropriate action to resolve the conflict.</li> </ul>

(iii) Prior professional services to the Company

Ferrier Hodgson Forensics, have undertaken the following engagements for the Company prior to the acceptance of this appointment outside the preceding two years.

Name	Nature of relationship	Reasons why no impediment or conflict of interest or duty
Halifax Investment Services Pty Ltd	<p>On 23 November 2012, Ferrier Hodgson Forensics were engaged to review the brokerage accounts and interest calculations of an associated entity.</p> <p>The engagement was finalised in April 2013.</p>	<p>We believe that this relationship does not result in a conflict of interest or duty because:</p> <ul style="list-style-type: none"> <li>- The previous role undertaken by Ferrier Hodgson Forensics will not influence our ability to be able to fully comply with the statutory and fiduciary obligations associated with the liquidation of the Company in an objective and impartial manner.</li> <li>- Is not material to the insolvency;</li> <li>- Does not create a potential litigation claim against the practitioner; and</li> <li>- Is not related to structuring of financial affairs of the Company in order to</li> </ul>

		avoid the consequences of insolvency.
Halifax Investment Services Pty Ltd	<p>On 21 March 2016, Ferrier Hodgson Forensics were engaged to undertake the following:</p> <ul style="list-style-type: none"> <li>- Review and testing of Halifax Pro trading platform through demo account details; and</li> <li>- Inspection of debit and credit balances reflected in the trading platform and bank account deposits as performed by the Company.</li> </ul> <p>This engagement was finalised in October 2016.</p>	<p>We believe that this relationship does not result in a conflict of interest or duty because:</p> <ul style="list-style-type: none"> <li>- The previous role undertaken by Ferrier Hodgson Forensics will not influence our ability to be able to fully comply with the statutory and fiduciary obligations associated with the liquidation of the Company in an objective and impartial manner;</li> <li>- Is not material to the insolvency;</li> <li>- Does not create a potential litigation claim against the practitioner; and</li> <li>- Is not related to structuring of financial affairs of the Company in order to avoid the consequences of insolvency.</li> </ul>
Halifax Investment Services Pty Ltd	<p>In May 2016, Ferrier Hodgson Forensics were engaged to provide assistance to the Company in their dealings with the liquidators of BBY.</p> <p>This engagement was finalised in October 2016.</p>	<p>We believe that this relationship does not result in a conflict of interest or duty because:</p> <ul style="list-style-type: none"> <li>- The previous role undertaken by Ferrier Hodgson Forensics will not influence our ability to be able to fully comply with the statutory and fiduciary obligations associated with the liquidation of the Company in an objective and impartial manner;</li> <li>- Is not material to the insolvency;</li> <li>- Does not create a potential litigation claim against the practitioner; and</li> <li>- Is not related to structuring of financial affairs of the Company in order to avoid the consequences of insolvency.</li> </ul>
Halifax Investment Services Pty Ltd	<p>In July 2016, Ferrier Hodgson Forensics were engaged to review contingent liabilities.</p> <p>This engagement was finalised in October 2016.</p>	<p>We believe that this relationship does not result in a conflict of interest or duty because:</p> <ul style="list-style-type: none"> <li>- The previous role undertaken by Ferrier Hodgson Forensics will not</li> </ul>

		<p>influence our ability to be able to fully comply with the statutory and fiduciary obligations associated with the liquidation of the Company in an objective and impartial manner;</p> <ul style="list-style-type: none"> <li>- Is not material to the insolvency;</li> <li>- Does not create a potential litigation claim against the practitioner; and</li> <li>- Is not related to structuring of financial affairs of the Company in order to avoid the consequences of insolvency.</li> </ul>
<p>Halifax Investment Services Pty Ltd</p>	<p>On 20 July 2016, Ferrier Hodgson Forensics were engaged to preserve an external register of the notifications forwarded to the Company's clients in respect to transferring clients.</p> <p>This engagement was finalised in October 2016.</p>	<p>We believe that this relationship does not result in a conflict of interest or duty because:</p> <ul style="list-style-type: none"> <li>- The previous role undertaken by Ferrier Hodgson Forensics will not influence our ability to be able to fully comply with the statutory and fiduciary obligations associated with the liquidation of the Company in an objective and impartial manner.;</li> <li>- Is not material to the insolvency;</li> <li>- Does not create a potential litigation claim against the practitioner; and</li> <li>- Is not related to structuring of financial affairs of the Company in order to avoid the consequences of insolvency.</li> </ul>

(iv) No other relevant relationships to disclose

There are no other known relevant relationships, including personal, business and professional relationships, within the previous two years with the Company, an associate of the Company, a former insolvency practitioner appointed to the Company or any person or entity that has a security interest over the whole or substantially the whole of the Company's property that should be disclosed.

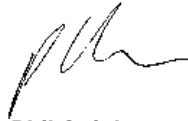
**C. Indemnities and up-front payments**

We have not been indemnified in relation to this liquidation, other than any indemnities that we may be entitled to under statute. We have not received any upfront payments in respect of our remuneration or disbursements.

Dated this 12<sup>th</sup> day of June 2019



**Morgan Kelly**  
Liquidator



**Phil Quinlan**  
Liquidator

**Note:**

*If circumstances change, or new information is identified, we are required under Subsection 436DA(5) and 449CA(5) of the Act and the Code to update this declaration and provide a copy to creditors with our next communication as well as table a copy of any replacement declaration at the next meeting of the Company's creditors.*

*Any relationships, indemnities or up-front payments disclosed in the declaration must not be such that the practitioner is no longer independent. The purpose of components B and C of the declaration is to disclose relationships that, while they do not result in the practitioner having a conflict of interest or duty, ensure that creditors are aware of those relationships and understand why the practitioner nevertheless remains independent.*