

Form 59
Rule 29.02(1)

Affidavit

No. WAD 83 of 2022

Federal Court of Australia
District Registry: Western Australia
Division: Commercial and Corporations

In the matter of Forex Capital Trading Pty Ltd ACN 119 086 270 (in liquidation)

Daniel Hillston Woodhouse and Ross Andrew Blakeley in their capacities as joint and several liquidators of Forex Capital Trading Pty Ltd ACN 119 086 270 (in liquidation)

Plaintiffs

Affidavit of: **Daniel Hillston Woodhouse**
Address: c/o FTI Consulting, Level 47, 152-158 St Georges Terrace, Perth, WA, 6000
Occupation: Registered Liquidator
Date: 12 March 2026

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I, Daniel Hillston Woodhouse, Registered Liquidator, care of FTI Consulting, Level 47, Central Park, 152-158 St Georges Terrace, Perth, sincerely declare and affirm:

A. INTRODUCTION

1. This is my third affidavit in this proceeding. I seek leave to refer to the affidavit of Daniel Hillston Woodhouse affirmed on 9 May 2022 (and annexures DHW-1 to DHW-28) filed in

Filed on behalf of (name & role of party) The Plaintiffs
Prepared by (name of person/lawyer) Sam Dundas
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this proceeding on 9 May 2022 (the **First Woodhouse Affidavit**) and the affidavit of Daniel Hillston Woodhouse affirmed on 16 May 2022 (and annexures DHW-29 to DHW-38) filed in this proceeding on 16 May 2022 (**Second Woodhouse Affidavit**).

2. Unless otherwise defined, capitalised terms in this affidavit have the meaning given to them in the First Woodhouse Affidavit and Second Woodhouse Affidavit.
3. I am one of the Plaintiffs in the proceeding and I am authorised to make this affidavit on behalf of the Plaintiffs. Where I refer to the views or opinions of “we” or “us” or the “Liquidators”, I am referring to the views or opinions of myself and Mr Blakeley jointly. Where I refer to work having been performed in relation to the liquidation, this includes work performed by the staff of FTI Consulting under my supervision.
4. Mr Stubing formally resigned his appointment as one of the Liquidators on 28 August 2023. This was because Mr Stubing had relocated internationally. Since this date, Mr Blakeley and I have been the joint and several Liquidators. A copy of Mr Stubing’s memorandum of resignation filed with the Federal Court in proceedings WAD 254 of 2021 on 28 August 2023 is at **Tab 1**. A copy of an ASIC Company Search for the Company dated 12 March 2026 is at **Tab 2**.
5. This affidavit is prepared in support of the interlocutory process dated on or around 13 March 2026 seeking orders under section 90-15 of the *Insolvency Practice Schedule (Corporations) (IPS)*, that appears as Schedule 2 of the *Corporations Act 2001 (Cth) (Corporations Act)*, regarding various aspects of the adjudication of proofs of debt or claim and the distribution of dividends by the Plaintiffs. Much of the material provided is to ensure the Court is fully informed of what has taken place in the liquidation since the last application was heard.
6. Shown to me at the time of swearing this affidavit is a paginated and indexed bundle of true copies of documents marked **Annexure DHW-39**. In this affidavit, where I refer to a document being located at a particular **Tab**, I am referring to the relevant tab within Annexure DHW-39.
7. Unless otherwise stated, this affidavit is based on my own knowledge, information and belief and is true to the best of my knowledge, information and belief. In preparing this affidavit I have had reference to the books and records which I have had access to in my capacity as a liquidator of the Company. Where I have relied on information other than



my own knowledge, I have stated the source of that information and that I believe that information to be true to the best of my knowledge, information and belief.

8. At the same time as I have prepared this affidavit, I have also prepared a fourth affidavit, marked as confidential, to be filed in these proceedings (**Confidential Woodhouse Affidavit**). The Confidential Woodhouse Affidavit, and its annexure marked **Annexure DHW-C1**, contain information which is either subject to legal professional privilege (which I do not intend to waive), commercially sensitive, or subject to contractual confidentiality restrictions. Therefore, I consider that it is necessary, appropriate, and in the interests of justice for orders to be made restricting the disclosure of the contents of the Confidential Woodhouse Affidavit, and Confidential Exhibit DHW-C1, to third parties without a further order of the Court. The rationale for this is explained more in the Confidential Woodhouse Affidavit. Where necessary in this affidavit, I cross-refer the Confidential Woodhouse Affidavit and Exhibit DHW-C1.
9. This affidavit is divided into sections addressing the following topics:
 - (a) the modifications to the statutory dividend regime sought by this application;
 - (b) an update on the liquidation timeline to date;
 - (c) the financial position of the Company and the funds now available for distribution, including the steps I took to resolve the ASIC Claim and the Invesus Claim and the steps taken to procure litigation funding in respect of the ASIC Claim and the Invesus Claim;
 - (d) the outcome of the Expedited Adjudication Process undertaken in May and June 2022;
 - (e) the proposed approach to admitting the claims of Former Customers based on their previous responses to the Expedited Adjudication Process, this time for the purposes of calculating and distributing a final dividend;
 - (f) the need for the ancillary relief sought by this application; and
 - (g) the attitude of third parties to this application.

B. BACKGROUND TO THIS APPLICATION

10. There are two aspects to the orders sought by this application:



- (a) *First*, orders to expand the scope of the adjudication process conducted in accordance with this Honourable Court's orders made on 17 May 2022 (the **Expedited Adjudication Process**) to all Former Customer Claims (being the Misleading or Deceptive Conduct Claims and Unconscionable Conduct Claims described in paragraph 62 of the First Woodhouse Affidavit) arising out of the Company's conduct between 1 January 2016 and 27 June 2021 (**Extended Period**). The Expedited Adjudication Process was based on the Company's conduct during the Relevant Period of between 1 January 2017 and 1 April 2019.
- (b) *Second*, orders to modify certain of the prescribed dividend adjudication timeframes prescribed by the *Corporations Regulations 2001* (Cth) (**Regulations**).

11. For the reasons set out in this affidavit, I consider this application to be in the best interests of all creditors because it will maximise the number of creditors who ultimately receive a dividend from the remaining assets of the Company which are available for distribution.
12. The differences between the dividend distribution timetable prescribed by the Regulations and the proposed timetable set by this application, and the rationale for the proposed changes are explained in more detail in paragraphs 83 to 90 below. In summary, given the number of Former Customers, the nature of their claims and the interaction with the Expedited Adjudication Process, I believe it is in the best interests of the creditors to relax certain timeframes in relation to the calling for and adjudication of proofs to provide creditors with reasonable time to properly engage with the process. Although each of the timeframes we propose to extend can be extended without the need for Court relief, the proposed additional 7 days for the adjudication process provides only 3 days leeway should further evidence be required from a creditor. Any additional time would push the overall timetable to declare the dividend beyond the 2-month period prescribed by reg 5.6.65(1), which cannot be extended without Court relief. I believe this extension is in the best interests of creditors because ordinarily if the dividend distribution process takes more than 2-months, then another notice of intention to declare a dividend is required to be published. If this were to happen, I believe this would cause considerable confusion among creditors.



13. The further modifications to the Regulations sought by this application are summarised in Table 1 below.

Table 1: Other modifications to the statutory regime

Provision	Explanation	Statutory requirement	Proposed modification
Reg 5.6.49(2)(b)	Form of proof of debt	Form 535, Schedule 2 of the Regulations	<p>Replace Form 535 with Annexure B, C, D, E, or F depending on the outcome of the Expedited Adjudication Process.</p> <p>Annexure H requests the same information as would otherwise be provided in a Form 535 for creditors who choose to submit a proof of debt.</p>
Reg 5.6.67(3)	Form of dividend declaration	Form 549, Schedule 2 of the Regulations	<p>Replace Form 549 with Annexure I. Annexure I contains the same information as a Form 549 but refers to an electronic funds transfer instead of the inclusion of a cheque with the notice.</p>
Section 554C	Appropriate exchange rate for the calculation of claims	<p>The debt or claim admissible to proof against the Company be "worked out by reference to the opening carded on demand airmail buying rate in relation to the foreign currency available at the Commonwealth Bank of Australia on the relevant date" (Section 554C Rate)</p>	<p>Instead of using the Section 554C Rate as at the Appointment Date, permit the Liquidators to convert USD denominated transactions into AUD by using the AUD:USD exchange rate published by the Reserve Bank of Australia for the date of the transaction which was available for every business day of the relevant dates.</p> <p>This will increase the accuracy of these calculations and avoid needing to recalculate the value of these transactions which was already done for the Expedited Adjudication Process.</p>

14. I instructed my solicitors to send ASIC a letter with a draft of this application, on 18 December 2025, in advance of filing this application. A copy of my solicitor's letter to ASIC dated 17 December 2025 is at **Tab 3**. The purpose of this correspondence was to seek ASIC's feedback on the proposal to extend the time to respond to creditors' proofs

of debt in accordance with reg 5.6.66(1)(b). On 21 January 2026, ASIC sent a letter of response to my solicitors confirming, amongst other things, that ASIC considers these matters are properly left for the determination of the Court. A copy of ASIC's letter to my solicitors dated 21 January 2026 is at **Tab 4**. I explain ASIC's position in more detail in paragraphs 144 to 146 below.

15. As explained in paragraph 142 below, this application has also been explained to, and has the support of, the Committee of Inspection.

C. BACKGROUND TO THE LIQUIDATION

16. It has been nearly 4.5 years since the liquidation commenced. While it has taken a substantial period of time to finalise what I had originally anticipated and hoped would be a straightforward members' voluntary liquidation, the liquidation has been far more complex than I originally envisaged. In particular, we have pursued two complex claims for the benefit of all creditors and had these claims not been pursued, then there would have been no assets to be distributed among the Company's Former Customers who suffered loss or damage caused by the Company's conduct which contravened the Corporations Act and the ASIC Act.
17. The timeline of the key events in the liquidation since our appointment are summarised in the below table:

Table 2: Timeline of key events in the liquidation

Date	Event [Evidentiary reference]
27 June 2021	The sole member of the Company passed a resolution for the Company to be wound up and liquidators appointed [DHW-9].
9 July 2021	I caused an initial circular to creditors to be published [DHW-12].
20 September 2021	We first raised the prospect of Former Customers having claims against the Company with Invesus [DHW-10].
24 September 2021	We published the statutory report to creditors [DHW-13].

7 December 2021	The Federal Court makes orders for the liquidation to proceed as an insolvent liquidation (Proceedings WAD 254 of 2021) [DHW-11].
16 March 2022	Creditors resolved to appoint a Committee of Inspection [DHW-16].
12 April 2022	We obtained conditional litigation funding to pursue the claim against Invesus under the Letter of Comfort (Invesus Claim LFA) [First Woodhouse Affidavit, [61]].
19 April 2022	The Committee of Inspection authorised us to enter the Invesus Claim LFA [First Woodhouse Affidavit, [61]].
5 May 2022	We published the Investigation Report to creditors and Invesus [DHW-17].
9 May 2022	We commenced these proceedings seeking orders permitting us to implement the Expedited Adjudication Process.
17 May 2022	The Adjudication Orders were made.
26 May 2022	We published the first tranche of notices related to the Expedited Adjudication Process in accordance with the Adjudication Orders.
26 May to 22 June 2022	I, and my staff, undertook the Expedited Adjudication Process for the purposes of making a demand on Invesus pursuant to the Letter of Comfort.
22 June 2022	I issued a notice of demand to Invesus for the payment of \$43,645,127.26 in respect of the claims of 1,728 Former Customers we had admitted to proof against the Company in accordance with the Adjudication Orders (Invesus Demand).
29 June 2022	Invesus denied any liability in respect of the Invesus Demand under the Letter of Comfort.
30 June 2022	The Letter of Comfort expired.



11 August 2022	I caused proceedings to be commenced by the Company against Invesus in the Supreme Court of New South Wales seeking enforcement of the Invesus Demand.
24 October 2022	I issued my first letter to ASIC seeking repayment of the Pecuniary Penalty, Legal Costs, and Investigation Costs (the ASIC Claim). My attempts to settle the ASIC Claim are discussed in more detail below.
13 April 2023	Following correspondence with ASIC's legal representatives which made it clear a commercial resolution of the ASIC Claim would not be possible, the Committee of Inspection approved the liquidators entering into a litigation funding agreement in respect of the ASIC Claim (ASIC LFA). The steps taken to procure litigation funding, including the competing proposals advanced by potential funders, and the terms of the ASIC LFA are discussed more in the Confidential Woodhouse Affidavit.
28 August 2023	Mr Stubing formally resigned his appointment as a liquidator with the Court.
15 December 2023	I caused an originating process to be filed in the Federal Court against ASIC in relation to the amounts subject of the ASIC Claim (WAD 329 of 2023) (ASIC Proceeding).
26 – 27 June 2024	The initial trial between the Company and Invesus is heard before Ball J in the NSW Supreme Court.
19 July 2024	Ball J dismissed the Company's claim against Invesus and published reasons: <i>Forex Capital Trading Pty Ltd (in liquidation) v Invesus Group Limited</i> [2024] NSWSC 867 (Invesus Decision).
8 August 2024	I, among others, attend a court ordered mediation with ASIC in respect of the ASIC Claim.
16 August 2024	With the support of the relevant litigation funder, I caused the Company to file a notice of intention to appeal the Invesus Decision.

18 October 2024	With the support of the Committee of Inspection, I caused the Company to file a notice of appeal in the NSW Court of Appeal seeking to overturn the Invesus Decision.
22 October 2024	The Liquidators, the Company and ASIC executed a deed of settlement and release in respect of the ASIC Claim and the ASIC Proceeding (ASIC Settlement Deed).
5 November 2024	I caused a circular to be provided to creditors providing them with an update regarding the outcome of the ASIC Claim and the ASIC Settlement Deed.
7 November 2024	ASIC paid the ASIC Settlement Sum of \$11.5m to my solicitor's trust account in accordance with the terms of the ASIC Settlement Deed.
14 November 2024	As a result of the ASIC Settlement Deed, by consent, the Federal Court makes orders dismissing the ASIC Proceeding.
20 March 2025	The appeal of the Invesus Decision is heard by the NSW Court of Appeal (Invesus Appeal).
14 April 2025	The Court of Appeal dismisses the Invesus Appeal: <i>Forex Capital Trading Pty Ltd (in liq) v Invesus Group Limited</i> [2025] NSWCA 65 (Appeal Decision).

18. Following the completion of the above steps, and in particular, exhausting our options to recover further assets of the Company for distribution as dividends, we have undertaken a number of different workstreams in preparation for the finalisation of the liquidation and which have influenced the timing of filing this application, including:

- (a) dealing with the Client Money Account and determining the most appropriate way to manage the balance of the account (as discussed below at [132]-[137]);
- (b) finalising the position of priority claims (as discussed below at [68]-[70]);
- (c) preparing information required to lodge outstanding tax returns, in order to request tax clearance;
- (d) reviewing additional Company records obtained through the ASIC Claim to identify whether further Company and financial information was available to

facilitate the extension of the Expedited Adjudication Process to the Extended Period (as discussed below at [104]-[107]);

- (e) undertaking additional, targeted, investigations to determine whether the Company was engaging in misleading, deceptive or unconscionable conduct outside of the Relevant Period, and the extent of any such conduct, to determine whether the Expedited Adjudication Process should be extended to cover claims across the Extended Period (as discussed below at [104]-[107]);
- (f) updating and reconfiguring the former customer claims model used in the Expedited Adjudication Process to determine the claims profile under the proposed adjudication process in respect of the Extended Period (as discussed below at [72]); and
- (g) reviewing options for the development and hosting of a claims portal by an external specialist with suitably rigorous cyber security protocols, similar to that used in the Expedited Adjudication Process, as the provider of the original platform exited the insolvency market (as discussed below at [122]).

D. ASSETS AVAILABLE FOR DISTRIBUTION AS DIVIDENDS

- 19. As the ASIC Claim has been settled and the Invesus Appeal has now been finalised, and I do not consider there are any other financially viable actions available to realise further assets for the benefit of creditors, the Liquidators intend to declare a final dividend as soon as possible. As set out below, after accounting for the costs of the liquidation, I estimate approximately \$4.1 million will be available for distribution to creditors, which is estimated to provide a dividend of between 5 and 10 cents in the dollar to general unsecured creditors, including Former Customers.
- 20. At **Tab 5** is a simple summary of the receipts and payments from the Appointment Date to 28 February 2026.
- 21. At **Tab 6** is a detailed version of the receipts and payments from the Appointment Date to 28 February 2026.
- 22. An explanation of these numbers, and how they have changed over time, is set out below.



D. Assets of the Company

D.1.1 Assets at Appointment Date

23. As at the Appointment Date, according to the Declaration of Solvency, the Company held the following assets with a realisable value of \$4,432,069:
- (a) cash at bank: \$39,820;
 - (b) bills receivable: \$60,000;
 - (c) trade debtors: \$3,549,948; and
 - (d) loans on advances: \$782,301.
24. Since the Appointment Date, we have realised the following assets for cash:
- (a) cash at bank: \$39,497.44;
 - (b) bills receivable: \$59,967.30;
 - (c) trade debtors: \$354,989.85;
 - (d) loans on advances: \$477,273.00; and
 - (e) office furniture and equipment: \$3,448.36.
25. The apparent shortfall in terms of the recovery of trade debtors, can be explained by the fact approximately \$3.2m related to an intercompany loan from the Company to its immediate shareholder entity, Forex Capital Trading Limited, a company incorporated in Vanuatu (**Intercompany Receivable**). The value of the Intercompany Receivable was set off against the amounts received by the Company pursuant to the terms of a letter of financial support between the Company and Invesus dated 26 June 2021 (**Letter of Financial Support**). A copy of the Letter of Financial Support is at **Tab 7**.
26. Further, the terms of the Letter of Financial Support provided for Invesus to hold, on trust, an amount equal to the amounts in the invoices set out in the annexure, which totalled \$3,153,209.22 and for Invesus to pay these amounts directly to these creditors. This included an amount of \$38,500 paid to FTI Consulting in respect of our pre-appointment work, which was described in paragraph 24 of my First Affidavit.
27. In addition to the payment of the amounts listed in the annexure to the Letter of Financial Support, Invesus also agreed to fund the remaining shortfall between the Company's assets and liabilities, estimated at \$828,430 when the Declaration of Solvency was prepared and recorded as loans on advances (\$782,301) and trade debtors (\$46,129).

The estimated shortfall included \$351,143 owing to ASIC for its investigation's costs. Invesus arranged payment of this amount directly to ASIC, through the Company's former legal representatives. Invesus paid the balance of the estimated shortfall of \$477,287 to the liquidation bank account. This represents the amount realised in respect of loans on advances.

28. In calculating the shortfall amount, the costs of winding up were based on a Members Voluntary Liquidation with minimal creditors and included minimal provision for claims from Former Customers. Following our appointment, it became evident the liquidation would be more complex and Former Customers would likely have a claim for damages, increasing both the estimated costs and creditor value when compared to the Declaration of Solvency. By 10 September 2021, we had been notified of potential additional claims, when compared to the Declaration of Solvency, of \$910,885. Our professional fees and costs (including our legal fees) were also approximately \$260,000 more than that allowed for in the Declaration of Solvency.
29. Therefore, it was evident that after the payment of priority amounts in accordance with section 556(1), the assets of the Company which could be used for the benefit of general unsecured creditors who were not being paid in accordance with the Letter of Financial Support or the Letter of Comfort, were significantly below those set out in the Declaration of Solvency.
30. Since the Appointment Date, to the date of this affidavit, we have also received the following amounts:
 - (a) on 18 July 2022, the amount of \$468.31 from National Australia Bank as refunds for incorrect transaction fees;
 - (b) on 18 June 2025, the amount of \$145,375.62 from National Australia Bank as interest on the funds held in a term deposit;
 - (c) on 16 September 2025, the amount of \$59,157.59 from National Australia Bank as interest on funds held in a term deposit; and
 - (d) on 15 December 2025, the amount of \$52,057.43 from National Australia Bank as interest on funds held in a term deposit.
31. There is also an amount of \$1,707.02 held in the Client Money Account as at the date of this affidavit. As I explain in paragraphs 132 to 137 below, the Client Money Account is



subject to a statutory trust and those funds are not generally available for distribution to creditors.

D.1.2 Proceeds from Invesus pursuant to the Letter of Comfort

32. On 11 August 2022, the Company commenced proceedings against Invesus in the Supreme Court of New South Wales. The Company claimed that Invesus breached the Letter of Comfort by failing to make or procure payment to the Company in the amount of \$43,645,127.26 in response to the demand made of Invesus based on the value of the Admitted Discounted Claims at the conclusion of the Expedited Adjudication Process (**Invesus Claim**). The Company was unsuccessful in the Invesus Decision at first instance (see [2024] NSWSC 867) and in the Invesus Appeal on appeal (see [2025] NSWCA 64).
33. As such, we have been unable to realise any value from Invesus under the Letter of Comfort. While we were unsuccessful in recovering amounts from Invesus through the Invesus Claim, the litigation against Invesus was supported by a litigation funding agreement (which was approved by the committee of inspection in April 2022) which has meant most of the Liquidators and the professional fees of our solicitors, King & Wood Mallesons (**KWM**), in relation to the Invesus Claim were met by the litigation funding, rather than being borne by the estate. Relevantly:
- (a) pursuant to the litigation funding agreement, we received \$2,135,507.95 in respect of the Invesus Claim;
 - (b) this was applied to meet the following costs in relation to the Invesus Claim
 - (i) \$1,001,502.31 for professional fees and costs incurred by the Liquidators in conducting the Expedited Adjudication Process and preparing evidence in relation to the proceedings in the Supreme Court of New South Wales;
 - (ii) \$549,966.06 for professional fees and costs incurred by our solicitors in relation to the Invesus Claim, including commencing these proceedings and obtaining the relevant orders to permit the Expedited Adjudication Process and then in relation to the Supreme Court of New South Wales proceedings against Invesus;
 - (iii) \$352,436.25 for professional fees incurred by the various barristers used in relation to the Invesus Claim;



- (iv) \$40,995.91 for the other costs incurred by the litigation funder in assisting with the 'book build' and encouraging the participation of Former Customers in the Expedited Adjudication Process; and
 - (v) \$190,607.18 for refunding GST paid in relation to the above costs.
34. There were additional costs of \$876,096.74 incurred in relation to the Invesus Claim which were not funded costs under the terms of the litigation funding agreement, but which have otherwise been paid out of the estate because they were incurred for the benefit of the Company and its creditors in attempting to pursue the Invesus Claim, including our professional fees and legal fees and costs incurred outside the scope of the litigation funding agreement.
35. These additional costs fall within the various costs and expenses which are afforded statutory priority under section 556(1) and these amounts have already been paid in priority to the claims of Former Customers with relevant approvals.
36. Although these additional costs were significant, as the Invesus Claim exceeded \$43m, before interest, and before deducting costs, I nevertheless considered it was in the best interests of the Company and the creditors for these costs to be incurred to maximise the potential of the Invesus Claim being successful. We were prepared to incur some costs, including hard costs such as legal fees and other disbursements, in advance of external funding being secured to ensure we would be in the best position to prosecute the Invesus Claim to the fullest extent possible and maximise the possibility of realising a significant return to creditors.
37. Further, although costs orders were made against the Company as the unsuccessful party at first instance and on appeal, the litigation funder had procured an after-the-event insurance policy which provided deeds of indemnity in favour of Invesus. Invesus has called on these deeds of indemnity and the extant costs orders have been discharged. As a result, the estate did not bear any of the adverse costs orders in favour of Invesus.
38. Finally, as we conducted significant and detailed investigations to support our application for the Adjudication Orders and prepared the necessary information to enable us to conduct the Expedited Adjudication Process (which was funded by external litigation funders), the work required to finalise the dividend process will be considerably reduced. My staff and I will be able to use the previous calculations of Net Loss (as modified) as the basis for the dividend distribution process envisaged by this interlocutory application, at a significantly lower cost than if we called for dividends and began the process again.



If the costs associated with the necessary investigations for the Adjudication Orders and the costs of conducting the Expedited Adjudication Process had not been incurred in relation to the Invesus Claim, then those costs would now be borne by the estate in any event. I discussed the costs of the Expedited Adjudication Process in the First Woodhouse Affidavit at paragraphs [113] to [114].

D.1.3 Proceeds from ASIC pursuant to void dispositions and voidable transactions

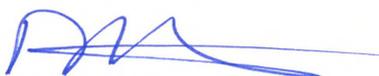
39. In addition to the Invesus Claim, in the course of my investigations into the Company, I had identified payments which had been made to ASIC immediately prior to, or shortly after, the commencement of the members' voluntary liquidation of FXCT, which I considered warranted further investigation. This was especially so after it became apparent Invesus would not support the winding up continuing on a solvent basis, and the liquidation was converted into an insolvent winding up pursuant to orders made by Registrar Trott on 7 December 2021. A copy these orders is at Tab DHW-11 of the First Woodhouse Affidavit.
40. Relevantly, these payments included:
- (a) *first*, the \$20m pecuniary penalty which was paid to ASIC at the direction of the Company on 25 June 2025 (shortly before the Appointment Date) as an unfair preference under section 588FA, and therefore a voidable transaction under section 588FE (the **Pecuniary Penalty**);
 - (b) *second*, the \$1.18m paid to ASIC on or around 28 June 2021 in respect of ASIC's costs of the Contravention Proceedings (VID 462 of 2020) at the direction of the Company, in accordance with the orders made by Middleton J as a void disposition contrary to section 468(1), or alternatively as an unfair preference under section 588FA, and therefore a voidable transaction under section 588FE (the **Legal Costs**);
 - (c) *third*, the \$351,143 paid to ASIC on or around 12 July 2021 in respect of ASIC's investigation costs associated with the Contravention Proceeding, pursuant to section 91(1)(e) of the ASIC Act, as a void disposition contrary to section 468(1) (the **Investigation Costs**).
41. As it appeared by now that Invesus was unwilling to make any payments to the Company under the Letter of Comfort to meet the net losses of the Company's Former Customers (which based on the Contravention Reasons, I believed were approximately

\$77.5m), I considered, as a matter of public policy, that it would be inappropriate for ASIC to retain the benefit of these payments in circumstances where significant losses had been sustained by Former Customers as a result of the Company's misconduct which occurred on ASIC's watch, and Former Customers were unlikely to receive any dividend.

42. I first raised my concerns with ASIC at a meeting which took place on 24 January 2022 between me and senior members of ASIC staff based in Western Australia. At this meeting, I raised my concerns with ASIC, and sought confirmation from ASIC they would return, at least, the Pecuniary Penalty to the Company.
43. An additional reason I sought to raise this issue with ASIC, and request ASIC return the Pecuniary Penalty to the Company, was to have sufficient assets to prosecute the Invesus Claim, without needing to obtain litigation funding. However, as ASIC did not agree to refund the Pecuniary Penalty, it was necessary to obtain litigation funding and commence these proceedings to pursue the Invesus Claim. Given the intense work and timeframes involved in the Expedited Adjudication Process, I was unable to return to the potential recoveries from ASIC until later in 2022.
44. Conscious that any funding premium which would be payable if litigation funding was required to enable me to commence proceedings against ASIC in respect of the Pecuniary Penalty, Legal Costs and Investigation Costs, I took a number of steps to reach a commercial settlement with ASIC without seeking litigation funding. These steps were as follows:
 - (a) On 24 October 2022, I sent a letter to ASIC regarding the ASIC Claim (as described in paragraph [17] of the Third Woodhouse Affidavit). This letter requested the payment of \$21,180,000 to the Liquidators within 28 days of the date of the letter. At **Tab 8** is a true copy of the letter I sent to ASIC dated 24 October 2022.
 - (b) On 3 November 2022, I received an email from ASIC which attached a letter from ASIC's Commission Counsel, Rashpal Hartmann. This letter was a holding response advising a further response would be forthcoming. At **Tab 9** is a true copy of the email and letter from ASIC dated 3 November 2022. I did not receive a further response from Ms Hartmann.



- (c) On 8 December 2022, I sent an email to Ms Hartmann requesting a response to my letter of 24 October 2022. At **Tab 10** is a copy of the email I sent to Ms Hartmann dated 8 December 2022.
- (d) On 8 December 2022, shortly after sending the email to Ms Hartmann, I received an email from Khaled Metlej, a Director at Craddock Murray Neumann Lawyers (**CMN**), who acted for ASIC. At **Tab 11** is a copy of the email I received from Mr Metlej on 8 December 2022. I provided a copy of this email to my solicitors, KWM, and asked them to contact CMN. I am informed by Sam Dundas, a partner of KWM, and I believe to be true, that he attempted to engage with Mr Metlej by telephone on 15 December 2022.
- (e) On 16 December 2022, CMN sent a letter to KWM. This letter requested further information from the Liquidators and raised certain issues which were said to mean ASIC was not liable to return any of the amounts to the Company. At **Tab 12** is a true copy of the letter from CMN to KWM dated 16 December 2022.
45. Due to the lack of available funds at this stage, I was unable to instruct KWM to respond to CMN's letter of 16 December 2022.
46. At this stage, it was apparent litigation funding would be required to fund the necessary legal costs which would be incurred in formally commencing proceedings against ASIC. Based on my experience as a registered liquidator, I am aware of the different sources of external funding a liquidator may wish to explore to enable them to prosecute claims on behalf of creditors where there are otherwise insufficient assets available to prosecute these claims. These sources include:
- (a) funding from the Assetless Administration Fund which is administered by ASIC;
 - (b) funding from the Fair Entitlements Guarantee scheme (**FEG**), which is administered by the Commonwealth Department of Employment and Workplace Relations;
 - (c) funding from existing creditors; and
 - (d) funding from private litigation funders.
47. In my experience, if funding is obtained from the Assetless Administration Fund and there is a successful recovery, only the actual costs incurred are deducted from the recovery and there is no requirement to pay a premium to the Assetless Administration Fund.



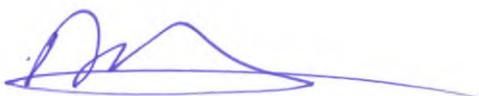
48. Again, in my experience and understanding, if funding is obtained from FEG and there is a successful recovery, there will generally be no funding premium payable to FEG, However, there are also strict eligibility criteria which must be complied with for a company or liquidators to be eligible for funding from FEG. FEG will only advance funding in circumstances where FEG has made, or will be expected to make, payments to terminated employees in respect of their accrued and unpaid priority entitlements. Although FEG did make a small advance payment of \$110,107.49 during the liquidation, they did not submit a claim for this advance until late 2025, which they submitted after we requested they do so. I requested FEG to file a claim in respect of this advance to be made in anticipation of finalising the dividends. I also believe, based on my experience as a liquidator, there is at least an informal understanding that FEG will not fund actions against other Commonwealth agencies, such as ASIC.
49. Where funding is obtained from a creditor, or a group of creditors, there is generally no premium payable, although the Court may make an order that the amounts advanced to the liquidators to meet the costs of the recovery are paid to the creditor(s) in priority to the general unsecured debts pursuant to section 564 of the Corporations Act.
50. In my experience as a registered liquidator, funding from private litigation funders will require the payment of a "premium" or "commission" to the funder in the event of a successful recovery. Based on my experience as a liquidator, I believe the two key factors which influence a funding premium are:
- (a) *first*, the premium is generally calculated as the greater of:
 - (i) a multiple of the actual costs incurred in prosecuting the claim; or
 - (ii) a fixed percentage of the amounts recovered; and
 - (b) *second*, the premium payable, that is the multiple to be applied to the costs or the fixed percentage of the recovery to be paid, will increase (or "ratchet") based on either, or a combination, of:
 - (i) how long it takes to receive the proceeds of the successful recovery (usually in blocks of 6/12/18 months); or
 - (ii) the achievement of certain milestones in the recovery action (such as the commencement of proceedings, the commencement of the trial, the delivery of a judgment, appeals etc).



51. I am also aware litigation funders consider additional factors in putting forward the different multiples, percentages and milestones which combine to determine the overall premium. In my experience, these factors can include:
- (a) the quantum of the claim;
 - (b) the complexity of the claim; and
 - (c) the recoverability of the claim, which may be influenced by the defendant's capacity to meet any adverse judgment (including the availability of potentially responsive insurance policies), the jurisdiction the defendant is located in and whether the judgment can be enforced domestically or if foreign enforcement proceedings are required.
52. As a result, the funding premium payable in private litigation funding arrangements can vary significantly between different litigation funding agreements.
53. Importantly, the premium itself represents a significant cost to creditors in respect of the potential recovery. Therefore, the quantum of any premium payable is often a key factor I consider when assessing the merits of competing funding proposals. However, although the quantum of a premium is a key factor, it is not the only factor I consider when weighing competing funding proposals. For example, other factors I consider relevant to assessing whether a funding proposal is in the best interests of creditors include:
- (a) whether the funder has particular subject matter expertise or experience in prosecuting the types of claims to be pursued;
 - (b) the funder's balance sheet and ability to deploy sufficient capital to meet the costs of the claim for the anticipated duration of any action;
 - (c) the funder's ability to move quickly to provide funding terms and move through their internal processes to approve the terms of funding and deploy capital;
 - (d) conflicts and relationships with parties potentially involved in the claim; and
 - (e) any additional support which can be offered by the funder (such as book building and advertising in the context of class actions).
54. Against that background, I considered the potential sources of funding, and came to the conclusion that the only viable source of funding for any proceedings against ASIC would be a private litigation funder. This was because:



- (a) as the ASIC Claim involved a recovery from ASIC, we determined we would not be able to procure funding from the Assetless Administration Fund or FEG on the basis they would not fund an action against ASIC; and
 - (b) I did not consider it was appropriate to seek funding from creditors or the Former Customers to fund proceedings against ASIC because:
 - (i) although we were confident of the legal basis for proceedings against ASIC, it would involve a novel claim and there was no guarantee of a successful recovery;
 - (ii) we considered it unlikely any creditor, or former customer, of the Company would have access to sufficient funds to meet the potential costs which would be involved in litigating a novel claim like the ASIC Claim; and
 - (iii) even if a creditor, or former customer, could meet the costs, we did not consider they would be willing, or able, to deploy those funds and potentially not receive any return while the litigation ran its course.
55. I sent an email to my fellow Liquidators on 19 December 2022 to explain why I believed private litigation funding was necessary, and whether they had any recommendations as to potential litigation funders.
56. The Confidential Woodhouse Affidavit explains the steps I took to obtain the litigation funding which would allow us to escalate our attempts to recover the approximately \$21.5 million from ASIC. I explain why I consider the contents of the Confidential Woodhouse Affidavit and Exhibit DHW-C1 should be subject to a confidentiality order in the Confidential Woodhouse Affidavit.
57. Although we had negotiated the terms of suitable litigation funding with a suitable funder through the first quarter of 2023, I continued to consider strategies to realise funds from ASIC before formally entering into a litigation funding agreement, and avoiding the need to pay a funding premium. On 22 February 2023, I instructed Shane Murphy, an FTI employee who works in the Strategic Communications team, to issue a briefing paper to the Assistant Treasurer's office, who I understand is the Commonwealth Minister responsible for ASIC, and request an opportunity to discuss the briefing paper. At **Tab 13** is a copy of the email which was sent to the Assistant Treasurer, along with the



briefing paper which was attached. I did not receive a response from the Assistant Treasurer's office.

58. Having secured, at the time, in principle funding, I instructed KWM, to re-engage with CMN in relation to the potential claims against ASIC. This correspondence unfolded as follows:
- (a) On 5 April 2023, and prior to the Committee of Inspection meeting to ratify the ASIC LFA, I instructed KWM to send a letter to CMN explaining that the Liquidators, amongst other things, had been engaged in discussions with several litigation funders in relation to the ASIC Claim. The letter conveyed that while litigation funding will reduce the amount of funds which will be available to creditors, the Liquidators had been left with no choice but to seek approval to enter into the ASIC LFA to allow them to discharge their statutory duties to recover unfair preferences for the benefit of the Company. At **Tab 14** is a copy of KWM's letter to CMN dated 5 April 2023.
 - (b) On 13 April 2023, CMN sent a letter to KWM. In that letter, CMN stated, amongst other things, that ASIC did not consider that the pursuit of litigation funding was the only viable or preferable course available to the Liquidators. At **Tab 15** is a copy of the letter from CMN to KWM dated 13 April 2023.
 - (c) On 14 April 2023, I instructed KWM to send a letter to CMN. At **Tab 16** is a copy of the letter from KWM to CMN dated 14 April 2023.
 - (d) On 19 April 2023, CMN sent a letter to KWM. At **Tab 17** is a copy of the letter from CMN to KWM.
 - (e) On 21 April 2023, I instructed KWM to send a letter to CMN. This letter informed CMN that the Liquidators had spoken further with the funder following receipt of CMN's letter of 19 April 2023 and that the funder was willing to extend the relevant funding proposal for acceptance until close of business (AWST) on Friday, 28 April 2023, following which there was a risk that it would be withdrawn. This letter also stated that if a meaningful proposal could not be put forward by ASIC by this time, then the Liquidators would have no choice but to enter into a private litigation funding agreement to enable the Liquidators to prosecute the ASIC Claim for the benefit of the Company and its creditors. At **Tab 18** is a copy of the letter from KWM to CMN dated 21 April 2023. I am informed by Mr Dundas, and I believe, that CMN did not respond to this letter.



- (f) As explained in the Confidential Woodhouse Affidavit, the Company and I entered into a litigation funding agreement on 9 May 2023.

59. As the litigation funding agreement required additional steps and due diligence to be conducted before further steps could be taken to prosecute this claim, it was not until October 2023 that further steps were taken to prosecute the ASIC Claim. From there, the following steps occurred:

- (a) Between 24 October 2023 and 15 December 2023, I instructed KWM to engage in without prejudice negotiations with CMN in an attempt to settle the claims against ASIC. I was motivated to reach a commercial settlement in advance of taking further steps, such as sharing draft pleadings with ASIC and/or commencing the ASIC Proceeding, which would have the effect of triggering ratchet Stages under the ASIC LFA that would increase the Funder's Commission payable to the Funder and thereby decrease the overall funds available to creditors. I instructed KWM to inform CMN and ASIC about the applicable ratchet Stages under the ASIC LFA that would increase the Funder's Commission payable to the Funder and that the Liquidators strong preference was to reach a commercial compromise (before triggering increases in the Funder's Commission) and thereby maximise the overall funds available to creditors. Despite this, no such commercial compromise was reached with CMN and ASIC.
- (b) At the same time as these without prejudice negotiations, between 24 October 2023 and 15 December 2023, I instructed KWM to send a number of open letters to CMN making demands for ASIC to repay relevant amounts, including:
- (i) on 24 October 2023 (which was exactly one year after I first formally demanded repayment of the Pecuniary Penalty by ASIC), I caused a letter to be sent to ASIC, demanding the repayment of the amount of \$1,531,143 as a void disposition in respect of the Investigation Costs and the Legal Costs (the Void Disposition). At **Tab 19** is a copy of the letter from FTI to ASIC;
- (ii) on 21 November 2023, CMN sent a letter to KWM in which CMN requested that the Liquidators not take any steps adverse to ASIC until ASIC had substantively responded to FTI's letter to ASIC dated 24 October 2023. At

Tab 20 is a copy of the letter from CMN to KWM dated 21 November 2023; and

- (iii) on 24 November 2023, I instructed KWM to send a letter to CMN in relation to the Investigation Costs and the Legal Costs. At **Tab 21** is a copy of KWM's letter to CMN dated 24 November 2023.

60. Against that background and noting that no commercial compromise was reached, on 15 December 2023, I instructed KWM to file an originating process in the Federal Court against ASIC seeking to recover the Pecuniary Penalty, the Legal Costs and the Investigation Costs, which totalled approximately \$21.5 million, as well as pre-judgment interest on the above amounts pursuant to section 51A of the *Federal Court of Australia Act 1976* (Cth). This was the ASIC Proceeding with reference number WAD 329 of 2023 (**ASIC Proceeding**).
61. The Federal Court made orders referring the parties to a mediation, which took place before Registrar Luxton on 8 August 2024. The parties agreed to several extensions of time to keep this mediation open, and eventually, on 1 October 2024, ASIC agreed to pay an amount of \$11,500,000 (**ASIC Settlement Sum**) to the Liquidators in relation to the ASIC Claim, in return for the Liquidators consenting to the dismissal of the ASIC Proceedings. The terms of the settlement were reduced to writing in the ASIC Settlement Deed which was executed on 22 October 2024. The terms of the ASIC Settlement Deed do not contain any confidentiality provisions in relation to the fact of the settlement or the quantum of the ASIC Settlement Sum. This was agreed due to the various reporting obligations of the parties which would have rendered a confidentiality regime, in my view, unworkable.
62. In October 2024, the Liquidators agreed to discontinue the claims against ASIC in return for ASIC paying \$11.5m to the Company (**ASIC Settlement Sum**). I provide a further explanation of the resolution of the ASIC Proceeding, the costs incurred and the payments made to the litigation funder in the Confidential Woodhouse Affidavit.
63. Once the costs of prosecuting the ASIC Claim were deducted from, and the relevant premium was paid to the litigation funder from the ASIC Settlement Sum, an amount of \$5.95m was invested in a term deposit with the National Bank of Australia on 20 December 2024, earning 4.90% p.a. in interest. The initial term was for 6 months, which matured on 18 June 2025. After reassessing the amount, term, and interest rate, and removing some funds to cover our estimated ongoing costs of the liquidation, we

rolled most of this money into a 3-month term deposit, which matured on 18 September 2025. Again, after reassessing the amount, term, interest rate and estimated costs of the liquidation, we deposited \$5,239,157.59 from the ASIC Settlement Sum into a further term deposit. We will continue to consider the amount, term and interest rate of the term deposit to ensure we are maximising the value of the ASIC Settlement Sum as we prepare to make the final distribution to creditors.

64. As set out in paragraphs 30(b), 30(c) and 30(d) above, to date we have earned \$256,590.64 in interest on the term deposit which forms part of the estate available for distribution to creditors.

D.1.4 Additional recoveries

65. Although we investigated other recoveries which may have been available under Part 5.7B of the Corporations Act, we were not able to identify any further potential recoveries which would have been economically viable, and therefore in the best interests of creditors, to pursue.

D.1.5 Total assets available for distribution to creditors

66. As at the date of this affidavit, once the Liquidators' outstanding professional fees, costs, remuneration and the costs of adjudication (as set out below) are accounted for, I estimate we will hold approximately \$4.1 million which will be available for distribution to creditors.

D.2 Creditors of the Company

67. As at the Appointment Date, the Declaration of Solvency identified the following liabilities totalling \$4,347,068:
- (a) expenses of the winding up: \$40,000;
 - (b) employee entitlements: \$389,476;
 - (c) taxation creditors: \$283,457;
 - (d) trade accounts: \$3,389,656;
 - (e) accrued expenses: \$34,532;
 - (f) other liabilities: \$168,442; and
 - (g) contingent liabilities \$41,505.

68. As at the date of this affidavit, we have not made a final distribution to employee creditors in respect of their outstanding amounts which are afforded a statutory priority under section 556(1). This is because we sought confirmation from specialists within the Australian Tax Office (**ATO**), regarding the calculation of superannuation payable on advances which were made to employees by the Department of Employment and Workplace Relations (which administers the Fair Entitlements Guarantee under the *Fair Entitlements Guarantee Act 2012* (Cth) (**FEG**)). The ATO provided their advice on 15 December 2025. This advice enabled us to lodge a Superannuation Guarantee Statement for superannuation relating to employee entitlements owing prior to my appointment. We are now awaiting confirmation of the ATO's proof of debt for the outstanding superannuation. Subject to receipt of this claim, we anticipate paying out all outstanding priority claims of employee creditors in full. My staff have prepared dividend notices in relation to these priority dividends, and I intend to commence this process at or around the time of making this affidavit.
69. While awaiting confirmation of the position in respect of the ATO and FEG, I considered whether it would be appropriate to bring this application earlier with a view to conducting an interim dividend process, which would have allowed the Former Customers to receive a portion of their total dividends in respect of their admitted claims earlier. However, I did not consider it would be worthwhile to incur the costs associated with an interim distribution, and that an interim dividend process would not be in the best interests of creditors, including because:
- (a) to call for proofs and conduct an adjudication to pay out an interim dividend, the costs which we would need to incur are the same as the costs which will be incurred in the final dividend process;
 - (b) as I estimated the total dividends would only be modest in any event, the costs which would be incurred in relation to making the payments would likely be disproportionate in comparison to the quantum of the dividends paid to Former Customers, and these costs would be duplicated upon the payment of a final dividend; and
 - (c) given the characteristics of the Former Customers, I considered it would be more efficient to conduct one final dividend process, rather than conducting multiple dividend processes, which I considered would lead to confusion among



Former Customers, and would cause us to incur additional costs in dealing with their enquiries.

70. Once the outstanding priority claims of employee creditors are paid, there will be no other statutory priority amounts other than the Liquidators' remuneration and the costs, fees and expenses incurred in the liquidation.
71. As at the date of this affidavit, I estimate the remaining general unsecured creditors of the Company are as follows:
- (a) approximately \$364,000 trade creditors who were not paid prior to the Appointment Date (**Trade and Statutory Creditors**);
 - (b) \$43,645,127.26 in respect of claims admitted during the Expedited Adjudication Process;
 - (c) approximately \$6.6 million in respect of other claims received, but not admitted during the Expedited Adjudication Process; and
 - (d) approximately \$1,787,405.55 in respect of the claims of Former Customers received after the relevant deadline for the purposes of the Expedited Adjudication Process (which have not yet been formally adjudicated).
72. The total net losses suffered by all Former Customers across the Extended Period is approximately \$103.8m, excluding the claims of Trade and Statutory Creditors. My staff have undertaken the necessary work to update and reconfigure the underlying model which was used to determine Former Customers' net loss during the Relevant Period to now enable us to determine each Former Customers' net loss across the Extended Period and to pre-populate the relevant Annexures for each Former Customer.

D.3 Liquidators' remuneration and costs of the liquidation

D.3.1 Costs of the liquidation to 30 November 2025

73. On 27 June 2021, at a general meeting of members, the Company's shareholder approved our remuneration up to an amount of \$35,000.00 (ex GST). A copy of the minutes of the meeting of members is at **Tab 22**.
74. To date, the Committee of Inspection has approved our remuneration up to an amount of \$3,197,556.00 (ex GST), and disbursements up to an amount of \$210,201.25 (ex GST), as follows:



- (a) at a meeting held on 19 April 2022, remuneration in the amount of \$926,893.50, ex GST, for the period 17 July 2021 to 31 March 2022, to be drawn from available funds immediately or as funds become available;
- (b) at a meeting held on 10 February 2023, remuneration in the amount of \$841,476.00, ex GST, for the period 1 April 2022 to 22 January 2023, to be drawn from available funds immediately or as funds become available;
- (c) at a meeting held on 11 December 2023:
 - (i) remuneration in the amount of \$441,500, ex GST, for the period 23 January 2023 to 20 October 2023, to be drawn from available funds immediately or as funds become available; and
 - (ii) disbursements in the amount of \$16,259.27, plus GST, for the period 23 January 2023 to 20 October 2023;
- (d) at a meeting held on 3 October 2024:
 - (i) remuneration in the amount of \$334,322.50, ex GST, for the period 21 October 2023 to 30 June 2024, to be drawn from available funds immediately or as funds become available;
 - (ii) remuneration in the amount of \$29,255.50, ex GST, for the period 1 July 2024 to 31 July 2024, to be drawn from available funds immediately or as funds become available; and
 - (iii) disbursements in the amount of \$63,845.08, plus GST, for the period 21 October 2023 to 31 July 2024, to be drawn immediately;
- (e) at a meeting held on 24 July 2025:
 - (i) remuneration in the amount of \$19,803, ex GST, for the period 16 February 2022 to 20 June 2023, to be drawn from available funds immediately or as funds become available;
 - (ii) remuneration in the amount of \$310,795.50, ex GST, for the period from 1 August 2024 to 30 June 2025, to be drawn from available funds immediately or as funds become available; and
 - (iii) disbursements in the amount of \$78,940.65, plus GST, for the period from 1 August 2024 to 30 June 2025, to be drawn immediately; and

- (f) at a meeting held on 15 December 2025:
- (i) remuneration in the amount of \$293,510, ex GST, for the period 1 July 2025 to 30 November 2025, to be drawn from available funds immediately or as funds become available;
 - (ii) disbursements in the amount of \$2,067.80, plus GST, for the period from 1 July 2025 to 30 November 2025, to be drawn immediately.

75. Copies of the minutes of the above meetings of the Committee of Inspection held on 19 April 2022, 10 February 2023, 11 December 2023, 3 October 2024, 24 July 2025 and 15 December 2025 are at **Tabs 23, 24, 25, 26, 27 and 28** respectively.
76. As at the date of this affidavit, we have drawn the amount of \$3,434,787.18 in respect of our approved remuneration and disbursements.
77. In addition to the assets of the Company which have been realised during the liquidation, including the successful recovery from ASIC, our remuneration has been drawn from the following sources:
- (a) \$940,432.09 in litigation funding provided in respect of the Invesus Claim; and
 - (b) \$477,273.00 in funding provided by Invesus as part of the pre-funding of the Company as part of the Declaration of Solvency and the subsequent members' voluntary winding up.

D.3.2 Costs of the liquidation since 1 December 2025 and estimated future costs

78. Between 1 December 2025 and 28 February 2026, we have accrued a further \$112,728.56 (ex GST) in remuneration and expenses in relation to the Liquidation. In addition to the work necessary in preparing this application, my staff and I have also been performing the following tasks in relation to liquidation:
- (a) preparing and sending a report to the Committee of Inspection discussing, among other things, this application;
 - (b) holding a meeting of the Committee of Inspection and preparing and lodging minutes of that meeting;
 - (c) attending to creditor queries as received;
 - (d) preparing and lodging Superannuation Guarantee Charge Statements with the ATO in relation to superannuation arising on advances made by FEG;



- (e) dealing with monies in the Client Funds Account, including paying funds to Former Customers, preparing and lodging an unclaimed money submission with the State Revenue Office of Victoria and paying unclaimed monies to the State Revenue Office of Victoria;
 - (f) preparing a report to ASIC and assessing our reporting requirements in relation to our investigations;
 - (g) planning for the dividend adjudication process;
 - (h) liaising with external tax accountants about the preparation of the Company's outstanding tax returns to facilitate tax clearance;
 - (i) attending to statutory lodgements and notices; and
 - (j) attending to receipts and payments as required and maintaining liquidation bank accounts, including completing monthly bank reconciliations.
79. As set out in paragraphs [113] to [118] of the First Woodhouse Affidavit, adjudicating proofs of debt and claims of Former Customers on an individualised basis is a complex, time-consuming, and costly process. I estimated it would have cost between \$6.29 million and \$6.58 million to adjudicate approximately 8,600 Former Customer Claims without the benefit of the Expedited Adjudication Process and would have taken approximately 32 weeks to complete with the staff available to the Liquidators.
80. Even with the benefit of the Expedited Adjudication Process, which has resulted in the admission of 1,728 Former Customer Claims as the Admitted Discount Claims, there would still be significant work required to be undertaken to adjudicate the remaining claims of Former Customers if they were all to submit proofs of debt which were required to be adjudicated in the ordinary way. Based on the calculations in the First Woodhouse Affidavit, I believe there is a real risk the estate would be entirely exhausted by the Liquidators' remuneration and legal costs incurred if the outstanding claims are to be adjudicated on an individualised basis without the benefit of the orders sought in this application.
81. Even if the estate is not entirely exhausted, I believe the erosion of the available funds would be so significant as to make the amount of any dividend which could ultimately be paid almost negligible. For this reason, I believe the orders sought in this application are in the best interests of all creditors as it will allow for there to be at least some return to Former Customers of the Company.

82. At present, given the relief sought in this application and the final dividend distribution, it is difficult to estimate the remuneration, fees and expenses which may be incurred from 1 March 2026 to the end of the liquidation. However, in any event, I believe the costs which will be incurred in implementing the dividend process which will be facilitated by the orders sought in this application will be modest, and in the range of \$383,669.00 to \$741,153.00, which is significantly below the costs of a dividend process without the benefit of these orders (see paragraphs [112]-[125] of the First Woodhouse Affidavit). There are several factors which give rise to the broad range in the costs which might potentially be incurred, including the uncertainty about how many additional creditors may engage with the process and the uncertainty about how many creditors may wish to submit a claim for their full net loss. Both of these factors will significantly influence the amount of work required to be undertaken and give rise to the broad range I have described.

D.4 The need to modify the statutory timetable

83. In addition to the cost implications of the adjudication, I also believe the modifications to the statutory dividend process set out in this application are in the best interests of creditors. For the reasons set out in this affidavit, I believe the modifications sought will maximise the number of Former Customers who are able to participate in the dividend process and therefore receive some payment in respect of their claims against the Company.
84. At paragraphs 51 to 59 of the First Woodhouse Affidavit, I set out a summary of the qualifications and investor profiles of the Former Customers. For the reasons I set out there, at that time I had formed a view the Former Customers were vulnerable to the Company's high-pressure sales tactics and were deliberately targeted by the Company as they were, generally, unsophisticated individuals who did not properly understand the Products being offered by the Company. As at the date of this affidavit, I maintain that position.
85. Further, based on my dealings with the Former Customers to date, when compared to my experiences in dealing with creditors on other appointments, I believe the Former Customers are unlikely to have comprehensive and detailed records of their time trading with the Company, especially as the contravening conduct took place as far back as 2016 (or even earlier if Former Customers wish to substantiate claims from an earlier time period). I believe that these issues will become most evident after Former



Customers have submitted a claim. Given the departure from the prescribed processes, and the novel approach to complex claims, I also believe it is appropriate to afford Former Customers with sufficient time for them to seek appropriate, independent, advice from a lawyer or accountant in relation to their claims. For these reasons, we intend to allow for two cycles of requesting further evidence from creditors following submission of claims to allow for additional guidance to be provided and to provide Former Customers with sufficient time to consider their position, take appropriate advice, and collate the relevant materials to substantiate their claims. Unlike the Expedited Adjudication Process, this dividend process will likely be the final step in the liquidation prior to the lodgement of the end of administration notice and the ultimate deregistration of the Company pursuant to section 509 of the Corporations Act. In those circumstances, I believe it is appropriate, and in the best interests of creditors to adopt a conservative timetable and provide more time for Former Customers to consider their position and engage with the dividend process.

86. As set out in paragraphs 113 to 118 of the First Woodhouse Affidavit, without the benefit of the Expedited Adjudication Process, the adjudication of Misleading or Deceptive Conduct Claims and/or an Unconscionable Conduct Claims, is a time intensive process which requires a review of a wide range of materials, and likely obtaining legal advice in relation to the legal merits of the claim and whether the claim should ultimately be admitted to proof against the Company.
87. However, as at the date of today's affidavit, I do not know the number of claims which may require an individualised adjudication. While I currently expect the number of claims to require an individualised adjudication to be quite low, and for most Former Customers to accept a discounted adjudication, there remains potential for there to be at least a few hundred claims to be adjudicated on an individualised basis (although theoretically this number could be several thousand if every former customer choses to submit a proof of debt). Therefore, to ensure my staff and I have adequate time to adjudicate the proofs of debt or claim lodged by creditors of the Company (in particular, the Former Customers) and declare a final dividend, we respectfully seek orders in this application to the effect that the timeframe for the Plaintiffs to adjudicate the formal proofs of debt or claim prescribed in regulation 5.5.66(1) of the Corporations Regulations be extended to 21 days after the date by which proofs of debt are required to be submitted, instead of the usual 14 days.



88. ASIC can, in writing, agree to extend the time by which liquidators are required to provide creditors with the outcome of the adjudication in respect of a particular company. Therefore, as stated above, I caused my solicitors to send a letter to ASIC seeking their views on this application, including the extension of time to respond to creditors' proofs of debt in accordance with reg 5.6.66(1)(b). ASIC has confirmed, amongst other things, that ASIC considers these matters are properly left for the determination of the Court.
89. Finally, as stated above, if the prescribed timetable is extended by 7 days as intended, then this would not allow a reasonable time for us to engage with creditor queries and responses to requests for information in respect of their claims if we were to adhere to the 2-month timeframe. If we were required to adhere to the 2-month timeframe, we would be required to declare a dividend before the creditors' 14-day timeframe to appeal a rejection of their proof of debt in accordance with reg 5.6.54(1)(b)(i) has expired.
90. Although I am aware it is possible to postpone the declaration of a dividend beyond the 2-month period by reason of reg 5.6.69, I believe it is preferable, and in the best interests of creditors to instead extend the timeframe required under reg 5.6.65(1) because:
- (a) if we are required to request further evidence from a former customer in support of their claim, we may not be able to comply with the 2-month timeframe;
 - (b) if we are required to postpone the dividend, we effectively need to restart the dividend process, increasing costs; and
 - (c) having regard to the bespoke nature of the proposed notices to creditors, I believe a further publication or additional notice to postpone the declaration of the dividend could confuse a large number of Former Customers, which will ultimately further increase the costs of the dividend and adjudication process.

E. THE EXPEDITED ADJUDICATION PROCESS

E.1 Background to the Expedited Adjudication Process

91. I set out the results of our investigations into the Company and the potential claims of Former Customers in paragraphs [60] to [102] of the First Woodhouse Affidavit.
92. On 9 May 2022, I instructed KWM to commence these proceedings seeking, among other things, orders under section 90-15 of the IPS so as to allow us to conduct an expedited adjudication of the claims of Former Customers who suffered loss or damage as a result of the Company's unconscionable system of conduct and misleading or

deceptive conduct in the period between 1 January 2017 and 1 April 2019 (**Relevant Period**). The orders sought permitted us to publish a series of notices to the Former Customers inviting them to accept a proposal to have a claim based on the amount of their losses suffered during the Relevant Period admitted with a 15% discount applied in return for those Former Customers not having to provide any further substantiation of their claims (**Discounted Adjudication**).

93. On 17 May 2022, this Court made orders that enabled the Liquidators to admit claims of Former Customers who had traded with the Company during the Relevant Period as to 85% of their face value in accordance with the Discounted Adjudication (**Adjudication Orders**).
94. Having obtained the Adjudication Orders, between 26 May 2022 and 22 June 2022, I, and various staff of FTI, with the assistance of KWM, undertook the Expedited Adjudication Process in accordance with the Adjudication Orders (**Expedited Adjudication Process**). I do not propose to detail the steps taken to comply with the Adjudication Orders and implement the Expedited Adjudication Process. Based on my review of the Invesus Decision, I believe there was no dispute as to whether we had properly implemented the Adjudication Orders and the Expedited Adjudication Process.

E.2 Outcome of the Expedited Adjudication Process

95. During the Expedited Adjudication Process, a total 1,844 Former Customer Claim Forms were received and reviewed by staff under my supervision. These Former Customer Claim Forms can be broken down as follows:
- (a) **Admitted Discount Claims:** there were 1,728 Former Customer Claim Forms with a combined Net Loss of \$51,347,208.38 in which the Former Customer agreed to have a claim based on their Net Loss admitted with a 15% discount being applied in return for the Former Customer not having to provide proof of causation in respect of their Former Customer Claim. The amounts admitted ranged between \$4.95 (for Matthew Jabbour) and \$1,250,987.50 (for Alex Wren) and totalled \$43,645,127.26. This is the value of debt which I caused the Company to demand of Invesus pursuant to the Letter of Comfort.
- (b) **Non-Admitted Claims:** there were 116 Former Customer Claim Forms which were not admitted at the time and were not included in the demand made of Invesus. The Non-Admitted Claims were not admitted for the following reasons:

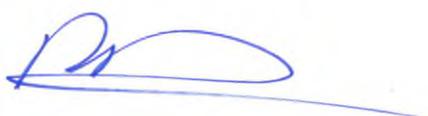
- (i) 14 Former Customer Claim Forms with a combined Net Loss of \$423,633.44 where the Former Customers rejected the Discounted Adjudication (described in the Interlocutory Process as **Non-Electing Creditors**);
 - (ii) 53 Former Customer Claim Forms where the Former Customers had not suffered Net Loss during the Relevant Period and therefore fell outside the scope of the Expedited Adjudication Process and the creditors would have to provide evidence supporting their claim (described in the Interlocutory Process as **Non-Relevant Period Creditors**);
 - (iii) 47 Former Customer Claim Forms with a combined Net Loss of \$6,652,170.97 where the Former Customer had accepted the Discounted Adjudication but the Company's records indicated they had entered into a settlement or release which the Company prior to the Appointment Date which the Company may have been able to rely on as a bar to the claim (described in the Interlocutory Process as **Prior Settlement Creditors**); and
 - (iv) 2 Former Customer Claim Forms with a combined Net Loss of \$11,811.54 which were excluded as the Former Customers' claims had previously been included in the Declaration of Solvency. A separate funding request was submitted to Invesus in respect of these Former Customers' claims on 2 July 2021 and this amount was paid to us on 3 August 2021 (**Declaration of Solvency Customers**).
96. Although we had advertised a cut-off time of 5pm on 17 June 2022, we continued to accept Former Customer Claim Forms until 9pm on 20 June 2022 to maximise the value of the demand we made against Invesus under the Letter of Comfort. Former Customer Claim Forms received prior to 9pm 20 June 2022 are included in the above summary.
97. We continued to receive responses to the Expedited Adjudication Process after 9pm on 20 June 2022. Although they were received too late to be included in the demand made of Invesus, I am informed by Ms Stirling, and I believe to be true, these late responses comprised:
- (a) 105 Former Customers who reaffirmed their previous election to agree to their claim being admitted at 85% of their Net Loss (these are reflected in the Admitted Discounted Claims);



- (b) 104 Former Customers who indicated they wished to accept the Discounted Adjudication (**Late Discounted Claims**). The Late Discounted Claims have not yet been formally adjudicated but have a face value of \$1,787,405.55, or \$1,519,294.72 once the 15% discount is applied;
- (c) 21 Former Customers who had not previously completed a Former Customer Claim Form, but who logged in but did not proceed to the end of the Former Customer Claim Form;
- (d) 1 former customer who had a Net Loss of \$17,000 during the Relevant Period and rejected the Discounted Adjudication and wished to claim for 100% of their \$17,000 Net Loss;
- (e) 1 former customer with a Net Loss during the Relevant Period of \$114,912.44, and who wished to accept the Discounted Adjudication at a value of \$97,675.57, but upon review of the company's books and records, appeared to have entered into a prior settlement agreement with the Company and was therefore not eligible to accept the Discounted Adjudication; and
- (f) 3 Former Customers who wished to change their previous elections, namely:
 - (i) 2 of the Non-Electing Creditors, with a combined Net Loss in the Relevant Period of \$18,080, who had previously chosen to reject the Discounted Adjudication but now wished to accept the Discounted Adjudication; and
 - (ii) 1 former customer, with a Net Loss in the Relevant Period of \$14,022.97, who had previously accepted the Discounted Adjudication, but now wished to reject the Discounted Adjudication and claim 100% of their Net Loss.

E.3 Former Customers' engagement with the Expedited Adjudication Process

98. Including the additional responses to the Expedited Adjudication Process received after 9pm on 20 June 2022 as described above, there was a total of approximately 1,950 Former Customers who engaged with the Expedited Adjudication Process. However, based on the number of Former Customers who traded with the Company as shown in the Company's records, this still means there are approximately 9,000 Former Customers who did not participate in, or respond to, the Expedited Adjudication Process (the **Potential Former Customer Creditors**). Based on my experience, I believe the additional costs of engaging with the Potential Former Customer Creditors, given the



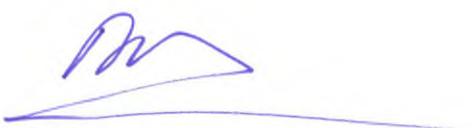
quantum of their estimated claims, would not be in the best interests of creditors generally as these costs would be disproportionate to the value of these claims and would reduce the overall quantum of funds available to distribute to creditors.

99. As stated at [22] of my Second Affidavit, the potential total Net Loss incurred by Former Customers during the Relevant Period was approximately \$69.5 million. The total Net Loss set out in the Former Customer Claim Forms which were submitted as part of the Expedited Adjudication Process was approximately \$58.4 million (including the Admitted Discounted Claims and Non-Admitted Claims). Based on our calculations and the Company's books and records, this means the Expedited Adjudication Process had engagement from approximately 84% of the potential total value of Net Losses (that is, the total overall deposits and withdrawals) which could have been claimed for. If the Late Former Customer Claims are included, then the total value of Former Customer Claims which participated in the Expedited Adjudication Process increases. I therefore believe the orders sought in this Application will be an efficient means of engaging Former Customers in the dividend process.

F. THE EXTENDED PERIOD AND FORMER CUSTOMER CLAIMS

F.1 The Relevant Period

100. As outlined in paragraph [16] of the First Woodhouse Affidavit, ASIC commenced an investigation into the conduct of the Company in or around March 2019. Shortly after the Appointment Date, ASIC provided the Liquidators with the materials that ASIC had gathered from the Company during that investigation, which focus on the Relevant Period.
101. As set out in my First Affidavit, the Expedited Adjudication Process was limited to Former Customer Claims and Net Losses incurred during the Relevant Period. The Relevant Period, being from 1 January 2017 to 1 April 2019, was selected for several reasons, including because:
- (a) the Relevant Period was the period of time subject of the Contravention Proceedings and ASIC's investigations;
 - (b) the Company's admissions as to their contraventions of the Corporations Act and ASIC Act, and the declarations made by this Court in relation to those contraventions, were also confined to the Relevant Period; and



(c) we had the benefit of ASIC's materials from their investigation into the Company's conduct during the Relevant Period.

102. Due to the majority of the Company's information being hosted on overseas servers which we have not be able to access since late 2021, we have limited records in relation to the Company's conduct outside the Relevant Period. As such, prior to seeking the Adjudication Orders, it was difficult to confirm the Company's conduct outside the Relevant Period would have given rise to the same Misleading or Deceptive Conduct Claims and Unconscionable Conduct Claims which I believe existed for all Former Customers who traded with the Company during the Relevant Period.
103. Further, as Invesus had stopped engaging with us in relation to potential claims of Former Customers against the Company because of the Company's conduct, I believed Invesus would resist any demand made of it in relation to the Letter of Comfort. Therefore, I believed it was appropriate to limit the scope of the Adjudication Orders and Expedited Adjudication Process by limiting them to the Relevant Period. This was to minimise Invesus' ability to criticise the Expedited Adjudication Process and avoid liability because the Former Customer Claims related to a time where the Company had not been declared to have been engaging in an unconscionable system of conduct.

F.2 The Extended Period for Former Customer Claims

104. However, the Company has financial records which cover the period from 1 January 2016 to 27 June 2021 (**Extended Period**) from which it is possible to calculate Former Customers' Net Losses across the entire Extended Period.
105. Table 6.1 at paragraph 59 of my First Affidavit also shows over 70% of deposits, withdrawals, transactions, and unique customers occurred during the Relevant Period. I therefore consider the inclusion of the Extended Period will not unfairly dilute the interests of the creditors with claims based solely on the Relevant Period.
106. I also have no reason to consider the Company's conduct towards Former Customers during the Extended Period, was materially different to the conduct during the Relevant Period which gave rise to the Misleading or Deceptive Conduct Claims and Unconscionable Conduct Claims. As admitted by the Company in the Contravention Proceedings and substantiated by our own investigations, the extent and systemic nature of the Company's misconduct, did not arise spontaneously on 1 January 2017, or abruptly cease on 1 April 2019. Put differently, I consider it is, more likely than not, that the conduct which led to the Misleading or Deceptive Conduct Claims and

Unconscionable Claims during the Relevant Period, was also present during the Extended Period. This was because:

- (a) After the ASIC claim was settled, we reviewed the Company's records to determine whether any additional information was available to extend our investigations of the Company's conduct, which may support the extension of the Expedited Adjudication Process beyond the Relevant Period.
- (b) We had received additional company records through the ASIC Claim and, as we were not subject to the constraints of the Invesus Claim, we had more opportunity to review documents provided by ASIC and related to the time periods outside of the Relevant Period.
- (c) We completed additional investigations of the Company's conduct from these records (limited to a policy and procedure review) and found that, from at least January 2016, the Company's policies and procedures contained the same or similar provisions, to those in place during the Relevant Period, which underpinned the unconscionable system. After the Relevant Period, the Company did not update its policies and procedures until at least September 2019, when trading had declined significantly and the Company was only servicing existing clients.

107. Therefore, I believe it would be appropriate to expand the scope of Former Customer Claims from the Relevant Period to the Extended Period and invite all Former Customers the opportunity to accept a 15% discount on their Net Loss suffered during the Extended Period, in return for not having to provide proof of causation of their losses. I consider doing so would be in the best interests of creditors as it will:

- (a) promote greater equity between Former Customers as it will avoid differentiating between Former Customers based on when they traded with the Company, in circumstances where I consider the Company's misconduct persisted for the entire Extended Period; and
- (b) reduce the number of claims to be adjudicated on a case-by-case basis, which would otherwise have significant time and cost implications for all creditors.

108. If the orders sought in this application are granted, and the Extended Period is adopted, then the only claims which will need to be adjudicated on a case-by-case basis will be in respect of:

- (a) the Trade and Statutory Creditors;
- (b) the Non-Electing Creditors;
- (c) the Prior Settlement Creditors; and
- (d) claims pre-dating 1 March 2016.

109. I therefore expect the orders sought in this application will significantly reduce the number of claims to be adjudicated on a case-by-case basis, which will, in turn, reduce the cost of the dividend process and is therefore in the best interests of creditors, because:

- (a) the claims of the Trade and Statutory Creditors and Prior Settlement Customers will need to be adjudicated either way;
- (b) based on the results of the Expedited Adjudication Process, I only anticipate a small number of Former Customers who will reject the Discounted Adjudication; and
- (c) I also anticipate there will be very few claims earlier than 1 March 2016 which will require detailed consideration because:
 - (i) I would likely be able to rely on the general limitation period of 6 years to exclude claims based on the Company's conduct prior to 28 June 2015; and
 - (ii) based on conversations I have had with the Company's former financial controller, Mike Schilling, I believe the main changes to the Company's policies and procedures which were ultimately responsible for the Misleading or Deceptive Conduct Claims and Unconscionable Conduct Claims, occurred in and around the start of 2016, so claims prior to this period are, in my view, less likely to arise (although any such claim will be adjudicated on its merits in due course).

F.3 The Annexures and proposed notices to Former Customers

110. Against that background, it is useful to explain what is intended by the Annexures to this application.
111. Annexure A (**Notice of Application**) is the notice I propose to publish to creditors and give them notice of this application. Because this application will impact the rights of Former Customers differently based on how they responded to the Expedited

Adjudication Process, it is intended to provide a summary of each group of Former Customers' existing rights, and how it is proposed they will be modified. In my experience, the explanation provided in Annexure A is more detail than creditors would usually receive in relation to an application made by an external administrator, but it is consistent with the level of disclosure provided to Former Customers in the Expedited Adjudication Process.

112. Each of the annexures varies based on that class of creditors' prior engagement with the Expedited Adjudication Process. The prior engagement is also relevant to how each Former Customers' claim will be treated if they do not complete the relevant forms by the relevant deadline.
113. Annexure B will be distributed to the 1,728 Former Customers with Admitted Discount Claims (**Admitted Discount Creditors**). Annexure B provides Admitted Discount Creditors with two options:
- (a) agree to have a claim admitted at 85% of their Net Loss across the Extended Period (**Extended Claim**); or
 - (b) reject the Extended Claim and choose to submit a proof of debt in respect of their claim, which will then be adjudicated on its merits (**Substantiated Claim**). If this option is chosen, the creditor will also be foregoing their existing Admitted Discount Claim.
114. As the Net Loss calculated for the purposes of the Admitted Discount Claim already factored in profit taken, but not additional losses, outside the Relevant Period, it is not possible for the value of an Admitted Discount Claim to be higher than an Extended Claim. That is, the Extended Claim will necessarily be larger than the existing Admitted Discount Claim. Therefore, I do not consider it is necessary for an Admitted Discount Creditor to have an option to keep their Admitted Discount Claim. They should all be given the benefit of the Extended Claim. Further, in circumstances where an Admitted Discount Creditor does not respond in time, we propose to admit their Extended Claim instead of their Admitted Discount Claim and will use the higher value of the Extended Claim for the calculation of their entitlements.
115. Annexure C is a notice to Non-Electing Creditors. Non-Electing Creditors will be given a choice between agreeing to an Extended Claim or pursuing a Substantiated Claim instead. If a Non-Electing Creditor does not respond by the deadline, unless they have a



Small Loss Claim, they will not have any admitted claim against the Company and will not be entitled to participate in the dividend or receive distributions.

116. Annexure D is a notice to Non-Participating Former Customers. Non-Participating Former Customers will be given a choice between agreeing to an Extended Claim or pursuing a Substantiated Claim instead. If a Non-Electing Creditor does not respond by the deadline, they will not have any admitted claim against the Company and will not be entitled to participate in the dividend or receive distributions.
117. Annexure E is a notice to Prior Settlement Creditors. Previously, we determined not to include these claims in the demand made of Invesus because the Company's records indicated there was a settlement with these Former Customers in relation to losses they had suffered. As such, these Former Customers bear the burden of establishing their claim on an individualised basis and cannot opt for an Extended Claim. Accordingly, their only option is to submit a Substantiated Claim which will be adjudicated on a case-by-case basis. If a Prior Settlement Creditor does not respond by the deadline, they will not be entitled to participate in the dividend or receive distributions.
118. Annexure F is a notice to the Non-Relevant Period Creditors. They will also be given a choice between accepting the Extended Claim or submitting a Substantiated Claim. As Non-Relevant Period Creditors have previously indicated they were willing to accept a 15% discount on their Net Loss, I consider it is appropriate for Non-Relevant Period Creditors who do not respond before the deadline, to have their Extended Claim being admitted on their behalf.
119. Annexure G is the same Former Customer Claim Form which was used for the Expedited Adjudication Process, save for the addition of a section which asks Former Customers to confirm their bank account details.
120. Annexure H is a modified form of a Form 535 to allow Trade and Statutory Creditors, and those Former Customers who choose to, to submit a Substantiated Claim. This application seeks orders to deem this form as complying with the requirements of the Regulations to ensure the use of this online form is permissible.
121. Annexure I is a modified dividend declaration form to comply with the purposes of reg 5.6.67(3). This contains the same information as a creditor would otherwise receive if they received a notice in the prescribed form, so I do not believe any creditors would be prejudiced by the use of Annexure I.



122. Over a series of conversations I have had with Ms Stirling in preparing for this application, I have been informed, and I believe, that the third party provider who hosted the Former Customer Claims Form platform which was used to conduct the Expedited Adjudication Process has exited the insolvency industry, and so it is not possible for us to use the same third party provider for the purposes of the modified dividend process. However, I am informed by Ms Stirling, and I believe, she has conducted appropriate due diligence to identify a new third party provider with suitably rigorous cyber security protocols, who will be able to provide a suitable online platform to allow the Former Customers to engage with the Annexures described above.
123. For completeness, given there are only 12 Trade and Statutory Creditors, I propose to provide them with a copy of the notice of intention to declare a dividend and Annexure H for them to complete and return before the deadline. In the interests of simplicity, I do not propose to impose different deadlines for Trade and Statutory Creditors and Former Customers. However, if necessary, it would be possible to adhere to the prescribed timetable, without modification, in respect of the Trade and Statutory Creditors.

G. OTHER RELIEF

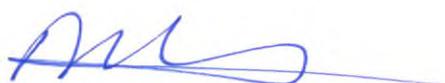
G.1 *Extensions of time*

124. In accordance with regulation 5.6.65(2) of the Corporations Regulations, the Notice must specify a date, not less than 21 days after the date of the Notice, on or before which the formal proof of debt or claim must be submitted to participate in the distribution. We are also required to respond to creditors with the outcome of our adjudication within 14 days.
125. Further, in my experience, claims of the type which I expect to be made, such as claims based on allegations of misleading or deceptive conduct, unconscionable conduct, fraud or duress, are necessarily complex, and I would generally seek input from lawyers before finalising any adjudication. Therefore, I am also seeking orders to extend the time required for the Liquidators to inform creditors of the outcome of the adjudication from 14 days to 21 days.

G.2 *Foreign currency denominated transactions*

126. To calculate the claims of Former Customers for the purposes of the Expedited Adjudication Process, we relied on three main sources of information, namely:
- (a) monthly transaction data prepared by the Company's financial controller
(**Transaction Spreadsheets**);

- (b) accounting information stored in the Company's accounting program, Reckon; and
 - (c) bank statements.
127. Some of the transactions contained in the Transaction Spreadsheets were recorded in United States dollars (**USD**). Therefore, we were required to convert the relevant transaction amounts to Australian dollars (**AUD**).
128. Section 554C of the Corporations Act requires that the amount of the debt or claim admissible to proof against the Company be "worked out by reference to the opening carded on demand airmail buying rate in relation to the foreign currency available at the Commonwealth Bank of Australia on the relevant date". However, I am informed by Ms Stirling that this rate is no longer published by the Commonwealth Bank of Australia (**CBA**).
129. As the transactions recorded in the Transaction Spreadsheets took place over a long period, we also needed to ensure any exchange rate we used would be available across the entire range of dates. Therefore, I considered that the most appropriate way of calculating the foreign currency denominated transactions was to convert those transactions to AUD based on the AUD:USD exchanged rate published by the Reserve Bank of Australia for the date of the transaction which was available for every business day of the relevant dates. Where an exchange rate was not available for the date of the transaction, the Liquidators used the most recent exchange rate published by the Reserve Bank of Australia prior to the transaction occurring. That is, if the transaction took place on a Sunday, we used the published exchange rate from the proceeding Friday.
130. Of the 1,728 claims that were admitted as a part of the Expedited Adjudication, 74 included USD transactions (6 had USD transactions only and 68 had both AUD and USD transactions).
131. Accordingly, to avoid the inconvenience of reperforming their existing foreign currency denominated transaction calculations and to perform any new foreign currency denominated transaction calculations consistently, the Liquidators seek an order in this application to the effect that the Liquidators are entitled to rely on the exchange rate for AUD:USD as the basis for the converting the amount of debts or claims that are admissible to proof into AUD, being the exchange rate published by the Reserve Bank of Australia for AUD:USD for the date of the transaction.



G.3 Client Money Account

132. As at the Appointment Date, the Company held an amount of \$146,238.36 in the Client Money Account. The Client Money Account was the bank account which held Former Customers' money on trust for the benefit of the Former Customers as part of the Company's obligations under both their pro forma client trading account agreements and as required by the terms of its AFSL. The Client Money Account complied with section 981B of the Corporations Act and reg 7.8.01 of the Regulations.
133. Since the Appointment Date, we have taken steps to proactively identify and return money held in the Client Money Account to Former Customers. However, we have been unable to return all funds to Former Customers, and as at the date of this affidavit, the Client Funds Account has a balance of \$1,707.02.
134. As the Company is registered in Victoria, and the relevant bank at which the Client Funds Account is held is also in Victoria, I had initially planned on sending the entire balance of the Client Funds Account to the Victorian Office of State Revenue (**OSR**) in accordance with the *Unclaimed Money Act 2008* (Vic) (**Unclaimed Money Act**). However, we have been informed by the OSR that as the definition of "unclaimed money" under the Unclaimed Money Act only applies to amounts of \$20 or more, they are unable to accept the parts of the Client Funds Account which relate to individual Former Customers and are less than \$20.
135. On that basis, the balance of \$1,707.02 in the Client Funds Account, which relates to 1,437 individual Former Customers in amounts below the \$20 threshold, cannot be provided to the OSR. Further, of these 1,437 Former Customers, 152 of them have engaged with the liquidation through the Expedited Adjudication Process in one way or another. Of these 152, 130 of the Former Customers have amounts in the Client Funds Account of less than \$1, and 22 have amounts of between \$1 and less than \$20. The difficulty this creates is that:
- (a) the amounts are so small that it would cost more to individually transfer these amounts than they are worth, which would therefore have to be borne by all creditors;
 - (b) these amounts cannot be provided to the OSR; and
 - (c) there is a risk I may otherwise be committing an offence under the Corporations Act by dealing with funds which were held in the Client Funds Account if I were



to move the remaining money out to be able to close the Client Funds Account and finalise the liquidation.

136. However, I consider if the funds remaining in the Client Funds Account are simply available to be used as part of the general assets to be distributed to creditors, then the above issues fall away. It is for this reason this application seeks directions pursuant to section 90-15 of the IPS that we are authorised, justified, and acting properly by treating the balance of funds held in the Client Funds Account on account of individual Former Customers of less than \$20, as general assets of the Company and are available to meet the costs of the liquidation or distribution to creditors.
137. I also consider that these directions will be in the best interests of creditors as they will avoid the Liquidators having to incur unnecessary costs in relation to *de minimis* amounts and will, in my view, hasten the finalisation of the liquidation.

H. NOTICE OF THIS APPLICATION AND ATTITUDE OF THIRD PARTIES

H.1 Notice to Creditors

138. Orders 2 to 5 of this application set out the basis on which I propose to give creditors and interested parties notice of this application. I believe this is important as this application represents a departure from the ordinary dividend process and impacts the rights of creditors. Annexure A, the Notice of Application, seeks to explain to creditors the different ways in which the orders sought in this application may impact on their current position, and their future rights in respect of the liquidation. Unlike when these proceedings were commenced and the Adjudication Orders were first sought, there is no deadline which would warrant the application being heard on an urgent basis. As such, I believe it is appropriate to provide creditors with 28 days to consider this application and provide feedback, or, if necessary, take independent legal advice and potentially file a notice of appearance.
139. Depending on the volume of correspondence and feedback received from creditors, I intend to file a further affidavit before the Final Hearing (as defined in the application) which will either summarise the correspondence received from creditors in volume and nature, or exhibit the correspondence received.
140. For completeness, I have also caused circulars to creditors to provide updates to creditors on the progress of the liquidation and various milestones and updates in

relation to the Expedited Adjudication Process, the Invesus Claim and ASIC Claim. Since my First Affidavit, the following circulars have been published:

- (d) 3 June 2022;
- (e) 14 June 2022;
- (f) 13 July 2022;
- (g) 23 December 2022;
- (h) 16 March 2023;
- (i) 3 May 2023;
- (j) 14 February 2024;
- (k) 5 November 2024; and
- (l) 3 October 2025.

141. Copies of these circulars are at **Tabs 29 to 37**.

H.2 Notice to Committee of Inspection

142. On 11 December 2025, I provided a report to the Committee of Inspection summarising and providing a copy of a draft of this application to the members of the Committee of Inspection. On 15 December 2025, I held a meeting of the Committee of Inspection, where I discussed the draft application and asked the Committee of Inspection for their input. The Committee of Inspection has indicated they support this application, and agree it is in the best interests of creditors.

143. At **Tab 28** is a copy of the minutes of the Committee of Inspection meeting held on 15 December 2025.

H.3 Notice to ASIC

144. As mentioned in paragraphs 14 and 88 above, I instructed my solicitors to send ASIC a letter explaining this application, and a copy of this application. My solicitors' letter to ASIC and ASIC's letter of response are at **Tabs 3 and 4** respectively.

145. Upon filing this application, I intend to instruct my solicitors to provide ASIC with a copy of the sealed application and this affidavit. I will include any feedback from ASIC in the supplementary affidavit I intend to file with the feedback from creditors before the Final Hearing.



146. I do not intend to instruct my solicitors to provide a copy of the Confidential Woodhouse Affidavit to ASIC, but will do so if the Court requires us to do so.

I. CONCLUSION

147. For the reasons above, I verily believe that the orders sought in the Application are in the best interests of the creditors of the Company. I believe this is because, if made, the orders sought will:

- (a) improve equity between the Former Customers by allowing more Former Customers to accept a Discounted Adjudication;
- (b) minimise the number of claims which will need to be adjudicated on a case-by-case basis, in circumstances where the claims relate to loss and damage caused by the Company's systemic misconduct, thereby maximising the funds which will be available to distributed; and
- (c) maximise the number of creditors who will receive a dividend in respect of losses which were caused by the Company's systemic misconduct.

Affirmed by the deponent
at Perth
in Western Australia
on 12 March 2026
Before me:

)
)
)
)
)



Signature of deponent



Signature of witness
RUPERT JANNEY WILLIAMSON

A solicitor of the Supreme Court of Western Australia

Federal Court of Australia
District Registry: Western Australia
Division: Commercial and Corporations

In the matter of Forex Capital Trading Pty Ltd ACN 119 086 270 (in liquidation)

Daniel Hillston Woodhouse and Ross Andrew Blakeley in their capacities as joint and several liquidators of Forex Capital Trading Pty Ltd ACN 119 086 270 (in liquidation)

Plaintiffs

Annexure DHW-39

This is the annexure referred to as Annexure DHW-39 in the affidavit of DANIEL HILLSTON WOODHOUSE affirmed on 12 March 2026.

Before me:



RUPERT JANNEY WILLIAMSON



Filed on behalf of (name & role of party)	The plaintiffs		
Prepared by (name of person/lawyer)	Sam Dundas		
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Tel	08 9269 7000	Fax	08 9269 7999
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Address for service (include state and postcode)	Level 30, QV.1 Building, 250 St Georges Terrace Perth, Western Australia, 6000		

Index to Annexure DHW-39

Tab	Document	Pages
1	A copy of Stubing's memorandum of resignation from his appointment as Liquidator dated 24 August 2023.	51
2	A copy of an ASIC Company Search for the Company dated 12 March 2026.	52 – 67
3	A copy of a letter from KWM to ASIC dated 17 December 2025.	68 – 70
4	A copy of a letter from ASIC to KWM dated 21 January 2026.	71 – 72
5	A simple summary of receipts and payments from the Appointment date to 28 February 2026.	73
6	A copy of a detailed version of the receipts and payments from the Appointment date to 28 February 2026.	74
7	A copy of the Letter of Financial Support dated 26 June 2021.	75 – 82
8	A copy of the letter from Daniel Woodhouse to ASIC dated 24 October 2022.	83 – 88
9	A copy of the email and letter from ASIC to Daniel Woodhouse dated 3 November 2022.	89 – 91
10	A copy of the email from Daniel Woodhouse to Rashpal Hartmann dated 8 December 2022.	92 – 94
11	A copy of the email from CMN to Daniel Woodhouse 8 December 2022.	95 – 99
12	A copy of the letter from CMN to KWM dated 16 December 2022.	100 – 107
13	A copy of the email from Shane Murphy to the Assistant Treasurer's officed dated 22 February 2023.	108 – 111
14	A copy of the letter from KWM to CMN dated 5 April 2023.	112 – 113
15	A copy of the letter from CMN to KWM dated 13 April 2023.	114 – 116
16	A copy of the letter from KWM to CMN dated 14 April 2023.	117 – 121
17	A copy of the letter from CMN to KWM dated 19 April 2023.	122 – 124
18	A copy of the letter from KWM to CMN dated 21 April 2023.	125 – 127
19	A copy of the letter from FTI to ASIC dated 24 October 2023.	128 – 129
20	A copy of the letter from CMN to KWM dated 21 November 2023.	130 – 131
21	A copy of the letter from KWM to CMN dated 24 November 2023.	132 – 135
22	A copy of the minutes of meeting of the Company's members held on 27 June 2021.	136 – 137
23	A copy of the minutes of meeting of the Committee of Inspection held on 19 April 2022.	138 – 140
24	A copy of the minutes of meeting of the Committee of Inspection held on 10 February 2023.	141 – 144
25	A copy of the minutes of meeting of the Committee of Inspection held on 11 December 2023.	145 – 151

26	A copy of the minutes of meeting of the Committee of Inspection held on 3 October 2024.	152 – 159
27	A copy of the minutes of meeting of the Committee of Inspection held on 24 July 2025.	160 – 167
28	A copy of the minutes of meeting of the Committee of Inspection held on 15 December 2025.	168 – 177
29	A copy of the circular to creditors dated 3 June 2022.	178 – 179
30	A copy of the circular to creditors dated 14 June 2022.	180 – 181
31	A copy of the circular to creditors dated 13 July 2022.	182
32	A copy of the circular to creditors dated 23 December 2022.	183 – 185
33	A copy of the circular to creditors dated 16 March 2023.	186 – 188
34	A copy of the circular to creditors dated 3 May 2023.	189 – 190
35	A copy of the circular to creditors dated 14 February 2024.	191 – 192
36	A copy of the circular to creditors dated 5 November 2024.	193 – 195
37	A copy of the circular to creditors dated 3 October 2025.	196 – 197

IN THE FEDERAL COURT OF AUSTRALIA
REGISTRY: WESTERN AUSTRALIA
DIVISION: GENERAL

WAD254/2021

IN THE MATTER OF FOREX CAPITAL TRADING PTY LTD (IN LIQUIDATION)
ACN 119 086 270

MEMORANDUM OF RESIGNATION OF LIQUIDATOR

- 1 I, NATHAN THOMAS KIRKHAM STUBING, c/o FTI Consulting Australia, Level 47, 152-158 St Georges Terrace, Perth, WA, registered liquidator, was appointed as one of three joint and several liquidators of Forex Capital Trading Pty Limited (in liquidation) ACN 119 086 270 (**Company**) by the Federal Court of Australia on 7 December 2023. On this date, Daniel Hillston Woodhouse and Ross Andrew Blakeley were also appointed by the Federal Court of Australia as joint and several liquidators of the Company.
- 2 At that time of my appointment, I was a managing director at the firm FTI Consulting.
- 3 Pursuant to s 473 of the *Corporations Act 2001* (Cth), I resign from my position as a joint and several liquidator of the Company. Upon my resignation, Mr Woodhouse and Mr Blakeley will remain as the joint and several liquidators of the Company.
- 4 I file with the Registry this memorandum of resignation, with the resignation taking effect from the date this memorandum is filed.

Date: 24 August 2023



Nathan Thomas Kirkham Stubing

Filed on behalf of Nathan Thomas Kirkham Stubing by:
KING & WOOD MALLESONS
Level 30 QV1 Building
250 St Georges Terrace
Perth WA 6000

DX 210 Perth
T+61 8 9269 7000
F+61 8 9269 7999
Ref: SJD/PXM
Matter no: 608-0066217



ASIC Data Extracted 12/03/2026 at 15:59

This extract contains information derived from the Australian Securities and Investment Commission's ASIC database under section 1274A of the Corporations Act 2001. Please advise ASIC of any error or omission which you may identify.

- 119 086 270 FOREX CAPITAL TRADING PTY LTD -

ACN (Australian Company Number):	119 086 270	Document No.
ABN:	69 119 086 270	
Current Name:	FOREX CAPITAL TRADING PTY LTD	
Registered in:	Victoria	
Registration Date:	03/04/2006	
Review Date:	03/04/2026	
Company Bounded By:		

- Current Organisation Details -

Name:	FOREX CAPITAL TRADING PTY LTD
Name Start Date:	03/04/2006
Status:	Under External Administration And/Or Controller Appointed
Type:	Australian Proprietary Company
Class:	Limited By Shares
Sub Class:	Proprietary Company

- Former Organisation Details from 03/04/2006 to 26/06/2021 -

Name:	FOREX CAPITAL TRADING PTY LTD	1965343
Name Start Date:	03/04/2006	
Status:	Registered	
Type:	Australian Proprietary Company	
Class:	Limited By Shares	
Sub Class:	Proprietary Company	

- Company Addresses -

- Registered Office		7BB33138
Address:	HALL CHADWICK MELBORNE CBD IN CONSULTING PTY LEVEL 14 440 COLLINS STREET MELBORNE VIC 3000	
Start Date:	21/10/2020	

- Previous Registered Office		7AJ02182
Address:	LEVEL 18 636 ST ILLDA ROAD MELBORNE VIC 3004	

Start Date: 07/03/2019
Cease Date: 20/10/2020

- Previous Registered Office 800074138

Address: GRANT THORNTON AUSTRALIA LIMITED COLLINS STREET TORONTO ON L6V 1G
727 COLLINS STREET DOCKLANDS VIC 3008
Start Date: 17/04/2018
Cease Date: 06/03/2019

- Previous Registered Office 200161080

Address: GRANT THORNTON AUSTRALIA LTD LEVEL 29 525 COLLINS STREET MELBOURNE
VIC 3000
Start Date: 30/01/2014
Cease Date: 16/04/2018

- Previous Registered Office 107297686

Address: LEVEL 2 215 SPRING STREET MELBOURNE VIC 3000
Start Date: 12/04/2011
Cease Date: 29/01/2014

- Previous Registered Office 106971099

Address: MPR GROUP PTY LTD HIGHTON ROAD LEVEL 19 40 CITY ROAD SOUTHBANK VIC 3006
Start Date: 18/11/2010
Cease Date: 11/04/2011

- Previous Registered Office 700977245

Address: LEVEL 11 499 ST ILLDA ROAD MELBOURNE VIC 3004
Start Date: 26/01/2007
Cease Date: 17/11/2010

- Previous Registered Office 101967774

Address: UNIT 5B 600-604 NORTH ROAD ORMOND VIC 3204
Start Date: 10/04/2006
Cease Date: 25/01/2007

- Previous Registered Office 101965343

Address: LEVEL 2 437 ST ILLDA ROAD MELBOURNE VIC 3000
Start Date: 03/04/2006
Cease Date: 09/04/2006

- Principal Place of Business 700BB33138

Address: CBA FIN CONSULTING PTY LTD LEVEL 14 440 COLLINS STREET MELBOURNE
VIC 3000
Start Date: 12/10/2020

- Previous Principal Place of Business 700AJ02182

Address: LEVEL 18 636 ST ILLDA ROAD MELBOURNE VIC 3004
Start Date: 28/02/2019
Cease Date: 11/10/2020

- Previous Principal Place of Business 029092065

Address: LEVEL 18 636 ST ILLDA ROAD MELBOURNE VIC 3004
Start Date: 10/09/2014
Cease Date: 27/02/2019

- Previous Principal Place of Business 106083585
Address: L0V0L 8 499 ST 0ILDA ROAD M0LBO0RN0 VIC 3004
Start Date: 01022009
Cease Date: 09092014

- Previous Principal Place of Business 700977245
Address: L0V0L 11 499 ST 0ILDA ROAD M0LBO0RN0 VIC 3004
Start Date: 02012007
Cease Date: 30112009

- Previous Principal Place of Business 101967811
Address: 0NIT 5B 600-604 NORTH ROAD ORMOND VIC 3204
Start Date: 03042006
Cease Date: 01012007

- Previous Principal Place of Business 101965343
Address: L0V0L 2 437 ST 0ILDA ROAD M0LBO0RN0 VIC 3000
Start Date: 03042006
Cease Date: 02042006

- Company Officers -

Note:

A date or address shown as 0N0N0N has not been updated since ASIC took over the records in 1991. For details order the appropriate historical state or territory documents available in microfiche or paper format.
0Check documents listed under ASIC Documents Received for recent changes.

Previous Director

Name: SHLOMO YOSHAI 70A030268
Address: 28B BLAM0Y STR00T B0NTL0IGH 0AST VIC 3165
Birth Details: 210801977 N0TANYA ISRA0L
Appointment Date: 11092014
Cease Date: 28062021

Name: M0IR H0F0T0 109540515
Address: Y0H0DA HAL0VI 66 RA0ANANA ISRA0L
Birth Details: 021101971 J0R0SAL0M ISRA0L
Appointment Date: 06102006
Cease Date: 23012019

Name: PI0RIS HADJIPI0RIS 303773626
Address: 4 VARDA STR00T 2038 STROVOLOS NICOSIA CYPR0S
Birth Details: 270801966 L0F0OSIA CYPR0S
Appointment Date: 16052017
Cease Date: 24122018

Name: NIR AVRAHAMI 101965343

Address: 15 POLO PARADISE CAULFIELD NORTH VIC 3161
Birth Details: 20/09/1960 RAMAT GAN ISRAEL
Appointment Date: 03/04/2006
Cease Date: 04/03/2016

Name: RONAL SHARMA 029092065
Address: 301 NIPPON 1 JOHNS TARA ROAD JOHNS MUMBAI 400049 INDIA
Birth Details: 11/07/1980 MUMBAI INDIA
Appointment Date: 06/10/2006
Cease Date: 05/11/2015

Name: JOHN ALAN ANDER GODDARD 1/1965343
Address: 12 VICTOR ROSSLE DRIVE SAMFORD VIC 4520
Birth Details: 14/06/1950 SYDNEY NSW
Appointment Date: 03/04/2006
Cease Date: 02/02/2009

Previous Secretary

Name: MIRHAF 1/6463639
Address: 16 LIMPRIOR AVENUE ST HILDA VIC 3183
Birth Details: 02/11/1971 JERUSALEM ISRAEL
Appointment Date: 02/02/2009
Cease Date: 24/05/2013

Name: JOHN ALAN ANDER GODDARD 1/1965343
Address: 12 VICTOR ROSSLE DRIVE SAMFORD VIC 4520
Birth Details: 14/06/1950 SYDNEY NSW
Appointment Date: 03/04/2006
Cease Date: 02/02/2009

Appointed Auditor

Name: 116 151 136 WILLIAM BUCK AUDIT (VIC) PTY LTD 7/A/88088
Address: LEVEL 20 181 WILLIAM STREET MELBOURNE VIC 3000 (FR 2019)
Appointment Date: 11/04/2012
Cease Date:
Abn: 59 116 151 136

Previous Appointed Auditor

Name: 080 285 454 P/F 027552720
Address: LEVEL 14 140 WILLIAM STREET MELBOURNE VIC 3000 (FR 2010)

Appointment Date: 29/05/2007
Cease Date: 11/04/2012

Ultimate Holding Company

Name: INVISUS GROUP LIMITED 7AR15275
Address:
Appointment Date:
Cease Date:

Previous Appointed Liquidator (Members Voluntary Winding Up)

Name: DANIEL HILLSTON OODHOS 7BI84696
Address: FTI CONSULTING AUSTRALIA PTY LTD LEVEL 47 152-158 ST GEORGES TERRACE
PERTH WA 6000
Birth Details:
Appointment Date: 27/06/2021
Cease Date: 07/12/2021

Name: NATHAN THOMAS IRHAM STUBING 7BI84696
Address: LEVEL 47 152-158 ST GEORGES TERRACE PERTH WA 6000
Birth Details:
Appointment Date: 27/06/2021
Cease Date: 07/12/2021

Appointed Liquidator (Court Winding Up)

Name: DANIEL HILLSTON OODHOS 7BO32239
Address: FTI CONSULTING AUSTRALIA PTY LTD LEVEL 47 152-158 ST GEORGES TERRACE
PERTH WA 6000
Birth Details:
Appointment Date: 07/12/2021
Cease Date:

- Court Details Affecting Role -

Type: Federal **State:** Western Australia
Application No: AD254 **Application Year:** 2021

Name: ROSS ANDREW BLAKEY 7CD42149
Address: FTI CONSULTING BORRIPPLAC FTI CONSULTING LEVEL 50 600 BORRIPPLAC
STREET MELBORNE VIC 3000
Birth Details:
Appointment Date: 07/12/2021
Cease Date:

- Court Details Affecting Role -

Type: Federal State: Western Australia
Application No: AD254 Application Year: 2021

Previous Appointed Liquidator (Court Winding Up)

Name: NATHAN THOMAS IRHAM STBING 7BO32239
Address: LV L 47 152-158 ST GORG S TERRAC P RTH A 6000
Birth Details:
Appointment Date: 07122021
Cease Date: 28082023

- Court Details Affecting Role -

Type: Federal State: Western Australia
Application No: AD254 Application Year: 2021

- Share Structure -

Current

Class: ORDINARY SHARES 7B18959
Number of Shares Issued: 22960589
Total Amount Paid / Taken to be Paid: 22960589.00
Total Amount Due and Payable: 0.00

Note:

For each class of shares issued by a company ASIC records the details of the entity members of the class based on shareholdings. The details of any other members holding the same number of shares as the twentieth ranked member will also be recorded by ASIC on the database. Where available historical records show that a member has ceased to be ranked amongst the entity members. This may but does not necessarily mean that they have ceased to be a member of the company.

- Share/Interest Holding -

Current

- Holding -

Class: ORD Number Held: 22960589 7B18959
Beneficially Owned: Yes Fully Paid: Yes

- Members -

Name: FOR CAPITAL TRADING LIMITED
ACN:
Address: LLA BDO HOUSE LINI HIGHWAY PORT VILVANAT

Joint Holding: No

Ceased/Former

- Holding -

Class: ORD **Number Held:** 150000 7□1129511
Beneficially Owned: Yes **Fully Paid:** Yes

- Members -

Name: NIR AVRAHAMI
Address: 15 POLO PARAD□ CA□LFI□LD NORTH VIC 3161
Joint Holding: No

- Holding -

Class: ORD **Number Held:** 6 1□1965343
Beneficially Owned: Yes **Fully Paid:** Yes

- Members -

Name: NIR AVRAHAMI
Address: 15 POLO PARAD□ CA□LFI□LD NORTH VIC 3161
Joint Holding: No

- Holding -

Class: ORD **Number Held:** 6 1□1965343
Beneficially Owned: Yes **Fully Paid:** Yes

- Members -

Name: JOHN AL□□AND□R GODDARD
Address: 12 VICTOR R□SS□L DRIV□ SAMFORD □LD 4520
Joint Holding: No

- Holding -

Class: ORD **Number Held:** 12 023235841
Beneficially Owned: Yes **Fully Paid:** Yes

- Members -

Name: FOR□□ CAPITAL TRADING PTY LTD
ACN: 119 086 270
Address: BDO HO□S□ LINI HIGH□ AY PORT VILLA VAN□AT□
Joint Holding: No
Abn: 69 119 086 270

- Holding -

Class: ORD **Number Held:** 12 023235841
Beneficially Owned: Yes **Fully Paid:** Yes

- Members -

Name: FOR□□ CAPITAL TRADING PTY LTD
ACN: 119 086 270

Address: LVL 11 499 ST ILDA ROAD MBO RN VIC 3004
Joint Holding: No
Abn: 69 119 086 270

- External Administration Documents -

Note:

Documents relating to Internal Administration and/or appointment of Controller.
 This extract may not list all documents relating to this status. State and Territory records should be searched.

Form Type	Description	Date Lodged	Processed	No. Pages	Document No.
586		02/07/2021		43	030982895

- Charges -

[There are no charges held for this organisation.](#)

Notes:

On 30 January 2012 the Personal Property Securities Register (PPS Register) commenced.
 At that time ASIC transferred all details of current charges to the PPS Registrar.
 ASIC can only provide details of satisfied charges prior to that date.
 Details of current charges or charge satisfied since 30 January 2012 can be found on the PPS Register www.ppsr.gov.au.
 InfoTrac may cap documents for on-file searches to 250.

- Document List -

Notes:

- Documents already listed under Registered Charges are not repeated here.
- Data from Documents with no Date Processed are not included in this extract.
- Documents with 0 pages have not yet been imaged and are not available via DOCIMAG. Imaging takes approximately 2 weeks from date of lodgement.
- The document list for a current/historical extract will be limited unless you requested ALL documents for this extract.
- In certain circumstances documents may be capped at 250.

Form Type	Date Received	Date Processed	No. Pages	Effective Date	Document No.
5602	06/03/2026	06/03/2026	8	06/12/2025	7DD22041
5602B	ANNUAL ADMINISTRATION RETURN RETURN OF WINDING UP BY COURT				
5011	14/01/2026	14/01/2026	10	15/12/2025	7DV19702
5011A	COPY OF MINUTES OF MEETING OF MEMBERS/CREDITORS CONTRIBUTORIS OR COMMITTEE OF INSPECTION OTHER THAN MEMBER S.436 OR S.439A				
5011	21/08/2025	21/08/2025	8	24/07/2025	7DP45350
5011A	COPY OF MINUTES OF MEETING OF MEMBERS/CREDITORS CONTRIBUTORIS OR COMMITTEE OF INSPECTION OTHER THAN MEMBER S.436 OR S.439A				
5602	06/03/2025	06/03/2025	8	06/12/2024	7DH45315

5602B		ANN ^U AL ADMINISTRATION R ^E T ^U RN R ^E T ^U RN OF ^U INDING ^U P BY CO ^U RT			
5011	31 ^U 10 ^U 2024	31 ^U 10 ^U 2024	8	03 ^U 10 ^U 2024	7 ^U DB25582
5011A		COPY OF MIN ^U T ^U S OF M ^U ETTING OF M ^U MB ^U RS ^U CR ^U DITORS ^U CONTRIB ^U TORI ^U S OR COMMITT ^U OF INSP ^U CTION OTH ^U R THAN ^U ND ^U R S.436 ^U OR S.439A			
5602	05 ^U 03 ^U 2024	05 ^U 03 ^U 2024	7	06 ^U 12 ^U 2023	7 ^U CP40800
5602B		ANN ^U AL ADMINISTRATION R ^E T ^U RN R ^E T ^U RN OF ^U INDING ^U P BY CO ^U RT			
5011	21 ^U 12 ^U 2023	21 ^U 12 ^U 2023	7	11 ^U 12 ^U 2023	7 ^U CM96966
5011A		COPY OF MIN ^U T ^U S OF M ^U ETTING OF M ^U MB ^U RS ^U CR ^U DITORS ^U CONTRIB ^U TORI ^U S OR COMMITT ^U OF INSP ^U CTION OTH ^U R THAN ^U ND ^U R S.436 ^U OR S.439A			
505	31 ^U 08 ^U 2023	31 ^U 08 ^U 2023	2	28 ^U 08 ^U 2023	7 ^U CH95650
505R		NOTIC ^U BY ^U T ^U RNAL ADMINISTRATOR ^U CONTROLL ^U R-APPOINT ^U C ^U AS ^U R ^U SIGNATION OR R ^U MOVAL OF LI ^U IDATOR ^U PROVISIONAL LI ^U IDATOR			
5011	02 ^U 05 ^U 2023	02 ^U 05 ^U 2023	7	13 ^U 04 ^U 2023	7 ^U CD48766
5011A		COPY OF MIN ^U T ^U S OF M ^U ETTING OF M ^U MB ^U RS ^U CR ^U DITORS ^U CONTRIB ^U TORI ^U S OR COMMITT ^U OF INSP ^U CTION OTH ^U R THAN ^U ND ^U R S.436 ^U OR S.439A			
506	01 ^U 05 ^U 2023	01 ^U 05 ^U 2023	7	01 ^U 05 ^U 2023	7 ^U CD42149
506L		NOTIFICATION OF CHANG ^U OF ADDR ^U SS OF NOTIFICATION OF CHANG ^U OF ADDR ^U SS OF AN ^U T ^U RNAL ADMINISTRATOR OR CONTROLL ^U R OR SCH ^U M ^U ADMINISTRATOR			
5602	06 ^U 03 ^U 2023	06 ^U 03 ^U 2023	9	06 ^U 12 ^U 2022	7 ^U CB73653
5602B		ANN ^U AL ADMINISTRATION R ^E T ^U RN R ^E T ^U RN OF ^U INDING ^U P BY CO ^U RT			
5602	06 ^U 03 ^U 2023	06 ^U 03 ^U 2023	10	06 ^U 12 ^U 2021	7 ^U CB73600
5602C		ANN ^U AL ADMINISTRATION R ^E T ^U RN R ^E T ^U RN OF M ^U MB ^U RS ^U VOL ^U NTARY ^U INDING ^U P			
5011	24 ^U 02 ^U 2023	24 ^U 02 ^U 2023	6	10 ^U 02 ^U 2023	7 ^U CB45614
5011A		COPY OF MIN ^U T ^U S OF M ^U ETTING OF M ^U MB ^U RS ^U CR ^U DITORS ^U CONTRIB ^U TORI ^U S OR COMMITT ^U OF INSP ^U CTION OTH ^U R THAN ^U ND ^U R S.436 ^U OR S.439A			
5011	08 ^U 07 ^U 2022	08 ^U 07 ^U 2022	6	17 ^U 06 ^U 2022	7 ^U B ^U 26586
5011A		COPY OF MIN ^U T ^U S OF M ^U ETTING OF M ^U MB ^U RS ^U CR ^U DITORS ^U CONTRIB ^U TORI ^U S OR COMMITT ^U OF INSP ^U CTION OTH ^U R THAN ^U ND ^U R S.436 ^U OR S.439A			
5011	03 ^U 05 ^U 2022	03 ^U 05 ^U 2022	13	16 ^U 03 ^U 2022	7 ^U BS04504
5011A		COPY OF MIN ^U T ^U S OF M ^U ETTING OF M ^U MB ^U RS ^U CR ^U DITORS ^U CONTRIB ^U TORI ^U S OR COMMITT ^U OF INSP ^U CTION OTH ^U R THAN ^U ND ^U R S.436 ^U OR S.439A			
5011	03 ^U 05 ^U 2022	03 ^U 05 ^U 2022	6	13 ^U 04 ^U 2022	7 ^U BS04503

5011A						
5011	03.05.2022	03.05.2022	8	19.04.2022		7BS04501
5011A						
5011	02.05.2022	02.05.2022	5	13.04.2022		7BR99323
5011B						
5011	02.05.2022	02.05.2022	12	16.03.2022		7BR99307
5011B						
525	10.01.2022	10.01.2022	2	10.01.2022		7BO72236
525						
505	16.12.2021	16.12.2021	3	07.12.2021		7BO32239
505G						
505	16.12.2021	16.12.2021	2	07.12.2021		7BO32235
505R						
5601	24.09.2021	24.09.2021	21	24.09.2021		7BL68368
5601A						
505	28.06.2021	28.06.2021	2	27.06.2021		7BI84696
505H						
205	28.06.2021	28.06.2021	5	27.06.2021		7BI84666
205L						
520	26.06.2021	26.06.2021	3	26.06.2021		7BI80294
520						
203	11.04.2025	22.04.2025	2	11.04.2025		032172536
203□						
106	03.05.2022	06.05.2022	2	03.05.2022		7BS04509
106						

106	03/05/2022	06/05/2022	2	03/05/2022	7BS04507
106	Notice of Cancellation or Revocation of a Lodged Document Cancels 7B R99 307				
484	06/08/2021	06/08/2021	2	06/08/2021	7B18959
484	Change to Company Details				
484O	Changes to Share Structure				
484G	Notification of Share Issue				
484N	Changes to Members Share Holdings				
484	16/07/2021	16/07/2021	2	16/07/2021	7BJ57283
484	Change to Company Details				
484O	Changes to Share Structure				
484G	Notification of Share Issue				
484N	Changes to Members Share Holdings				
388	03/05/2021	03/05/2021	34	30/06/2020	7BH04264
388I	FINANCIAL REPORT FINANCIAL REPORT - SMALL PROPRIETARY COMPANY THAT IS CONTROLLED BY A FOREIGN COMPANY				
484	14/10/2020	14/10/2020	2	14/10/2020	7BB33138
484	CHANGE TO COMPANY DETAILS				
484B	CHANGE OF REGISTERED ADDRESS				
484C	CHANGE OF PRINCIPAL PLACE OF BUSINESS ADDRESS				
FS66	03/06/2020	03/06/2020	1	03/06/2020	030926001
FS66	ORDER REVOKING AFS LICENCE				
484	11/11/2019	11/11/2019	2	11/11/2019	7AR15275
484D	CHANGE TO COMPANY DETAILS CHANGE TO ULTIMATE HOLDING COMPANY				
388	31/10/2019	31/10/2019	34	30/06/2019	7A88088
388H	FINANCIAL REPORT FINANCIAL REPORT - LARGE PROPRIETARY COMPANY THAT IS NOT A DISCLOSING ENTITY				
484	31/10/2019	31/10/2019	2	31/10/2019	7A30268
484A1	CHANGE TO COMPANY DETAILS CHANGE OFFICER/HOLDER NAME OR ADDRESS				
388	04/10/2019	14/10/2019	35	30/06/2018	030725367
388H	FINANCIAL REPORT FINANCIAL REPORT - LARGE PROPRIETARY COMPANY THAT IS NOT A DISCLOSING ENTITY				
388	04/10/2019	14/10/2019	36	30/06/2017	030725366
388H	FINANCIAL REPORT FINANCIAL REPORT - LARGE PROPRIETARY COMPANY THAT IS NOT A DISCLOSING ENTITY				
388	04/10/2019	14/10/2019	34	30/06/2016	030725365
388I	FINANCIAL REPORT FINANCIAL REPORT - SMALL PROPRIETARY COMPANY THAT IS CONTROLLED BY A FOREIGN COMPANY				

484	28:02:2019	28:02:2019	2	28:02:2019	7:AJ02182
484	CHANG□ TO COMPANY D□TAILS				
484B	CHANG□ OF R□GIST□R□D ADDR□SS				
484C	CHANG□ OF PRINCIPAL PLAC□ OF B□SIN□SS □ADDR□SS□				
484	23:01:2019	23:01:2019	2	23:01:2019	7:AH95048
484□	CHANG□ TO COMPANY D□TAILS APPOINTM□NT OR C□SSATION OF A COMPANY OFFIC□HOLD□R				
484	04:01:2019	04:01:2019	2	04:01:2019	7:AH49078
484□	CHANG□ TO COMPANY D□TAILS APPOINTM□NT OR C□SSATION OF A COMPANY OFFIC□HOLD□R				
484	10:04:2018	10:04:2018	2	10:04:2018	8:0074138
484B	CHANG□ TO COMPANY D□TAILS CHANG□ OF R□GIST□R□D ADDR□SS				
FS90	17:08:2017	17:08:2017	2	10:08:2017	7:9361491
FS90A	NOTIC□ THAT A PROD□CT IN A PDS HAS C□AS□D TO B□ AVAILABL□ - BY AFS LIC□NS□□				
FS88	16:08:2017	16:08:2017	3	10:08:2017	7:9356596
FS88A	PDS IN-□S□ NOTIC□ - BY AFS LIC□NS□□				
484	01:06:2017	01:06:2017	2	01:06:2017	3:3773626
484□	CHANG□ TO COMPANY D□TAILS APPOINTM□NT OR C□SSATION OF A COMPANY OFFIC□HOLD□R				
FS90	27:04:2016	27:04:2016	2	26:04:2016	7:7908080
FS90A	NOTIC□ THAT A PROD□CT IN A PDS HAS C□AS□D TO B□ AVAILABL□ - BY AFS LIC□NS□□				
FS88	27:04:2016	27:04:2016	3	27:04:2016	7:7907794
FS88A	PDS IN-□S□ NOTIC□ - BY AFS LIC□NS□□				
484	05:04:2016	05:04:2016	2	05:04:2016	2:3445138
484□	CHANG□ TO COMPANY D□TAILS APPOINTM□NT OR C□SSATION OF A COMPANY OFFIC□HOLD□R				
484	03:12:2015	03:12:2015	2	03:12:2015	2:2828087
484□	CHANG□ TO COMPANY D□TAILS APPOINTM□NT OR C□SSATION OF A COMPANY OFFIC□HOLD□R				
388	04:11:2015	02:12:2015	37	30:06:2015	029431258
388I	FINANCIAL R□PORT FINANCIAL R□PORT - SMALL PROPRI□TARY COMPANY THAT IS CONTROLL□D BY A FOR□IGN COMPANY				
388	19:08:2015		0	19:08:2015	029323963
388I	FINANCIAL R□PORT FINANCIAL R□PORT - SMALL PROPRI□TARY COMPANY THAT IS CONTROLL□D BY A FOR□IGN COMPANY				
388	14:08:2015	14:08:2015	36	30:06:2014	7:7218092
388I	FINANCIAL R□PORT FINANCIAL R□PORT - SMALL PROPRI□TARY				

COMPANY THAT IS CONTROLLED BY A FOREIGN COMPANY

FS88 FS88A	06:07:2015	06:07:2015	3	06:07:2015	707104559
	PDS IN-SIDE NOTICE - BY AFS LICENSING				
484 484 484C 484A1 484	06:10:2014	07:10:2014	4	07:10:2014	029092065
	CHANGE TO COMPANY DETAILS CHANGE OF PRINCIPAL PLACE OF BUSINESS ADDRESS CHANGE OFFICER/HOLDER NAME OR ADDRESS APPOINTMENT OR CESSATION OF A COMPANY OFFICER/HOLDER				
484 484B	23:01:2014	23:01:2014	2	23:01:2014	20161080
	CHANGE TO COMPANY DETAILS CHANGE OF REGISTERED ADDRESS				
A104 A104	14:11:2013	14:11:2013	1	14:11:2013	028784317
	SUPPLEMENTARY PAGES TO IMAGED DOCUMENT Alters 705 617 995				
388 388I	31:10:2013	31:10:2013	35	30:06:2013	705617685
	FINANCIAL REPORT FINANCIAL REPORT - SMALL PROPRIETARY COMPANY THAT IS CONTROLLED BY A FOREIGN COMPANY				
484 484A1	02:07:2013	02:07:2013	2	24:05:2013	109540515
	CHANGE TO COMPANY DETAILS CHANGE OFFICER/HOLDER NAME OR ADDRESS				
484 484	02:07:2013	02:07:2013	2	24:05:2013	109540514
	CHANGE TO COMPANY DETAILS APPOINTMENT OR CESSATION OF A COMPANY OFFICER/HOLDER				
315 315A	27:02:2013	13:03:2013	1	11:09:2012	026176707
	NOTICE OF RESIGNATION OR REMOVAL OF AUDITOR RESIGNATION OF AUDITOR				
484 484 484O 484G 484N	09:11:2012	09:11:2012	2	09:11:2012	704839040
	CHANGE TO COMPANY DETAILS CHANGES TO SHARE STRUCTURE NOTIFICATION OF SHARE ISSUES CHANGES TO MEMBERS SHARE HOLDINGS				
388 388 388 388I	09:11:2012	08:04:2013	36	30:06:2012	028358511
	FINANCIAL REPORT COMPANY - APPOINT CHANGE NAME ADDRESS OF AUDITOR FINANCIAL REPORT - SMALL PROPRIETARY COMPANY THAT IS CONTROLLED BY A FOREIGN COMPANY				
FS02 FS02	29:05:2012	29:05:2012	20	29:05:2012	0L0310042
	COPY OF AFS LICENSING				
388 388I	29:02:2012	29:02:2012	34	30:06:2011	704305997
	FINANCIAL REPORT FINANCIAL REPORT - SMALL PROPRIETARY COMPANY THAT IS CONTROLLED BY A FOREIGN COMPANY				

FS88 FS88A	12/12/2011	12/12/2011	3	12/12/2011	704151690
	PDS IN-SUB NOTIC - BY AFS LICENS				
FS88 FS88A	12/12/2011	12/12/2011	3	12/12/2011	704151612
	PDS IN-SUB NOTIC - BY AFS LICENS				
FS88 FS88A	12/12/2011	12/12/2011	3	12/12/2011	704151507
	PDS IN-SUB NOTIC - BY AFS LICENS				
388 388 388 388I	16/06/2011	20/06/2011	25	30/06/2010	027552720
	FINANCIAL REPORT COMPANY - APPOINT CHANGE NAME ADDRESS OF AUDITOR FINANCIAL REPORT - SMALL PROPRIETARY COMPANY THAT IS CONTROLLED BY A FOREIGN COMPANY				
484 484B	05/04/2011	05/04/2011	2	18/03/2011	107297686
	CHANGE TO COMPANY DETAILS CHANGE OF REGISTERED ADDRESS				
484 484B	11/11/2010	11/11/2010	2	10/11/2010	106971099
	CHANGE TO COMPANY DETAILS CHANGE OF REGISTERED ADDRESS				
484 484A1	05/05/2010	05/05/2010	2	23/04/2010	106463639
	CHANGE TO COMPANY DETAILS CHANGE OFFICER HOLDER NAME OR ADDRESS				
484 484C	11/12/2009	11/12/2009	2	01/12/2009	106083585
	CHANGE TO COMPANY DETAILS CHANGE OF PRINCIPAL PLACE OF BUSINESS ADDRESS				
484 484 484O 484G 484N	05/10/2009	05/10/2009	2	05/10/2009	105876941
	CHANGE TO COMPANY DETAILS CHANGES TO SHARE STRUCTURE NOTIFICATION OF SHARE ISSUES CHANGES TO MEMBERS SHARE HOLDINGS				
FS90 FS90A	20/03/2009	20/03/2009	2	20/03/2009	702096250
	NOTICE THAT A PRODUCT IN A PDS HAS CEASED TO BE AVAILABLE - BY AFS LICENS				
FS88 FS88A	20/03/2009	20/03/2009	3	19/03/2009	702095735
	PDS IN-SUB NOTIC - BY AFS LICENS				
484 484	17/02/2009	17/02/2009	2	02/02/2009	105188039
	CHANGE TO COMPANY DETAILS APPOINTMENT OR CESSATION OF A COMPANY OFFICER				
309 309A	16/07/2008	16/07/2008	13	01/07/2008	024922669
	NOTIFICATION OF DETAILS OF A CHARGE				
FS02 FS02	19/02/2008	19/02/2008	21	19/02/2008	0L0501682
	COPY OF AFS LICENCE				

484	24:01:2008	21:02:2008	5	24:01:2008	024341630
484	CHANG□ TO COMPANY D□TAILS				
484I	NOTIFICATION OF SHAR□ CANCELLATION - CAPITAL REDUCTION				
484O	CHANGES TO SHAR□ STRUCTURE				
484N	CHANGES TO MEMBERS SHAR□ HOLDINGS				
106	24:01:2008	19:02:2008	5	24:01:2008	024524520
106	NOTICE OF CANCELLATION OR REVOCATION OF A LODGED DOCUMENT				
	Cancels 1□3 664 603				
484	19:09:2007	19:09:2007	2	19:09:2007	1□3664603
484	CHANG□ TO COMPANY D□TAILS				
484O	CHANGES TO SHAR□ STRUCTURE				
484G	NOTIFICATION OF SHAR□ ISS□□				
484N	CHANGES TO MEMBERS SHAR□ HOLDINGS				
	Cancelled by 024 524 520				
2205	17:09:2007	18:09:2007	2	17:09:2007	024124603
2205□	NOTIFICATION OF RESOLUTION RELATING TO SHARES REDUCTION OF				
	SHAR□ CAPITAL - SCHEDULE 5				
2560	10:09:2007	17:09:2007	5	10:09:2007	024083562
2560B	NOTIFICATION OF REDUCTION IN SHAR□ CAPITAL DETAILS FOR				
	SELECTIVE REDUCTION				
106	03:09:2007	11:09:2007	2	03:09:2007	024107672
106	NOTICE OF CANCELLATION OR REVOCATION OF A LODGED DOCUMENT				
	Cancels 1□3 465 197				
484	23:07:2007	23:07:2007	2	30:05:2007	1□3465197
484	CHANG□ TO COMPANY D□TAILS				
484O	CHANGES TO SHAR□ STRUCTURE				
484G	NOTIFICATION OF SHAR□ ISS□□				
484N	CHANGES TO MEMBERS SHAR□ HOLDINGS				
	Cancelled by 024 107 672				
FS53	14:06:2007	02:07:2007	11	13:06:2007	023893528
FS53A	NOTIFICATION OF □S□ OF PDS - BY AFS LICENS□□				
484	29:05:2007	29:05:2007	2	29:05:2007	7□1129511
484	CHANG□ TO COMPANY D□TAILS				
484O	CHANGES TO SHAR□ STRUCTURE				
484G	NOTIFICATION OF SHAR□ ISS□□				
484N	CHANGES TO MEMBERS SHAR□ HOLDINGS				
FS02	18:05:2007	18:05:2007	20	18:05:2007	0L0304585
FS02	COPY OF AFS LICENCE				
484	19:01:2007	19:01:2007	2	19:01:2007	7□0977245
484	CHANG□ TO COMPANY D□TAILS				
484B	CHANG□ OF REGISTERED ADDRESS				

484C	CHANG□ OF PRINCIPAL PLAC□ OF B□SIN□SS □ADDR□SS□					
484		11□12□2006	13□12□2006	10	13□12□2006	023235841
484	CHANG□ TO COMPANY D□TAILS					
484□	APPOINTM□NT OR C□SSATION OF A COMPANY OFFIC□HOLD□R					
484N	CHANG□S TO □M□MB□RS□SHAR□ HOLDINGS					
484		03□04□2006	03□04□2006	2	03□04□2006	1□1967811
484C	CHANG□ TO COMPANY D□TAILS CHANG□ OF PRINCIPAL PLAC□ OF B□SIN□SS □ADDR□SS□					
484		03□04□2006	03□04□2006	2	03□04□2006	1□1967774
484B	CHANG□ TO COMPANY D□TAILS CHANG□ OF R□GIST□R□D ADDR□SS					
201		03□04□2006	03□04□2006	3	03□04□2006	1□1965343
201C	APPLICATION FOR R□GISTRATION AS A PROPRI□TARY COMPANY					

- Financial Reports -

Document No.	Balance Date	Report Due	AGM Due	Extended AGM Due	AGM Held	Outstanding
027552720	30□06□2010	31□10□2010				No
7□4305997	30□06□2011	31□10□2011				No
028358511	30□06□2012	31□10□2012				No
7□5617685	30□06□2013	31□10□2013				No
7□7218092	30□06□2014	31□10□2014				No
029431258	30□06□2015	31□10□2015				No
030725365	30□06□2016	31□10□2016				No
030725366	30□06□2017	31□10□2017				No
030725367	30□06□2018	31□10□2018				No
7□A□88088	30□06□2019	31□10□2019				No
7□BH04264	30□06□2020	31□10□2020				No

- Company Contact Addresses -

- Previous Contact Address for ASIC use only

Address: HALL CHAD□ IC□ M□LBO□RN□ S□RVIC□S LOC□□D BAG 777 COLLINS STR□□T
□ □ST VIC 8007

Start Date: 31□10□2019

Cease Date: 13□06□2023

□□□end of Document □□□

TO The Australian Securities and Investments Commission
Attention: Registered Liquidator Team

By email only:

legal.document.service@asic.gov.au

17 DECEMBER 2025

Dear Registered Liquidator Team

Forex Capital Trading Pty Ltd (in liq) | WAD 83 of 2022 - Interlocutory Application pursuant to section 90-15 of Schedule 2 of the Corporations Act 2001 (Cth)

- 1 We act for Daniel Woodhouse and Ross Blakeley of FTI Consulting in their capacities as joint and several liquidators (**Liquidators**) of Forex Capital Trading Pty Ltd (in liq) (the **Company**).
- 2 On 17 May 2022, the Federal Court of Australia made the **enclosed** orders pursuant to section 90-15 of Schedule 2 of the *Corporations Act 2001* (Cth) (**IPS**) (**Adjudication Orders**). The Adjudication Orders modified certain aspects of the *Corporations Regulations 2001* (Cth) (**Regulations**) relating to the formal processes for the calling for, and adjudication of, proofs of debt in the liquidation. The reason the Adjudication Orders was sought was to enable the Liquidators to admit proofs of debt from the Company's former customers relating to the former customers' claims against the Company for various contraventions of the *Corporations Act 2001* (Cth) (**Act**)¹ in a truncated timetable in order to permit a claim to be made on a letter of comfort which may have responded to these claims.
- 3 Having now exhausted the available economically viable recoveries under Part 5.7B of the Act, the Liquidators are now working to finalise the liquidation. Accordingly, the Liquidators intend to publish a notice to creditors of their intention to declare a dividend in accordance with reg 5.6.65 of the Regulations shortly.
- 4 However, to assist with the dividend distribution, the Liquidators intend to file an interlocutory process (**Application**), a draft of which is **enclosed**, seeking orders modifying various aspects of the Regulations in respect of the dividend distribution process. Pursuant to rule 2.8 of the *Federal Court (Corporations) Rules 2016* (Cth) (**Rules**), a copy of the Application and supporting affidavit(s) will be served on ASIC in due course.
- 5 There are two aspects of the Application we would appreciate ASIC's input in relation to:
 - (a) *First*, the extension of time for the date to declare a dividend in regulation 5.6.65(1) from 2 months of the publication of the notice of intention to declare a dividend, to 4 months; and
 - (b) *Second*, the extension of the time for the Liquidators to respond to creditors' proofs of debt under regulation 5.6.66(1) from 14 days to 21 days.
- 6 The Liquidators consider these modifications are in the best interests of creditors because (and as will be set out in more detail in the supporting affidavit(s)):

¹ See *ASIC v Forex Capital Trading Pty Ltd* [2021] FCA 570 for an explanation of the contraventions.

- (a) the Liquidators anticipate creditors will require additional guidance and time to submit evidence supporting their claim and there intend to allow for two cycles of requesting further information from creditors following submission of proofs of debt (allowing for the minimum 14 day period for creditors to respond to such requests) due to:
 - (i) the nature of the former customers' claims against the Company, which are likely to be based on allegations of misleading or deceptive conduct and unconscionable conduct, which are fact intensive claims;
 - (ii) these claims may require former customers to collate significant evidence and materials in order to support their claims; and
 - (iii) the collation of these materials by former customers is likely, in the opinion of the Liquidators, to take former customers more than 21 days due to:
 - (A) the relatively unsophisticated nature of many former customers; and
 - (B) the significant time which has elapsed since the events which gave rise to the potential claims have occurred (as claims are based on conduct which took place between January 2016 and June 2021);
 - (b) the adjudication of the former customer claims is also likely to take longer than the prescribed 14 days due to the complex nature of the claims and the likely need for the Liquidators to seek legal advice in relation to the claims; and
 - (c) because of these extensions of time, it would not be possible for the Liquidators to declare a dividend within 2 months of publishing their notice of intention to declare a dividend unless they were to cut short the 14 day window creditors have to appeal the Liquidators' adjudication outcomes.
- 7 In those circumstances, the Liquidators consider it is appropriate to seek the limited modifications of the timetable prescribed in the Regulations.
- 8 We would be grateful if you can confirm whether ASIC has any in principle concerns with the proposed extension of time in regulation 5.6.65(1) from 2 months to 4 months to accommodate the Liquidators' proposed timetable.
- 9 The Liquidators are also cognisant of ASIC's ability to extend the prescribed 14 day period to deal with proofs of debt in accordance with regulation 5.6.66(1)(b). However, as there are other aspects of the Application modifying the Regulations which ASIC cannot provide for, the Application will be required in any event. In those circumstances, subject to ASIC's position, the Liquidators consider it is appropriate to seek orders extending the timeframe under regulation 5.6.66(1) in the Application. Therefore, for the purposes of the supporting affidavit(s), we would be grateful if you can confirm whether ASIC would be minded to grant the Liquidators an extension of time from 14 days to 21 days to deal with the proofs of debt submitted pursuant to regulation 5.6.66(1)(b).
- 10 If ASIC is minded to agree to extending the prescribed timeframe under regulation 5.6.66(1) in advance of the Application being filed, we can modify the Application accordingly.
- 11 Finally, so the Application can be heard in time to permit the Liquidators to commence the dividend process in the first quarter of 2026, with the intention of paying dividends in mid 2026, we would be grateful if ASIC can confirm its position by no later than 23 January 2026. We anticipate being instructed to file the Application shortly thereafter.

12 If you have any questions, please contact this office on the details below. We look forward to hearing from you shortly.

Yours faithfully



King & Wood Mallesons

Contact

Sam Dundas | Partner
King & Wood Mallesons

T +61 8 9269 7097

M +61 411 105 336

E sam.dundas@au.kwm.com

Partner profile



ASIC
Australian Securities &
Investments Commission

**Australian Securities
and Investments Commission**

Office address (inc courier deliveries):
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Melbourne VIC 3001

Tel: +61 1300 935 075

www.asic.gov.au

King & Wood Mallesons
Level 30, QV1 Building
250 Georges Terrace
Perth WA 6000

By email: sam.dundas@au.kwm.com

Attention: Sam Dundas

21 January 2026

Dear Mr Dundas

Re Forex Capital Trading Pty Ltd (In Liquidation) ACN 119 086 270 (Company)

1. We refer to your letter dated 17 December 2025 regarding the Company (**Letter**) and advising you act for Daniel Woodhouse and Ross Blakeley in their capacities as joint and several liquidators of the Company (**Liquidators**).
2. You have advised the Liquidators are working to finalise the liquidation and provided a draft interlocutory process (**Application**) seeking, among other orders, an extension of time for the:
 - a. date to declare a dividend in reg 5.6.65(1) of the *Corporations Regulations 2001* (Cth) (**Regulations**) from 2 months of the publication of the notice of intention to declare a dividend, to 4 months; and
 - b. liquidators to respond to creditors' proofs of debt under reg 5.6.66(1) of the Regulations from 14 days to 21 days.
3. You have requested that ASIC confirm whether it:
 - a. has any concerns with the proposed extension of time in reg 5.6.65(1) from 2 months to 4 months; and
 - b. would be minded to grant the Liquidators an extension of time from 14 days to 21 days pursuant to regulation 5.6.66(1)(b).
4. ASIC considers that these matters are properly left for the determination of the Court. This should not be taken as an expression of support for, or opposition to, the proposed orders sought.
5. Please serve ASIC with a copy of the sealed Application and any supporting affidavits once they have been filed.

6. To assist you, I attach links to our:
 - a. [Serving legal documents on ASIC | ASIC](#) webpage which sets out the documents that can be served on ASIC electronically.
 - b. [Court applications made under Chapter 5 and Schedule 2 of the Corporations Act 2001 | ASIC](#) webpage which sets out our approach to responding to insolvency applications.
7. Should you have any questions please contact Lamees Mchawrab on 02 9911 2282 or by email at rl.legal@asic.gov.au.

Yours faithfully



Tegan Collins
Senior Manager, Registered Liquidators
Enforcement and Compliance
Australian Securities and Investments Commission

Forex Capital Trading Pty Ltd (In Liquidation)

Receipts and Payments

As at 28 February 2026

\$

Receipts

Pre appointment cash at bank	75,149.84
Pre appointment debtors	354,989.85
Office furniture and equipment	3,138.15
Client funds account	146,413.36
Pre appointment refund	468.31
Litigation funding - Invesus claim	2,135,507.95
Litigation funding - ASIC claim	714,232.25
ASIC settlement	11,500,000.00
Liquidation funding - Invesus	477,273.00
Interest	256,590.64
Total receipts	15,663,763.35

Payments

Employee costs	188,660.67
Invesus claim costs	58,065.86
Auctioneers costs	345.20
Bank charges	40.00
Client funds transferred to former customers or State Revenue Office Victoria	120,391.44
Refund of litigation funding and funded GST	904,839.23
Litigation funding fee (ASIC claim)	2,875,000.00
Legal fees and costs	2,422,714.12
Liquidators' fees and costs	3,466,759.00
Storage costs	456.35
Data recovery	7,758.18
Insurance	1,547.79
BAS receipts/payments	64,085.00
Total payments	10,110,662.84

Net receipts and payments**5,553,100.51**

Tab 6

Forex Capital Trading Pty Ltd (In Liquidation)

Receipts and Payments

As at 28 February 2026

\$

Pre appointment asset recoveries	
Pre appointment cash at bank	75,149.84
Pre appointment debtors	354,989.85
Office furniture and equipment	3,138.15
Auctioneers costs	(345.20)
Net receipts from pre appointment assets	432,932.64
Litigation funding - Invesus claim	
Litigation funding received - Invesus claim	2,135,507.95
Refund of funded GST	(190,607.18)
Liquidators' fees and costs	(1,001,502.31)
Legal fees and costs	(549,966.06)
Counsel fees and costs	(352,436.25)
Book build costs	(40,995.91)
Net receipts from litigation funding - Invesus claim	0.24
Litigation funding - ASIC claim	
Litigation funding received - ASIC claim	714,232.25
Refund of funded GST	(64,270.67)
Liquidators' fees and costs	(75,042.00)
Legal fees and costs	(493,785.99)
Counsel fees and costs	(81,133.59)
Net receipts from litigation funding - ASIC claim	0.00
ASIC settlement	
ASIC settlement received	11,500,000.00
Repayment of litigation funding (excluding funded GST already returned)	(649,961.38)
Litigation funders' fee	(2,875,000.00)
Net receipts from ASIC settlement	7,975,038.62
Client funds account	
Funds transferred from Client Funds Account	146,413.36
Funds returned to former customers or State Revenue Office Victoria	(120,391.44)
Funds transferred to liquidation account as unrelated to client accounts	(24,314.90)
Net funds remaining in client funds account	1,707.02
Liquidation receipts and payments	
Receipts	
Pre appointment refund	468.31
Liquidation funding received from Invesus	477,273.00
Net receipts from ASIC settlement	7,975,038.62
Net receipts from pre appointment assets	432,932.64
Net receipts from litigation funding - Invesus claim	0.24
Liquidation funds transferred from client funds account	24,314.90
Net funds remaining in client funds account	1,707.02
Interest	256,590.64
Total receipts	9,168,325.37
Payments	
Employee costs	(188,660.67)
Invesus claim costs	(18,450.81)
Bank charges	(40.00)
Legal fees and costs	(945,392.23)
Liquidators' fees and costs	(2,388,833.83)
Storage costs	(456.35)
Data recovery	(7,758.18)
Insurance	(1,547.79)
BAS receipts/payments	(64,085.00)
Total payments	(3,615,224.86)
Net receipts and payments	5,553,100.51



26 June, 2021

Attention: Mr. Shlomo Yoshai
Forex Capital Trading Pty Ltd
(ACN 119 286 270) ("**Forex CT**")
Level 18, 636 St Kilda Road
Melbourne, Victoria 3004

**WITHOUT PREJUDICE
PRIVATE & CONFIDENTIAL
FOR THE SOLE INTENDED PURPOSE AS STATED HEREIN**

Dear Mr Yoshai,

1. This letter has been executed as a deed and is issued by Invesus Group Limited (registration number 112170) ("**Invesus**") to Forex CT for the strict benefit of Forex CT and the director of Forex CT and Forex Capital Trading Limited (registration number 32852) (the "**Addressees**") only following Forex CT's request for financial support for its proposed voluntary liquidation.
2. "**External Controller**" means a liquidator, administrator, provisional or interim liquidator, conservator, receiver, receiver and manager, custodian, trustee, statutory manager or other similar person appointed in respect of Forex CT or all of its assets.
3. The Addressees may rely upon and enforce this deed in accordance with its terms.
4. The purpose of this letter is to provide formal and binding limited financial support to Forex CT strictly in relation to the process and conduct of the proposed members' voluntary liquidation of Forex CT and related filings and declarations required to be made by any Addressees in connection therewith (the "**Winding Up Process**").
5. Subject only to the express terms of this letter, Invesus irrevocably undertakes in favour of the Addressees that it will, following a request in writing for or on behalf of Forex CT, pay to Forex CT or any External Controller an amount (in one or more payments) up to and no more than an aggregate total amount of AUD 3,630,497 (the "**Amount**"). For the avoidance of doubt, Invesus will only pay such amounts requested for, or on behalf of, Forex CT if Invesus is satisfied (acting reasonably and in good faith) that the amounts are reasonably incurred in relation to, or are properly payable under or in connection with, the Winding Up Process. Forex CT and any External Controller (as applicable) must provide, with any written request for an amount, all receipts, invoices and other evidence that the requested amount is properly in relation to, or are properly payable under or in connection with, the Winding Up Process.

6. The Amount includes (without limitation) the outstanding invoices as set out in Annexure A (noting, however, that Invesus may have already commenced the process of payment of some invoices), incurred up until the commencement of a solvent liquidation of Forex CT. Invesus agrees to hold a portion of the Amount equal to the total aggregate amount of the unpaid invoices set out in Annexure A on trust, in favour of those creditors and will pay all creditors set out in Annexure A directly in accordance with such invoices. Neither Forex CT nor any External Controller shall have any right to be paid the funds held on trust for payment of such invoices, but may enforce payment of such amounts to such creditors.
7. This letter shall survive the appointment of any External Controller to Forex CT or any of its assets. For the avoidance of doubt, Invesus' liability under this letter shall extinguish at the earlier of the payment in full of the Amount as so requested and the completion of the Winding Up Process.
8. Subject to paragraph 5, upon receipt of a request in writing (this may be provided electronically), Invesus must pay the amount as so requested, including (without limitation) by providing a binding instruction to its bank to pay the amount within seven business days of receiving the demand. Invesus shall not be liable for any delays to payment of any amount requested caused by third parties outside of its control.
9. Neither Forex CT nor any Addressees or third-party creditor shall have any obligation under any circumstances to repay all or any part of the Amount to Invesus.
10. Forex CT agrees that, whenever Forex CT requests an Amount to be paid under this letter or Invesus otherwise pays an invoice set out in Annexure A (either to Forex CT or any External Controller or directly to any entity as set out in Annexure A), the Amount so advanced shall be proportionally set off against and deducted from the existing AUD3,199,339 loan as registered in Forex CT's books owed to Forex CT by Forex Capital Trading Limited (the "**Loan**"). The Loan shall not be so set off or reduced in relation to any and all payments made by Invesus relating to Clifford Chance, FTI Consulting and National Mutual Life Nominees Pty Ltd (ACN 004 387 133) (the "**Lessor**") (with respect to the surrender of the lease between Forex CT and the Lessor of Level 18, 636 St Kilda Road, Melbourne, Victoria). For the avoidance of doubt, the Loan shall otherwise be reduced by the full amount of any and all amounts advanced under this letter.
11. Invesus provides this letter strictly as an act of goodwill and not based on any obligation, duty or responsibility of Invesus to Forex CT, to any External Controller or to Forex CT's directors, employees, creditors, clients or to any third party. This letter shall in no event be construed and/or interpreted as an admission of any involvement, fact, wrongdoing or breach of any applicable legislation by Invesus. Upon the earlier of the

receipt by Forex CT of the Amount and the completion of the Winding Up Process, Invesus shall have no further obligation and/or liability under this letter.

12. This document and any dispute arising out of or in connection with this document is governed by the laws of the State of New South Wales within the Commonwealth of Australia.
13. Invesus submits to the non-exclusive jurisdiction of the courts exercising jurisdiction in New South Wales in the Commonwealth of Australia, including the Federal Court of Australia, and any court that may hear appeals from any of those courts ("Courts"), for any proceedings in connection with this document, and waives any right it might have to claim that those courts are an inconvenient forum. Invesus irrevocably consents to the registration in a court of Gibraltar of any judgement obtained by an Addressee in connection with this letter in the Courts.
14. This letter is for the benefit of Forex CT and Forex Capital Trading Limited, where applicable, only and is not intended for, nor in any way aimed towards, any third party and/or to benefit, in any way, any third party. For the avoidance of doubt, no third party can rely on this document to bring any claim and/or action against Invesus or Forex CT in any circumstances and this document is enforceable against Invesus by Forex CT and the Addressees only.
15. This letter is confidential between Invesus, the Addressees and Forex CT and save where required by law shall not be provided to any third party without the prior written consent of Invesus.
16. This letter shall not modify or supersede any previous agreement between Invesus and Forex CT and/or Forex Capital Trading Limited which shall remain in full force and effect in accordance with their own terms and conditions.
17. This letter contains the entire agreement between Invesus and Forex CT and/or Forex Capital Trading Limited about the financial support contemplated by this letter. Any previous understanding, agreement, representation or warranty relating to that subject matter is replaced by this letter and has no further effect.
18. If a person signs this document as a director, authorised officer, agent or attorney of, for or otherwise on behalf of Invesus, the signatory warrants that, as at the date of execution of this document, the signatory has full authority to sign this document on behalf of Invesus.
19. This document may be executed in counterparts. Delivery of a counterpart of this document by email attachment constitutes an effective mode of delivery.

20. Invesus warrants that it has taken all reasonable steps necessary to ensure that this document is binding on it.

EXECUTED as deed

Executed by
INVESUS GROUP LIMITED
(REGISTRATION NUMBER 12170)
by its authorised officer, in the presence of:



Signature of officer

PAUL BUSH.

Name


Signature of witness

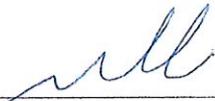
WANDA BUSH.

Name

Acknowledged and agreed by Forex CT

Executed by

FOREX CAPITAL TRADING PTY LTD
(ACN 119 286 270) by its authorised officer



Signature of sole director

SHLOMO YOSHI
Name

Acknowledged and agreed by Forex Capital Trading Limited

Executed by

FOREX CAPITAL TRADING LIMITED

(32852) by its authorised officer

A handwritten signature in blue ink, consisting of several loops and a long horizontal stroke at the end, positioned above a horizontal line.

Signature of sole director

Abramo Da Via - Director

Name

ANNEXURE A

Creditor	Invoice No.	Amount
Ashurst	230027676	\$15,398.68
Ashurst	230027672	\$29,658.64
Ashurst	230027665	\$135,820.08
Ashurst	220052518	\$11,713.24
Ashurst	230028464	\$552,145.81
Ashurst	230028473	\$20,487.72
Ashurst	230028475	\$66,000.00
Ashurst	230028873	\$368,322.58
Ashurst	230028874	\$57,295.92
Ashurst	230028875	\$18,074.76
Ashurst	230029478	\$48,906.44
Ashurst	230030086	\$900,444.05
Ashurst	230030087	\$110,825.00
Ashurst	230029947	\$243,807.18
Ashurst	230030613	\$97,177.56
Ashurst	230030614	\$14,577.20
Ashurst	220053702	\$6,900.52
Ashurst	220055445	\$2,699.84
Ashurst	Pending	\$34,262.00
Hall & Wilcox Lawyers	543224	\$35,750.00

Clifford Chance	Pending	\$148,500.00
Ernst & Young	Pending	\$27,500.00
FTI Consulting	7586218	\$38,500.00
Mr Omar Hirad	N/A	\$168,442.02
TOTAL		\$3,153,209.22



Our Ref: Perth 470923.0002/013/DW

24 October 2022

Mr Joseph Longo

Australian Securities and Investments Commission

Level 7

120 Collins Street

MELBOURNE VIC 3000

E-mail: joseph.longo@asic.gov.au

Dear Sir

Re: Forex Capital Trading Pty Ltd (In Liquidation) ("The Company") ACN 119 086 270

I refer to the appointment of Nathan Stubing and myself as liquidators of the Company on 27 June 2021 by a resolution of the sole member of the Company on the basis the Company be wound up voluntarily.

Following our investigations into the affairs of the Company, I formed a view that the Company was not able to pay or provide for the payment of its debts in accordance with the director's declaration of solvency. As such, in accordance with our duties as liquidators under s 496 of the *Corporations Act 2001* (Cth) ("Corporations Act"), we made an application to the Federal Court of Australia, pursuant to s 459P of the Corporations Act, to have the Company wound up in insolvency under s 459A of the Corporations Act. As a result of that application, Nathan Stubing, Ross Blakeley, and I were appointed as joint and several liquidators of the Company ("Liquidators") on 7 December 2021.

The purpose of this letter is to set out the Liquidators' views regarding the recoverability of the amount of \$21.18 million that was paid to the Australian Securities and Investments Commission ("ASIC") on behalf of the Company ("ASIC Payments"). The ASIC Payments were made pursuant to orders made by Middleton J in the Federal Court of Australia on 29 April 2021 ("Penalty Orders"). The reasons for making the Penalty Orders were set out in Middleton J's reasons dated 28 May 2021 in *ASIC v Forex Capital Trading Pty Ltd* [2021] FCA 570 ("Contravention Reasons"). Copies of the Penalty Orders and the Contravention Reasons are annexed to this letter.

FTI Consulting (Australia) Pty Limited

ABN 49 160 397 811 | ACN 160 397 811 | AFSL Authorised Representative # 001269325

Level 47, Central Park | 152-158 St George's Terrace | Perth WA 6000 | Australia

Postal Address | PO Box Z5486 | Perth WA 6831 | Australia

+61 8 9321 8533 telephone | +61 8 9321 8544 fax | fticonsulting.com

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In summary, the Liquidators have formed the view that the ASIC Payments are recoverable from ASIC as a voidable preference, pursuant to s 588FE(2) of the Corporations Act, for the benefit of creditors of the Company.

1. Background to the ASIC Payments

The factual background to the Penalty Orders is set out in the Contravention Reasons, particularly at paragraphs [12] to [25]. The Contravention Reasons were based on a statement of agreed facts and admissions (“SAFA”) as agreed between ASIC and the Company.

In agreeing to the SAFA, the Company admitted to hundreds of serious breaches of provisions of both the Corporations Act and the *Australian Securities and Investments Commission Act 2001* (Cth) (“ASIC Act”), including that it carried on an unconscionable system of conduct in contravention of s 12CB of the ASIC Act. These provisions are designed to protect vulnerable members of the public from predatory and unconscionable conduct of the type admitted by the Company.

In the Contravention Reasons, Middleton J observed, and ASIC and the Company had agreed, that due to the Company’s contravening conduct, the Company’s former customers incurred net losses of approximately \$77 million, with a corresponding net gain to the Company. Put another way, through its contravening conduct, the Company made at least \$77 million from vulnerable members of the public. For the reasons set out by Banks-Smith J in *Re Woodhouse; In the Matter of Forex Capital Trading Pty Ltd (in liq)* (2022) 159 ACSR 669; [2022] FCA 600 (“*Re Woodhouse*”), the estimated 8,600 former customers of the Company are likely to have a variety of claims against the Company sounding in damages. A copy of *Re Woodhouse* is annexed to this letter.

As you may be aware, ASIC and the Company agreed to a pecuniary penalty of \$20 million being imposed on the Company in respect of its contraventions (“Pecuniary Penalty”) (Penalty Orders, order 16) and that the Company was to pay ASIC the amount of \$1.18 million in respect of legal costs (“Legal Costs”) (Penalty Orders, order 18). After considering the law relating to whether the Company had committed one contravention or multiple contraventions, Middleton J ordered the Company to pay those amounts to ASIC and made the Penalty Orders on 29 April 2021.

The Company was able to facilitate the payment of the ASIC Payments through funds advanced by its ultimate parent company, Invesus Group Limited (a company registered in Gibraltar) (“Invesus”). These funds were procured pursuant to a convertible loan agreement between Invesus and the Company (“Convertible Loan”). The Convertible Loan was entered into on 28 April 2021.

These payments were made by the Company (through its then lawyer's trust account) on or around 25 June 2021. The Company was placed into a members' voluntary liquidation on 27 June 2021. The creditors of the Company are presently expected to receive nil dividends.

Any potential distribution to creditors depends on the enforcement of an irrevocable letter of comfort in favour of the Company and its director that was provided by Invesus in respect of debts incurred by the Company ("Letter of Comfort"). Even in a best-case scenario, the Liquidators will not recover sufficient funds under the Letter of Comfort to repay all creditors in full.

2. The ASIC Payments are voidable transactions

The Liquidators are obliged to consider whether the ASIC Payments are potentially recoverable as voidable transactions pursuant to Part 5.7B of the Corporations Act.

Relevantly, the Liquidators are of the view that the payment of the ASIC Payments by the Company are unfair preferences (per s 588FA of the Corporations Act), insolvent transactions (per s 588FC of the Corporations Act) and occurred within 6 months of the relation back date. Therefore, the Liquidators have formed the view that the ASIC Payments are voidable transactions (per s 588FE(2) of the Corporations Act).

Without setting out the relevant provisions verbatim, we have set out some of our analysis as to why the ASIC Payments are voidable transactions.

2.1 The ASIC Payments are unfair preferences: s 588FA

First, the agreement between the parties regarding the ASIC Payment, the subsequent Penalty Orders or the payment of the ASIC Payments clearly amount to a 'transaction'. ASIC was, at the time of the transaction, a creditor of the Company.

Second, the ASIC Payments have undoubtedly resulted in ASIC receiving an amount greater than the unsecured creditors of the Company. Had ASIC had to prove the Pecuniary Penalty and Legal Costs as debts in the winding up, the Liquidators presently estimate ASIC would receive a nil dividend in respect of the ASIC Payments.

In these circumstances, we consider the ASIC Payments to be unfair preferences.

2.2 The ASIC Payments are insolvent transactions: s 588FC

At the time ASIC and the Company agreed to the ASIC Amounts, or at the time the Penalty Orders were made, or at the time the ASIC Payments were made, we consider the Company was insolvent, especially when the claims of the Company's 8,600 former customers are taken into account. There was no source of funding available to the Company to meet these claims, which, as held by Banks-Smith J in *Re Woodhouse*, amount to approximately \$69.5 million. Although Invesus provided the Letter of Comfort, Invesus has denied any liability under the Letter of Comfort to meet the claims of former customers.

In these circumstances, we consider the ASIC Payments to be insolvent transactions.

2.3 The ASIC Payments are voidable transactions: s 588FE

The ASIC Payments were insolvent transactions and were entered into, or given effect to, within 6 months of the relation-back day.

In these circumstances, we consider the ASIC Payments to be voidable transactions, and liable to recovery by the Liquidators under s 588FF of the Corporations Act.

2.4 No defence is apparent: s 588FG

Of course, transactions are not voidable as against certain persons in accordance with s 588FG of the Corporations Act. However, in our view, none of these exceptions apply. This is because:

- ASIC received a benefit of \$21.18 million.
- We consider ASIC had reasonable grounds to suspect the Company was insolvent, and a reasonable person in ASIC's circumstances would have had such grounds for suspecting, because ASIC:
 - cancelled the Company's Australian Financial Services Licence, which was required by the Company to trade and generate revenue in the ordinary course of business;
 - would have known the extent of former customers' claims against the Company, having been a party to the SAFA;
 - knew, or ought to have known, the Company only had approximately \$84,000 in cash and minimal other assets at the time the ASIC Payments were agreed to.

In these circumstances, we do not consider ASIC would be able to rely on s 588FG of the Corporations Act to avoid orders being made under s 588FF of the Corporations Act regarding the ASIC Payments.

3. Other considerations

The Liquidators were not party to any conferral that took place between the Company and ASIC prior to agreeing to the quantum of the Pecuniary Penalty and Legal Costs to be paid by the Company. Accordingly, we are not aware of the considerations (if any) with respect to former customers' (creditors) claims against the Company in arriving at the amount of \$21.18 million by way of a pecuniary penalty and legal costs in circumstances where:

- it appears a court ought to have regard to the Company's ability to pay compensation to former customers in deciding the quantum of the Pecuniary Penalty (per s 1317QF of the Corporations Act and s 12GCA of the ASIC Act);
- if it appeared the Company had the financial capacity to pay a \$20 million pecuniary penalty (which we do not believe was a reasonably available assumption for the reasons outlined above), it would have been open for ASIC to seek third party compensation orders against the Company pursuant to s 13GNB of the ASIC Act to compensate the former customers for their substantial losses (and no such orders appear to have been sought); and
- ASIC, given its investigations, was, or should have been aware the Company would not have the financial capacity to pay any compensation to former customers, or any amount by way of damages should those claims have been made by former customers.

Since our appointment, we have received unsolicited enquiries from former customers / creditors regarding the payment of funds to ASIC and the likely nil dividend creditors are presently expected to receive. In summary, the position of former customers is that they do not understand how ASIC is retaining the ASIC Payments in circumstances where former customers have suffered significant losses that occurred, in former customers' words, "on ASIC's watch", are expected to receive nothing. If ASIC is not willing to pay an amount equal to the amount of the ASIC Payments to the Company, we would be grateful for a written response explaining ASIC's position, specifically addressing these points.

4. Conclusion

For the reasons outlined in this letter, the Liquidators hereby request that ASIC pays \$21,180,000, in full and final settlement of the claim for the unfair preferences received by ASIC, within 28 days of the date of this letter. Payment can be made into the following Macquarie account:

Name: Forex Trading Capital Pty Ltd (In Liquidation)

BSB: 182 222

Account: 2369 75967

The Liquidators are seeking an expedited resolution for recovery of the ASIC Payments, without incurring unnecessary time and avoidable costs, including those associated with commencing proceedings, wherever possible. If ASIC is not willing to pay an amount equal to the ASIC Payments to the Company, the Liquidators request an opportunity to discuss the contents of this letter, or in the alternative, ASIC provide a written response outlining ASIC's position with regard to the matters raised in this letter.

If you have any questions or wish to discuss, please contact me on (08) 9321 8533 or daniel.woodhouse@fticonsulting.com.

Yours faithfully



Daniel Woodhouse

Joint and Several Liquidator

Tab 9

From: David Ryan <David.Ryan@asic.gov.au>
Sent: Thursday, 3 November 2022 11:25 AM
To: Woodhouse, Daniel <daniel.woodhouse@fticonsulting.com>
Subject: [EXTERNAL] ASIC response to letter of 24 October 2022 [SEC=OFFICIAL]

Dear Mr Woodhouse,

Please find *attached* a response from Ms Rashpal Hartmann, Commission Counsel, to your letter of 24 October 2022.

Regards,
David

David Ryan

Executive Assistant to Rashpal Hartmann - Commission Counsel | Chief Legal Office
Executive Assistant to Conrad Gray - Special Counsel, Civil Litigation | Chief Legal Office

Australian Securities and Investments Commission

Level 5, 100 Market Street, Sydney, 2000
Tel: +61 2 9911 2554 | Mob: +61 0435 700 080
David.Ryan@asic.gov.au



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ASIC
Australian Securities &
Investments Commission

**Australian Securities
and Investments Commission**

Office address (inc courier deliveries):
Level 5, 100 Market Street,
Sydney NSW 2000

Mail address for Sydney office:
GPO Box 9827,
Brisbane QLD 4001

Tel: +61 1300 935 075
Fax: +61 1300 729 000

www.asic.gov.au/

FTI Consulting
Level 47, Central Park
152-158 St. Georges Terrace
Perth, WA 6000
Australia

Your Reference: Perth
470923.0002/013/DW

By email: daniel.woodhouse@fticonsulting.com

3 November 2022

Dear Mr Woodhouse

Re: Forex Capital Trading Pty Ltd (in liquidation) (the Company) ACN 119 086 270

I refer to your letter of 24 October 2022 addressed to Mr Longo, the Chair of the Australian Securities and Investments Commission (**ASIC**).

I am ASIC's Commission Counsel and I have been asked to respond to your claim that the ASIC Payments totalling \$21.8 million (as defined in your letter of 24 October 2022), are unfair preferences recoverable from ASIC as voidable transactions pursuant to Part 5, 7B of the *Corporations Act*.

I will consider the matters you have raised in your letter and respond to you shortly.

Your sincerely

Rashpal Hartmann

Commission Counsel, Chief Legal Office

Australian Securities and Investments Commission

Tel: +61 2 9911 2669 | Mob: +61 0466 568 165

rashpal.hartmann@asic.gov.au

From: Woodhouse, Daniel

Sent: Thursday, 8 December 2022 10:01 AM

To: 'rashpal.hartmann@asic.gov.au' rashpal.hartmann@asic.gov.au

Cc: 'David Ryan' <David.Ryan@asic.gov.au>

Subject: RE: ASIC response to letter of 24 October 2022 [SEC=OFFICIAL]

Importance: High

Dear Mr Hartmann

I refer to:

- my letter of 24 October 2022 to Mr Longo, in his capacity as the Chair of the Australian Securities and Investments Commission (“ASIC”) (attached - excluding annexures) (“My Letter”); and
- your letter of 3 October, sent and received by email from Mr Ryan on that same day.

As you are aware, My Letter:

- raised a claim against ASIC for \$21.18m, being the ASIC Payments (as defined in My Letter) that the Liquidators considered were recoverable from ASIC as a voidable preference for the benefit of all creditors.
- requested payment within 28 days, being on or before 21 November 2022.

Given the passing of time, being 44 days since My Letter, I was wondering whether you could provide an update on the timing of your formal response.

If you would like to discuss, please feel free to contact me on 0425 827 873

Kind regards

Daniel Woodhouse

Senior Managing Director, Corporate Finance & Restructuring

FTI Consulting

+61 8 9321 8533 T | + 61 425 827 873 M

daniel.woodhouse@fticonsulting.com

Central Park

Level 47

152-158 St Georges Terrace

Perth WA 6000, Australia

www.fticonsulting.com

FTI Consulting acknowledges that we stand on the lands of the First Nations peoples and would like to pay our respects to Elders past, present and emerging. We extend solidarity and hope for a future where all are afforded justice, dignity and peace.

From: David Ryan <David.Ryan@asic.gov.au>

Sent: Thursday, 3 November 2022 11:25 AM

To: Woodhouse, Daniel <daniel.woodhouse@fticonsulting.com>

Subject: [EXTERNAL] ASIC response to letter of 24 October 2022 [SEC=OFFICIAL]

Dear Mr Woodhouse,

Please find *attached* a response from Ms Rashpal Hartmann, Commission Counsel, to your letter of 24 October 2022.

Regards,

David

David Ryan

Executive Assistant to Rashpal Hartmann - Commission Counsel | Chief Legal Office

Executive Assistant to Conrad Gray - Special Counsel, Civil Litigation | Chief Legal Office

Australian Securities and Investments Commission

Level 5, 100 Market Street, Sydney, 2000
Tel: +61 2 9911 2554 | Mob: +61 0435 700 080
David.Ryan@asic.gov.au



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From: Khaled Metlej <KMetlej@craddock.com.au>
Sent: Thursday, 8 December 2022 12:52 PM
To: Woodhouse, Daniel <Daniel.Woodhouse@fticonsulting.com>
Cc: Dennis Olthof <DOlthof@craddock.com.au>
Subject: [EXTERNAL] RE: ASIC response to letter of 24 October 2022 [SEC=OFFICIAL:Sensitive, ACCESS=Legal-Privilege]

Dear Mr Woodhouse,

Forex Capital Trading Pty Ltd ACN 119 086 270 (In Liquidation)

We act for the Australian Securities & Investments Commission.

We refer to your email below to Ms Hartmann in respect of your letter to ASIC dated 24 October 2022 (in respect of which our client has acknowledged receipt).

We anticipate being in a position to respond more fully to your letter shortly.

Kindly direct all communications in relation to the above matter to our office in the first instance.

In the meantime, please feel free to write or telephone should you wish to discuss.

Khaled Metlej

Director

Accredited Specialist | Commercial Litigation - Insolvency

Craddock Murray Neumann Lawyers will be closed from 12pm Wednesday 21 December 2022 and reopen 9am on Monday 26 December 2022



Craddock Murray Neumann

Level 21, 227 Elizabeth Street Sydney NSW 2000
DX 1411 Sydney
1300 123 529
craddock.com.au

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From: Woodhouse, Daniel < >

Sent: Thursday, 8 December 2022 1:01 PM

To: Rashpal Hartmann <Rashpal.Hartmann@asic.gov.au>

Cc: David Ryan <David.Ryan@asic.gov.au>

Subject: RE: ASIC response to letter of 24 October 2022 [SEC=OFFICIAL]

Importance: High

EXTERNAL EMAIL: Do not click any links or open any attachments unless you trust the sender and know the content is safe.

Dear Mr Hartmann

I refer to:

- my letter of 24 October 2022 to Mr Longo, in his capacity as the Chair of the Australian Securities and Investments Commission (“ASIC”) (attached - excluding annexures) (“My Letter”); and
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If you would like to discuss, please feel free to contact me on 0425 827 873

Kind regards

Daniel Woodhouse

Senior Managing Director, Corporate Finance & Restructuring

FTI Consulting

+61 8 9321 8533 T | + 61 425 827 873 M

daniel.woodhouse@fticonsulting.com

Central Park

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152-158 St Georges Terrace

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From: David Ryan <David.Ryan@asic.gov.au>

Sent: Thursday, 3 November 2022 11:25 AM

To: Woodhouse, Daniel <daniel.woodhouse@fticonsulting.com>

Subject: [EXTERNAL] ASIC response to letter of 24 October 2022 [SEC=OFFICIAL]

Dear Mr Woodhouse,

Please find *attached* a response from Ms Rashpal Hartmann, Commission Counsel, to your letter of 24 October 2022.

Regards,

David

David Ryan

Executive Assistant to Rashpal Hartmann - Commission Counsel | Chief Legal Office
Executive Assistant to Conrad Gray - Special Counsel, Civil Litigation | Chief Legal Office

Australian Securities and Investments Commission

Level 5, 100 Market Street, Sydney, 2000

Tel: +61 2 9911 2554 | Mob: +61 0435 700 080

David.Ryan@asic.gov.au



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Our Ref M2201508
 Your Ref 470923.00020130D

16 December 2022

ing ood Mallesons
 Level 30
 V.1 Building
 250 St Georges Terrace
 PERTH A 6000
Attention Mr Sam Dundas

BY MAIL

Dear Sirs

**FOR X CAPITAL TRADING PTY LTD (IN LIQUIDATION)
 ACN 119 086 270 (Company)**

Our client Australian Securities and Investments Commission (ASIC)

1. e act for ASIC and note that you act for Messrs Nathan Stubing and Daniel oodhouse as oint and several li^{quidators} of the Company **Liquidators** e refer to your clients' letter to ASIC dated 24 October 2022 **October Letter** and to our email to your clients dated 8 December 2022.

2. In the October Letter the Li^{quidators} see to recover amounts totalling 21,180,000 **Payments** as unfair preferences and voidable transactions within the meaning of ss 588FA and 588F in Part 5.7B of the *Corporations Act 2001* **Cth Act**

3. ASIC considers that it re^{quires} further information from the Li^{quidators} before it is able to respond to the Liquidators' views that the Payments are recoverable as voidable transactions. Furthermore ASIC is sub^{ject} to the Legal Services Directions 2017 issued by the Common^{wealth} Attorney-General which sets out certain re^{quirements} that must be met by Common^{wealth} agencies in relation to amongst other things the handling monetary claims as set out in Appendi^{um} C to those directions.

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4. For the reasons set out below ASIC invites the Liquidators to
- a. explain the basis on which they contend section 588FA of the Act applies in so far as the Payments were made in respect of the pecuniary penalties imposed by Middleton J on 29 April 2022 **Pecuniary Penalties**
 - b. assuming s588FA applies to the Payments provide evidence to support the Liquidators' contentions that:
 - i. the Company and ASIC were party to any '*transaction*' in respect of the Payments, or that any of the Payments were '*received from*' the Company within the meaning of s588FA of the Act and
 - ii. any of the Payments constitute '*insolvent transactions*' within the meaning of s588FC of the Act.
5. Further if the Liquidators are able to establish that the Payments are voidable transactions within the meaning of section 588F of the Act our client is considers that it may be able to establish a defence in respect of the Payments pursuant to s588FG of the Act.
6. We set out below the matters we consider to be relevant to your claim and in respect of which we invite your clients' response.

Pecuniary Penalties

7. In our view, there is doubt as to whether the Pecuniary Penalties are an '*unsecured debt*' within the meaning of s588FA or that ASIC is a creditor within the meaning of that section.
8. Pursuant to section 553B of the Act fines and penalties imposed by a court in respect of an offence against the law are not admissible to proof against an insolvent company. We have been unable to identify any authority where the Court has considered and permitted a liquidator to recover as voidable transactions under Part 5.7B of the Act amounts paid by a company in respect of fines and penalties imposed by a court.
9. We could be obliged if the Liquidators could outline the basis upon which the Liquidators contend that section 588FA of the Act applies to the Payments in so far as they were received in respect of the Pecuniary Penalties in circumstances where



- a the Pecuniary Penalties imposed by the Federal Court against the Company fall within s583B of the Act (see for example *Australian Securities and Investments Commission v AGM Markets Pty Ltd (in liquidation) (No 4)* [2020] FCA 1499 at [34] [Beach J])
- b section 588FA of the Act is a provision concerned with the *pari passu* distribution of a company's assets amongst creditors. The comparison which the section requires be undertaken is amongst creditors who are entitled to prove in a company's liquidation and
- c in particular it has been held that where a payment is made to a person whose debt is not in competition with ordinary unsecured creditors the payment will not be preferential (*Federal Commissioner of Taxation v Jaques* [1956] 95 CLR 223).

Party to a transaction

10. To the extent that s588FA applies to the Payments it is necessary for the Liquidators to demonstrate that the Payments were made from the Company's own assets resulting in a diminution of assets to the detriment of unsecured creditors (*Cant v Mad Brothers Earthmoving Pty Ltd* [2020] VSCA 198 at [120])
11. As we understand it from the October Letter the Liquidators contend that
 - a the Payments were made from a solicitor's trust account on behalf of the Company; and
 - b the Payments were sourced from an advance made by Invesus Group Limited (**Invesus**) pursuant to a convertible loan agreement entered into on 28 April 2021.
12. ASIC has not been provided with any documentary evidence which substantiates the Company as having made the Payments from its own assets.
13. In this respect kindly provide
 - a a copy of the convertible loan agreement
 - b any trust ledger indicating that the Company was the solicitor's client on whose behalf the solicitor held funds and



- ☐ any direction given by the Company to its solicitors requiring Payment to be made to ASIC.

Insolvent Transaction

14. In seeking to recover the Payments as unfair preferences and voidable transactions the Liquidators must also demonstrate that each of the Payments are also insolvent transactions within the meaning of section 588FC see s588F² of the Act.
15. The test to determine insolvency was succinctly expressed by Barwick CJ in *Sandell v Porter* [1966] 115 CLR 666 at 670 in which his Honour said that "*Insolvency is expressed in s 95 as an inability to pay debts as they fall due out of the debtor's own money. But the debtor's own moneys are not limited to his cash resources immediately available.*"¹
16. A 'due and payable' debt within the meaning of s95A of the Act is one which is "*immediately payable and presently recoverable or enforceable by action*": *In the matter of ReNu Waste Pty Limited* [2020] NS SC 108 at [23] Rees J.
17. Whether the Company was able to pay its debts as and when they fall due and payable is a question of fact to be determined objectively and without hindsight in all the circumstances including the nature of its assets and business and the Court will have regard to commercial realities in that regard *Southern Cross Interiors Pty Ltd (in liq) v Deputy Commissioner of Taxation* [2001] NS SC 621 *Lewis v Doran* [2005] NS CA 243 [2005] 54 ACSR 410 at [103] *Bentley Smythe Pty Ltd v Anton Fabrications (NSW) Pty Ltd* [2011] NS SC 186 [2011] 248 FLR 384 at [48] [49] *Hancock v Conergy Pty Ltd (in liq)* [2015] FCA 738 at [60] – [61].
18. As we understand it in seeking to demonstrate that the Company was insolvent the Liquidators rely on the claims of 8,600 former customers said to amount to \$69.5 million **Customer Claims**. As set out in the judgment of Barnes-Smith J in *Re Woodhouse*, the Customer Claims relate to claims for compensation arising from unconscionable conduct engaged in by the Company in contravention of s991A of the Act and s12CB of the ASIC Act.

¹ Although the definition in s 95A has changed since *Sandell v Porter*, the Chief Justice's interpretation of the (now repealed) provision remains an authoritative statement of what a Court will consider to be the relevant factors involved in proving that the Company was insolvent during the relation-back period.



19. The Liquidators have not provided any evidence that the Customer Claims had matured into debts at the time of the Payments or indeed that any legal action had been commenced against the Company by the former customers in respect of the Customer Claims.
20. We invite the Liquidators to outline the basis on which they contend that the Customer Claims deprived the Company of solvency at the time of the Payments and any additional evidence on which the Liquidators rely to establish insolvency during the relevant period.
21. In this respect we observe that
- a. at the time of the Payments the Customer Claims were unliquidated claims. That the Customer Claims were not debts at the time of the Payments appears to have been acknowledged by Mr Goodhouse in his Affidavit affirmed 9 May 2022 in the Federal Court of Australia Proceedings [2022] AD 83 [2022] **May Affidavit** where he deposed at [105]: *“...in order for the claims of Former Customers to become debts payable by the Company to Former Customers, and therefore becoming capable of being subject of a demand of Invesus under the Letter of Comfort, these claims will need to be adjudicated by the Liquidators”* and
 - b. if the Customer Claims had not matured into debts it unlikely that such claims constitute debts “due and payable” within the meaning of s95A of the Act. Thus in *Box Valley Pty Ltd v Kidd* [2006] NSWCA 26 at [15] Bryson JA (with whom Basten and Gell JJA agreed) observed *“... an obligation ... which when it comes into existence will be an obligation for unliquidated damages, is not a debt”*.
22. Further the solvency of the Company is to be assessed by reference to the following matters
- a. the Company had the benefit of a Letter of Comfort dated 17 March 2019 in which Invesus
 - i. acknowledged that the Company may be required to make consumer redress in relation to the claims made by ASIC in Federal Court of Australia Proceedings VID218/2019
 - ii. irrevocably undertook to provide to the Company or procure from external sources such financial support to meet any debts including judgment debts incurred by the Company in respect of its customers



- iii. continued its undertaking until 30 June 2022 and
 - b. on 26 June 2021, the Company's director having made a declaration that realisable assets of the Company exceeded its total liabilities and thereafter the liquidation of the Company commencing as a members' voluntary winding up and
 - c. an application by the Liquidators for the winding up of the Company in insolvency was not made until 12 November 2021.
23. There does not appear to be any issue that Invesus had at all times the capacity to meet its obligations under the Letter of Comfort. Thus in the May Affidavit Mr Woodhouse deposed at [108] that Invesus had globally
- a. BITDA of £23m, £32.4m and £34m in 2014, 2015 and 2016 respectively
 - b. forecast BITDA of £40.6m and £49.1m in 2017 and 2018 respectively and
 - c. forecast revenue of £162.2m in 2018.
24. Mr Woodhouse also deposed in his May Affidavit at [111] "*As such, I believe Invesus had access to sufficient assets available to it in Gibraltar to allow it to meet a significant request made under the Letter of Comfort.*"

Claim against Invesus

25. As you will also appreciate pursuant to s588FA it is also necessary for the Liquidators to establish that ASIC has received more than it could receive if the Payments were set aside and ASIC were to prove for the debt in the winding up of the Company.
26. As noted above, the Liquidators' view in the May Affidavit was that Invesus could meet a request under the Letter of Comfort. However in the October Letter the Liquidators state that Invesus has "*denied liability under the Letter of Comfort*" and "*even in a best-case scenario, the Liquidators will not recover sufficient funds under the Letter of Comfort to repay all creditors in full.*"
27. So that our client can consider whether the Payments had the requisite preferential effect we could be obliged if your clients could



- a) indicate the status of the Company's claim against Invesus, and in particular, whether proceedings under the Letter of Comfort have or are anticipated to be commenced;
- b) provide a copy of the correspondence relating to Invesus in which it has denied liability under the Letter of Comfort in respect of the Customer Claims; and
- c) outline why the Liquidators do not consider that if a recovery is made under the Letter of Comfort creditors will not be paid in full together with any available dividend projections.

Good faith defence

28. Should the Liquidators later be able to prove that the Company was insolvent and that the Payments constitute an unfair preference within the meaning of s 588FA of the Act ASIC does not agree that the matters set out in the October Letter demonstrate that ASIC would be unable to rely on a defence pursuant to section 588FG(2) of the Act.
29. ASIC considers that there were no grounds for suspecting that the Company was insolvent at the time the Payments were made, and that a reasonable person in ASIC's position would not have suspected that the Company was insolvent at the relevant times. In satisfaction of the requirement under section 588FG(2)(a) of the Act there are no facts which suggest that ASIC accepted the Payments other than in good faith that is to say honestly and in the ordinary course of ASIC's business.
30. Further in satisfaction of section 588FG(2)(c) of the Act the discharge of the amounts ordered to be paid and owed by the Company to the Commonwealth is sufficient to conclude that ASIC provided valuable consideration for the Payments.
31. In *Queensland Bacon v Rees* (1966) 115 CLR 266 Kitto J considered the meaning of '*had no reasonable grounds for suspecting*' insolvency and held at 303:

A suspicion that something exists is more than a mere idle wondering whether it exists or not it is a positive feeling of actual apprehension or mistrust amounting to a slight opinion but without sufficient evidence as Chamber's Dictionary expresses it. Consequently a reason to suspect that a fact exists is more than a reason to consider or look into the possibility of its existence. The notice which reason to suspect expresses in subs 4 is thin of something which in all the circumstances would create in the mind of a reasonable person in the position of the payee an actual apprehension or fear that the situation of the payer is in actual fact that which the subsection describes - a mistrust of the payer's ability



to pay his debts as they become due and of the effect which acceptance of the payment could have as between the payee and the other creditors...

32. At the time of the Payments
- a ASIC was aware that Invesus had issued the Letter of Comfort to the Company
 - b the Customer Claims had not matured into debts and
 - c there does not appear to have been any debts which remained overdue and outstanding and even if there were ASIC was not made aware of those debts.
33. Accordingly there was no reason why ASIC or a reasonable person in its circumstances ought have suspected that the Company was insolvent at the time of the Payments.

Way forward

34. Our client is cognisant of the costs and risks to all parties associated with all litigation of this type. Accordingly, it is our client's desire to resolve claims without litigation wherever possible. We invite the Liquidators to respond to the matters set out above. We assume no action prejudicial to ASIC will be taken including the commencement proceedings prior to your substantive response.
35. In the meantime please feel free to write or telephone should you wish to discuss.

Yours faithfully

CRADDOCK MURRAY NEUMANN LAWYERS

per

Michael Mettle
Director

Tab 13

From: Murphy, Shane <Shane.Murphy@fticonsulting.com>
Sent: Wednesday, 22 February 2023 2:08 PM
To: AssistantTreasurer@TREASURY.GOV.AU
Subject: Request for meeting to discuss \$20M pecuniary penalty in favour of ASIC and subsequent non compensation of victims
Attachments: Forex CT Public Policy Briefing Note.pdf

Dear Sir,

We are the joint and several liquidators of Forex Capital Trading Pty Ltd (In Liquidation) ("The Company" or "Forex"). Forex was the provider of financial services (foreign exchange trading / contracts for difference) until successful regulatory action by ASIC shut the firm down.

Further details on the regulatory action can be found here: <https://www.abc.net.au/news/2021-03-17/asic-bans-forex-capital-trading-director-shlomo-yoshai/13256166>
<https://www.afca.org.au/news/current-matters/important-information-for-consumers-about-forex-capital-trading-pty-ltd>

As the liquidators of Forex, we are charged with the duty to maximise recovery of funds for creditors. Due to the substantial misconduct by Forex, former customers of the Company are also creditors of the firm due to the very likely legal claims they have against Forex (and in fact are largely the only creditors).

The essential public policy question raised is that we are in the position where the Commonwealth Government, via ASIC regulatory activity, has collected over \$20 million of fines and penalties against Forex into consolidated revenue, but the actual victims of the extensive misconduct have received zero compensation. Their financial losses are estimated to be at least \$77.5 million.

We are seeking to brief your office on this matter and begin a discussion on how this policy disconnect between the regulatory outcome and fine, versus the position of the victims can be bridged.

I've attached a background briefing note, and look forward to hopefully discussing further with your office

Regards

Shane Murphy
Managing Director, Strategic Communications

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Background Briefing Note – Forex Capital Trading Pty Ltd (In Liquidation)

Senior employees of FTI Consulting are the liquidators of Forex Capital Trading, which up until June 2020 was an ASIC licensed provider of financial services. It has become evident that the company engaged in extensive misconduct in the provision of these services and has been described as a “boiler room” operation.

ASIC launched regulatory action against the Company in July 2020, the Federal Court of Australia imposed a \$20m pecuniary penalty on the Company in April 2021. Extensive evidence of this misconduct has been set out in the court judgement, FTI Consulting’s own investigation, and subsequent media reporting.

The essential public policy question raised is that we are in the position where the Commonwealth Government, via ASIC regulatory activity, has collected over \$20 million of fines and penalties against Forex into consolidated revenue, but the actual victims of the extensive misconduct have received ZERO compensation. Their financial losses are estimated to be at least \$77.5 million.

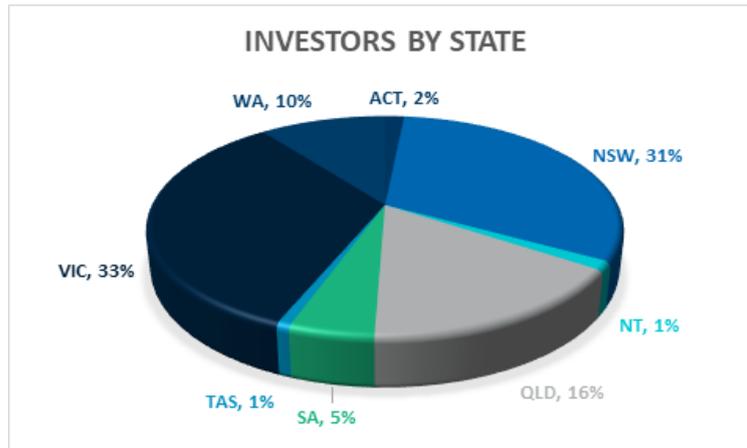
Since our appointment, we have received unsolicited enquiries from former customers / creditors regarding the payment of funds to ASIC and the likely nil dividend creditors are likely to receive. In summary, the position of former customers is that they do not understand how ASIC is retaining the ASIC Payments in circumstances where former customers have suffered significant losses that occurred, in former customers’ words, “on ASIC’s watch” are expected to receive nothing.

We are seeking a briefing opportunity with your office to discuss this issue and to look for a solution that benefits the former customers / creditors in this instance – i.e., the victims of the misconduct by Forex.

Please note that as liquidators, there is a statutory obligation to pursue all avenues of recovery for former customers / creditors. This has included a careful review of the ASIC fines, and the potential for them to be recoverable as an unfair preference payment.

KEY FACTS

- Daniel Woodhouse, Nathan Stubing and Ross Blakely, of FTI Consulting (the joint and several liquidators of Forex Capital Trading) released their Investigation Report on 5 May 2022, detailing significant levels of misleading or deceptive conduct and unconscionable conduct by Forex Capital Trading (Forex CT).
- The Investigation Report found that Forex CT targeted unsophisticated investors with aggressive sales tactics, and its marketing campaigns targeting Australian clients were deliberately undertaken from countries with little, or no regulatory oversight, which allowed Forex CT to say what it wanted without recourse.
- FTI has identified at least 11,174 former customers of Forex CT in Australia, with an estimated breakdown of their state of residence below:



- Only about 10.5% of customers identified made any profit using Forex CT.
- In April 2021, the Federal Court of Australia imposed a \$20m pecuniary penalty on the Company following legal action taken by ASIC. However Forex CT's customers received \$0 from this action and FTI estimates the losses incurred by customers are at least \$77.5m (but likely more).
- FTI's full Investigation Report can be viewed here: <https://www.fticonsulting.com/creditors/forex-capital-trading-pty-ltd>

ADDITIONAL BACKGROUND/CONTEXT

- Forex CT was a provider of foreign exchange trading and broader 'contract for differences' trading services.
- Forex CT had an Australian Financial Services Licence until June 2020 and was based in Melbourne, Victoria.
- ASIC could have sought penalties of up to \$70m against Forex CT, but due to the "cooperation" of Forex CT and its sole director Shlomo Yoshai, the Court awarded a pecuniary penalty of \$20m and legal costs of \$1.18m against Forex CT.
- In March 2021 Mr Yoshai was fined \$400,000 and disqualified from engaging in financial services temporarily (for ten years).
- More contextual information can be viewed here:
<https://www.fticonsulting.com/creditors/forex-capital-trading-pty-ltd>

AND

<https://www.afca.org.au/news/current-matters/important-information-for-consumers-about-forex-capital-trading-pty-ltd>

EXAMPLE OF CONDUCT BY FOREX CT REPRESENTATIVES

Call between Forex CT Representative and Former Customer

- **Representative:** "Did you hear that in the background, the gong and the clap, someone hit 100,000 profit already today. So when a client makes 10,000, you'll hear that gong sound at the background."
[The gong was rung when a Representative had a Former Customer deposit \$10k or more into their account, not when a Former Customer profited]

FOREX CT REPRESENTATIVES' INTERNAL MESSAGES

The following are a selection of messages by Forex CT Representatives from the company's internal customer relationship management (CRM) database between 2017 and 2019, which were uncovered during FTI Consulting's investigation.

- "homeless bankrupt - absolutely nothing can be done remove."
- "Checked in. Rambled on about some health stuff. Not getting in until new financial year."
- "had a close friend die and is grieving she says. wanted to WD, saved it. but she wont be trading for a few weeks."
- "REMOVE FROM SYSTEM, LOST TOO MUCH, BANKRUPT."
- "Very upset with [Representative] - lost his house over not being able to access his capital."
- "Called back and I hit him up for anohter (sic) 500 to get a DC. Not working atm and all his cards are maxed out."
- "Touched base with client regarding portfolio. Cancelled her 34k withdrawal but she would need ot (sic) take something out due to her father passing away and needs to pay for it."

TO Khaled Metlej | Director
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5 APRIL 2023

Dear Colleagues

Re: Forex Capital Trading Pty Ltd (In Liquidation) (ACN 119 086 270) (Company)

1 We refer to your letter dated 16 December 2022 (**December Letter**) setting out your client's position in respect of its entitlement to retain payments made to it totalling \$21,180,000 shortly before the Company was placed into a members' voluntary winding up (**Payments**).

Litigation funding

2 Since receiving the December Letter, our clients have been engaged in discussions with several litigation funders seeking the funding necessary to allow us to respond to the substance of the December Letter. This funding also extends to our clients prosecuting the claims set out in their letter of 24 October 2022. This has been a competitive process and it is now in its final stages.

3 Our clients anticipate shortly calling a meeting of the Committee of Inspection (**COI**) to authorise our clients on behalf of the Company to enter into a litigation funding agreement (**LFA**). The terms of the proposed agreement are strictly confidential.

4 Entering into the LFA will mean our clients will be required to pay a portion of any proceeds returned to the Company by your clients, to the chosen litigation funder. While this will reduce the total amount of any funds which will be available to creditors (who presently are estimated to not receive any dividend), our clients have been left with no choice but to seek approval to enter into the LFA to allow them to discharge their statutory duties to recover unfair preferences for the benefit of the over 8,000 creditors of the Company.

5 Our clients have sought to minimise the premium payable by conducting a competitive process. Nevertheless, a premium will still have to be paid. Our clients are of the view your client could avoid further unnecessary reductions in the amounts payable to the creditors simply by returning the Payments immediately.

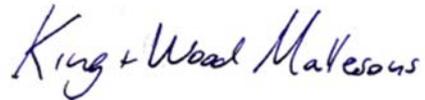
Next steps

6 Prior to the COI ratifying the LFA and incurring financial consequences for all creditors, would you please confirm in writing that your client intends to maintain its position (as set out in the December Letter) regarding its alleged entitlement to the Payments. Any response received will be put before the COI to explain why funding is the only remaining option to recover the Payments.

7 We anticipate responding substantively to your December Letter, once the LFA is signed.

8 We look forward to hearing from you by no later than 13 April 2023.

Yours sincerely



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Our Ref: CM2201508
 Your Ref: 470923.00020130

13 April 2023

King Food Mallesons
 Level 30
 V.1 Building
 250 St Georges Terrace
 PERTH WA 6000
Attention: Mr Sam Dundas

BY MAIL

Dear Sirs

FOX CAPITAL TRADING PTY LTD (IN LIQUIDATION)
ACN 119 086 270 (Company)
Our client: Australian Securities and Investments Commission (ASIC)

1. We refer to:
 - a) our letter to King Food Mallesons dated 16 December 2022 **our Letter** and
 - b) your letter dated 5 April 2023 **your Letter**
2. We adopt the terms defined in our Letter.
3. Contrary to the suggestion in your Letter ASIC does not consider that the pursuit of litigation funding is the only viable or preferable course available to the Liquidators in respect of their claims.
4. In our Letter we set out the further information that ASIC required from the Liquidators to permit it to respond to the Liquidators' views that the Payments are recoverable as voidable transactions.
5. In particular we draw your attention to the requirements of the *Legal Services Direction 2017* as to the requirements that must be met by Commonwealth agencies in considering and responding to the handling of monetary claims as set out in Appendix C to the directions.

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6. To permit consideration of the Liquidators' claims, we invited the Liquidators to
- a) outline the basis on which the Liquidators contended that section 588FA of the Act applied to the Payments in view of the Pecuniary Penalties not being provable in the winding up of the Company
 - b) provide ASIC with documentary evidence which demonstrated that the Payments were made from the Company's own assets in view of ASIC's understanding of arrangements made by Invesus for payments to be made
 - c) address how it is contended that the Company was insolvent at the time of the Payments in particular in view of Customer Claims not yet having matured into debts and
 - d) provide an update on the progress of claims against Invesus.
7. We also
- a) drew attention to the availability of the statutory defence available to ASIC pursuant to section 588FG of the Act in the event that the Liquidators were later able to demonstrate that the Liquidators could satisfy the requirements of section 588FA in respect of the Payments and
 - b) expressed our client's desire to resolve claims without litigation where possible.
8. We infer from the Liquidators' decision to convene a meeting of the Committee of Inspection to consider a funding arrangement that the Liquidators have satisfied themselves of the *prima facie* viability of the claims including having obtained legal advice as to the prospects of succeeding in their claims considering the matters raised in our Letter.
9. Notwithstanding the above your Letter is the first response to our Letter and does not meaningfully engage with or respond to any of the matters raised in our Letter. No basis is advanced by the Liquidators as to why their claims have reasonable prospects of succeeding nor is any further evidence in support of the claims proffered.
10. Considerable costs and expenses could potentially be avoided in the Liquidators substantively engaging with the matters raised in our Letter before costs are incurred



associated with a litigation funding arrangement or the potential costs of litigation between our respective clients.

11. Further, it would be consistent with the Liquidators' duties to creditors to explore the possibility of alternative dispute resolution processes in respect of the claims which could meaningfully occur after a substantive response to our Letter and before the costs associated with litigation funding are incurred.
12. We again invite the Liquidators to substantively respond to the matters set out in our Letter before the costs associated with a litigation funder are incurred.
13. We otherwise confirm that we are content for our correspondence to be put before the Committee of Inspection in their consideration of any proposed funding arrangements.
14. Please feel free to write or telephone should you wish to discuss.

Yours faithfully

CRADDOCK MURRAY NEUMANN LAWYERS

per

A handwritten signature in blue ink, appearing to read 'Michael Mettle'.

Michael Mettle
Director

TO Khaled Metlej | Director
Craddock Murray Neumann Lawyers
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kmetlej@craddock.com.au

CONFIDENTIAL

14 APRIL 2023

Dear Colleagues

Re: Forex Capital Trading Pty Ltd (In Liquidation) (ACN 119 086 270) (Company)

1 We refer to your letter dated 13 April 2023 (**13 April Letter**), and the previous correspondence between the parties. Unless otherwise defined, capitalised terms take the meaning given to them in the previous correspondence.

Funding of the Liquidation

- 2 Although the Liquidators have obtained funding to prosecute the Company's claim against Invesus, they do not have sufficient available assets to continue to incur expenses in relation to all aspects of the winding up, including further prosecuting the Company's rights to recover the Payments from ASIC.
- 3 As you would be aware, pursuant to s 545 of the Corporations Act, a liquidator is not liable to incur any expense in relation to the winding up of a company unless there is sufficient available property of the company. It is in these circumstances, namely the absence of sufficient available property, the Liquidators have sought litigation funding to assist them to further prosecute their claims against ASIC in relation to the Payments.
- 4 Despite the lack of sufficient available property, both the Liquidators and KWM have continued to diligently prosecute the liquidation, in large part at their own expense.
- 5 The Liquidators have formed a view the Company's claim in relation to the Payments has sufficient merit to have justified them incurring the expenses associated with investigating the claim and pursuing litigation funding to allow them to further prosecute the claim. The decision to seek external funding is not one that has been made lightly, however, as stated in our letter of 5 April 2023, our clients have been left with no choice.
- 6 For these reasons, contrary to the assertion in paragraph 3 of the 3 April Letter, litigation funding is the only viable means by which the Liquidators can properly prosecute the Company's claims against ASIC for the benefit of the Company and its creditors.

Alternative dispute resolution

- 7 Contrary to the assertions made in paragraph 11 of your 13 April Letter, in addition to taking the steps outlined in paragraph 2 of our letter of 5 April 2023, our clients have attempted to engage directly with ASIC to resolve this issue through alternative dispute resolution.
- 8 The Liquidators have also reached out to the Assistant Treasurer, who is the minister responsible for ASIC. These steps are entirely consistent with the Liquidators' duties.
- 9 Despite these efforts, and notwithstanding ASIC's obligations under the *Legal Services Direction 2017*, ASIC has not yet substantively engaged with the Liquidators' attempts to engage with ASIC to resolve this matter. As such, our clients have been left with no choice but to pursue litigation funding to allow them to further prosecute the claim against ASIC, including potentially through commencing formal proceedings.

Response to 13 April Letter

- 10 Notwithstanding the above, and the lack of sufficient available property to incur such expenses, in the interests of facilitating a non-litigious outcome, we are instructed to respond substantively to the points raised in paragraphs 6 and 7 of the 13 April Letter. We are doing so on the basis this information will allow ASIC one last opportunity to engage meaningfully with the Liquidators regarding the resolution of this claim before litigation is commenced, consistent with their obligations under the *Legal Services Direction 2017*.

Additional information requested by ASIC

- 11 As to the questions in paragraph 6 of the 13 April Letter, our responses are as follows:
- (a) In our view, s 588FA plainly applies to the Payment of the Pecuniary Penalty. It is because s 553B applies to prevent pecuniary penalties from being provable in a winding up that s 588FA must apply to the payment of the Pecuniary Penalty. Section 588FA invites a comparison between the amount received by a creditor, and the amount they would have received *had* the debt been proven in the winding up. Had ASIC attempted to prove the Pecuniary Penalty in the winding up, it would have been rejected by the Liquidators in accordance with s 553B. In this situation ASIC would have received a payment of \$0. The relevant comparison is therefore between the amount ASIC received as a creditor (which they are in respect of the Pecuniary Penalty by reason of s 1317GAA of the Corporations Act 2001) as a result of the payment (i.e. \$20 million), and the amount they would have received had they proved for the debt in the winding up (i.e. \$0). On this analysis, in respect of the Pecuniary Penalty, ASIC has received a preference of \$20m. Therefore, it is clear the payment of the Pecuniary Penalty is an unfair preference received by ASIC for the purposes of s 588FA. If this position is not correct, and s 588FA does not apply to the Pecuniary Penalty, the result would be absurd. The Commonwealth would be allowed to retain the payment of \$20m from an insolvent company in satisfaction of a penalty when creditors have not been made whole. This is the mischief intended to be remedied by s 553B, as set out in the Explanatory Memorandum regarding the adoption of s 553B in the previous *Corporations Law*:
- In the case of a corporate insolvency, it is difficult to justify 'penalising' creditors for a wrong committed by the company. Proposed section 553B provides that penalties or fines imposed by a court are not admissible to proof against an insolvent company.*
- (b) The funds were paid by Invesus into the Company's (then) solicitors' trust account in the name of the Company. From here, the funds, held in the name of the Company and for and on behalf of the Company, were then distributed by the Company's (then) solicitors to ASIC,

thereby directly diminishing the assets of the Company. We therefore consider the Payments were made from the assets of the Company.

- (c) The Company was insolvent at the time of the Payments. The claims of former customers ought to have been considered in any assessment of the solvency of the Company. Due to the nature and extent of the admissions made by the Company, the claims of former customers were ‘reasonably temporally proximate’. This position is consistent with the observations by O’Connor J in the High Court of Australia decision in *Bank of Australasia v Hall* (1907) 4 CLR 1514 (Hall), at 1537-1538 (although in the context of a bankruptcy):

“...it is difficult to see how [the debtor’s] position could in any business sense be ascertained without having regard to liabilities pending and provable as debts in the event of bankruptcy, but not yet fixed as liquidated amounts, as well as the debts then actually due.

...That was exactly the case with the Kingswear transaction in relation to the debtor’s affairs, and I find it difficult to understand how any examination intended to ascertain the real state of his business could leave that transaction entirely out of consideration. I have therefore come to the conclusion that, in order to give any real effect to the object of the enactment, it is necessary to interpret the word “debts” in the wider sense which would include the Kingswear transaction.”

Notwithstanding pending proceedings which would have given rise to claims in damages which were to be brought imminently, several security documents were entered into, which had the ultimate effect of reducing the amount payable to unsecured creditors. The debtor was ultimately found liable for a significant amount in the proceedings. In assessing whether the debtor was insolvent at the time the security documents were executed, the High Court ultimately found the pending claims against the debtor could be included in assessing the debtor’s solvency at the time the relevant transaction was entered into. Further, in 2017, the New Zealand Supreme Court confirmed this position in its decision in *David Browne Contractors Ltd v Petterson* [2018] 1 NZLR 112; [2017] NZSC 116 (**David Browne**). In this case, the Court was considering materially identical provisions as those found in Part 5.7B of the Act. The New Zealand Supreme Court unanimously held pending contractual claims against the company (and which the company was aware of) were to be taken into account in assessing the solvency of the company “*if a reasonable and prudent business person would be satisfied that there was sufficient certainty that a contingent debt would become legally due within the relevant period.*” The pending contractual claims met this test, and therefore ought to have been included in the assessment of the solvency of the company. One of the arguments raised by the company to avoid having the amount of the potential claim included in the solvency assessment was to argue the claims were disputed and not a sum certain. This argument was rejected by the Court, which held there were “*no proper reasons for the directors to dispute the debt*”, and that “*no reasonable prudent businessperson could have considered there to be any defences available.*” Therefore, in the present situation, the claims of former customers must be considered in the solvency analysis from at least the time at which the Company agreed to the contraventions of s 12CB of the *Australian Securities and Investments Commission Act 2001* (Cth) (**ASIC Act**). This admission gives rise to prima facie claims against the Company for loss or damage which are recoverable by the former customers under s 13GF of the ASIC Act.

- (d) As to the Invesus claim, we can confirm Invesus have continued to deny any liability to meet the claims of former customers. They have now filed a response to the Liquidators’

commercial list statement. The matter is next listed before the Hon Justice Ball in the New South Wales Supreme Court at 9:30 am on 28 April 2023.

- 12 In respect of the alleged ‘good faith defence’ being available to ASIC under s 588FG, we note the assessment is made by reference to the reasonable person in the same circumstances as ASIC. Therefore, we consider several factors would tell against ASIC being able to argue a ‘good faith’ defence, including:
- (a) ASIC would have been aware there was no prospect of the Company generating income in the absence of its Australian Financial Services Licence. Indeed, Middleton J referred to this in his judgment when he decided on the quantum of the pecuniary penalty to be imposed. Due to the Company having lost its AFSL, the quantum of the pecuniary penalty imposed by Middleton J was arrived at ‘*primarily by having regard to the principle of general deterrence, rather than specific deterrence*’: *ASIC v Forex Capital Trading Pty Ltd* [2021] FCA 570 at [110].
 - (b) In order to form a view as to what the appropriate quantum of the penalty would be, ASIC must have had knowledge of the position of former customers, as well as the precarious financial position of the Company. The Company’s capacity to pay any penalty imposed (if at all) is a relevant consideration in ensuring a penalty has an appropriate ‘sting’: see [107].
 - (c) No orders for compensation to either the eight former customers discussed in the decision, or the former customers more generally, were made, or appear to have been contemplated by the parties. Pursuant to s 1317QF of the Corporations Act and s 12GCA of the ASIC Act, when imposing a pecuniary penalty, a court must have regard to the effect the making of the order would have on the ability of the company to pay compensation to persons who may be entitled to compensation. Therefore, as no orders for compensation were made, or sought by ASIC (which, given its status as a model litigant, it ought to have proposed in accordance with ss 1317QF of the Corporations Act and 12GCA of the ASIC Act), it can reasonably be inferred ASIC must have concluded the Company had no capacity to meet any orders for compensation, and the Pecuniary Penalty would serve solely as a general deterrent. If ASIC was aware the Company had an ability to pay compensation, or reasonably believed the Company had the capacity to do so, then ASIC and the Court would have been obliged to have given compensation to former customers priority to any penalty they agreed to being imposed on the Company. No such compensation orders were sought.
 - (d) We are not aware whether ASIC was made aware of the existence of the Letter of Comfort prior to the orders being made. However, this does not affect the issue of ASIC’s knowledge of the Company’s insolvency:
 - (i) If ASIC *were* aware of the Letter of Comfort (which is suggested at [32] of the December Letter), ASIC must not have considered it enforceable by the Company against Invesus in order to secure compensation for the former customers of the Company as ASIC did not seek any such compensation orders (otherwise they failed in their obligations to preference the interests of parties who may be entitled to compensation).
 - (ii) If ASIC *were not* aware of the Letter of Comfort, then, again, ASIC must have formed the view the Company did not have the ability to meet any compensation orders (as they did not seek any).

In either of the above situations, we consider this would defeat any potential good faith argument ASIC may wish to raise in light of the Letter of Comfort.

- (e) The Company had admitted to serious breaches of Australian corporations law, including systemic misconduct. As such, any representations or assurances made by the Company ought to have been treated with suspicion by ASIC, acting reasonably.
- (f) In the event ASIC did receive assurances from the Company (or Invesus) that the former customers would be compensated, this makes it even more difficult for ASIC to justify retaining the funds, in circumstances where the former customers have not been compensated.
- (g) Finally, ASIC bear the burden of showing there were no reasonable grounds to suspect the insolvency of the Company and a reasonable person in their circumstances would have had no such grounds for suspecting. At law, 'suspicion' has been held to mean '*a positive feeling of actual apprehension or mistrust without sufficient evidence*'. In the circumstances, we consider ASIC will not be able to establish they did not have any feelings of mistrust regarding the Company's solvency.

Next steps

- 13 The funding proposal before our clients is only capable of acceptance within a limited timeframe. If the Liquidators are unable to confirm the funding position by close of business (AWST) on Friday 21 April 2023, then there is a risk the funding proposal will be withdrawn.
- 14 Therefore, if ASIC is willing to put a proposal to our clients regarding the Payments before this timeframe, it may be possible to reach a commercial resolution between the parties before the Liquidators need to commit to the funding proposal and before litigation is commenced. If a meaningful proposal cannot be put forward by ASIC by this time, then, for the reasons above, our clients will have no choice but to enter into a litigation funding agreement in order to further prosecute the Company's claims against ASIC for the benefit of the Company and its creditors.
- 15 We look forward to hearing from you before 12 noon (AWST) on 21 April 2023.

Yours sincerely



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Our Ref: KXM:2201508
Your Ref: 470923.0002/013/DW

19 April 2023

King & Wood Mallesons
Level 30
QV1 Building
250 St Georges Terrace
PERTH WA 6000
Attention: Mr Sam Dundas

By email: sam.dundas@au.kwm.com

Dear Sirs,

FOREX CAPITAL TRADING PTY LTD (IN LIQUIDATION)

ACN 119 086 270 (Company)

Our client: Australian Securities and Investments Commission (ASIC)

1. We refer to your letter dated 14 April 2023 (**14 April Letter**). We adopt the terms defined in our previous correspondence.

Requests for Documents

2. ASIC does not accept the contention at [9] of the 14 April Letter that it has not substantively engaged with the Liquidators' attempts to resolve the claim. On 26 December 2022, we sent a letter to your firm in response to the Liquidators' claim. It was only on 14 April 2023 (viz. more than three months later) when the Liquidators responded in any meaningful way to the contents of that letter.
3. Further, on 16 December 2022 and 13 April 2023 we requested that the Liquidators provide documents in support of their claim. The above requests for documents were made in the context where the Liquidators' initial demand dated 24 October 2022 comprised of 6 pages and was unsupported by any documentary evidence. Those requests for documents remain unanswered.
4. We again request that the Liquidators provide a copy of those documents requested in our letters dated 16 December 2022 and 13 April 2023, being a copy of:
 - (a) documents concerning the source of funds used in making the Payments, including:

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Lawyers Pty Ltd**
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Director
Khaled Metlej
kmetlej@craddock.com.au

Contact
Dennis Olthof
dolthof@craddock.com.au



- i. the convertible loan agreement entered into between the Company and Invesus on 28 April 2021;
 - ii. the trust ledger of the law firm who received payment from Invesus used to make the Payments; and
 - iii. any direction given by the Company to its solicitors in respect of the Payments to ASIC;
 - (b) any evidence on which the Liquidators rely to establish that the Payments are insolvent transactions within the meaning of section 588FC of the Act; and
 - (c) documents concerning the claim against Invesus (including those documents requested at [27] of our letter dated 16 December 2022).
5. In the 14 April Letter at [8] you indicate that the Liquidators have contacted the Assistant Treasurer to discuss the claim. Our client is not aware of that correspondence. Kindly provide us with a copy of any correspondence with the Assistant Treasurer.
 6. In the 14 April Letter at [10(d)] you indicate that proceedings have been commenced by the Liquidators against Invesus. Kindly provide us with a copy of the Liquidators' commercial list statement and reply filed in those proceedings.
 7. We apprehend that the above documents are readily available to the Liquidators and accordingly complying with our request should not impose any significant costs burden on the Liquidators.
 8. If there are reasons why the Liquidators are unable or unwilling to comply with ASIC's request for the above documents, we invite you to set out those reasons.

Compensation Order

9. Throughout the 14 April 2023 Letter you contend that ASIC ought to have sought an order for compensation in the Federal Court of Australia proceedings pursuant to ss1317QF of the Act and 12GCA of the ASIC Act.
10. Sections 1317QF of the Act and 12GCA of the ASIC Act were inserted by the *Treasury Laws Amendment (Strengthening Corporate and Financial Sector Penalties) Act 2019 (Amending Act)*. Relevantly, those sections came into force the day after the Amending Act received the Royal Assent, viz. 13 March 2019.
11. Section 1657 of the Act provides that:

Subject to this Part, the amendments made by Schedule 1 to the amending Act apply in relation to the contravention of a civil penalty provision if the conduct constituting the contravention of the provision occurs wholly on or after the commencement day.



12. The proceedings commenced in the Federal Court of Australia sought declarations in respect of conduct which occurred during the period from 1 January 2017 to 1 April 2019. We direct your attention to the Orders made by Middleton J on 29 April 2021 which identifies that the contraventions occurred almost wholly prior to the commencement day. Accordingly, it was not open to the Court to make any orders pursuant to ss1317QF of the Act and 12GCA of the ASIC Act in respect of those contraventions.

Way Forward

13. ASIC remains open to exploring a resolution of the claim with the Liquidators, however it is unable to meaningfully progress those discussions until such time as the above documents are provided. As noted in your letter, ASIC is subject to the *Legal Services Directions 2017* and cannot meaningfully engage in discussions with you to reach a settlement in the matter until you have provided the further documents and information as requested above in order to determine whether the claims made by the liquidator have reasonable prospects of being established.
14. Please feel free to write or telephone should you wish to discuss.

Yours faithfully,

CRADDOCK MURRAY NEUMANN LAWYERS

per:

A handwritten signature in blue ink, appearing to read 'D. Olthof'.

Dennis Olthof
Senior Associate

TO Khaled Metlej | Director
Craddock Murray Neumann Lawyers
Level 21, 227 Elizabeth Street
Sydney NSW 2000
kmetlej@craddock.com.au

21 APRIL 2023

Dear Colleagues

Forex Capital Trading Pty Ltd (In Liquidation) (ACN 119 086 270) (Company)

1 We refer to your letter dated 19 April 2023 (**19 April Letter**), and the previous correspondence between the parties. Unless otherwise defined, capitalised terms take the meaning given to them in the previous correspondence.

Engagement to date

- 2 Regarding paragraph 2 of the 19 April Letter, the Liquidators respectfully disagree with ASIC's contention. The Liquidators had previously engaged various stakeholders within ASIC (including a number of senior representatives) both in writing and through meetings and phone calls, from at least 22 December 2021. Your letter of 16 December 2022 was the first substantive correspondence received from ASIC in relation to this claim, and only after the Liquidators' letter was sent to ASIC Chair, Joseph Longo. The Liquidators therefore reject any suggestion they have not sought to engage with ASIC prior to the letter of 14 April 2023.
- 3 Indeed, the timing of our letter on 14 April 2023 was to allow the Liquidators to engage to resolve this issue without needing to resort to litigation, and in turn, litigation funding.

Requests for documents

- 4 As stated in our letter of 14 April 2023, pursuant to s 545 of the Corporations Act, a liquidator is not liable to incur any expense in relation to the winding up of a company unless there is sufficient available property of the company.
- 5 Despite the lack of sufficient available property, both the Liquidators and KWM have agreed to provide the materials requested by you where they are presently available. There is insufficient available property to allow the Liquidators to seek production of documents from third parties and to produce the documents requested by you.
- 6 Notwithstanding the above, we provide the following documents:
- (a) a copy of the convertible loan agreement between Invesus and the Company dated 28 April 2021;
 - (b) Ashurst's Trust Account ledger;

- (c) the receipts showing the payments being made from the Ashurst Trust Account to ASIC's accounts;
- (d) the Company's Declaration of Solvency dated 26 June 2021, which does not record any allowance for the significant claims of former customers;
- (e) the documents in relation to the Invesus Claim:
 - (i) the Company's demand on Invesus dated 22 June 2022;
 - (ii) the email from Invesus dated 29 June 2022 denying liability under the Letter of Comfort;
 - (iii) the Plaintiff's Summons filed 11 August 2022; and
 - (iv) the Plaintiff's Commercial List Statement filed 11 August 2022; and
- (f) estimated outcome statements which shows significant shortfalls in the returns to creditors even if the Liquidators are wholly successful in their claim against Invesus (and the ASIC Payments are recovered), based on either the value of Former Customer Claims adjudicated to date, or the entire net loss suffered by Former Customers;¹ and
- (g) the briefing paper provided by the Liquidators to the Assistant Treasurer.

7 These documents are provided on the basis they are maintained on a confidential basis, and in accordance with the implied undertaking in *Harman*², as expressed by the High Court of Australia in *Hearne v Street*.³ We are not able to provide you with a copy of the Defendant's Response to the Commercial List Statement filed by Invesus on 31 March 2023 by reason of this undertaking. Should you require access to this document, we invite you to make an application to access this pleading through the NSWSC Registry in accordance with NSWSC Practice Note SC Gen 2.

8 The Liquidators do not presently possess 'any direction given by the Company to its solicitors in respect of the Payments to ASIC', however the Liquidators have previously requested a copy of Ashurst's file on the matter, which they are still awaiting.

9 As to the basis of insolvency, we also refer to the Statement of Agreed Facts and Admissions which was prepared in respect of ASIC's proceedings against the Company in the Federal Court of Australia. At [33], the Company admitted Former Customers had realised net losses of \$77.6m.

Next steps

10 We reiterate the position set out in our 14 April Letter, save that the Liquidators have spoken further with the funder following receipt of your letter and the funder is willing to extend the present funding proposal for acceptance until close of business (AWST) on Friday, 28 April 2023, following which there is a risk it will be withdrawn.

11 Therefore, we again invite ASIC to put a proposal to our clients regarding the Payments before close of business (AWST) on Thursday, 27 April 2023. If a meaningful proposal is put forward by this time, it may be possible to reach a commercial resolution between the parties before the Liquidators need to commit to the funding proposal and before litigation is commenced. If a meaningful proposal cannot be put forward by ASIC by this time, then, for the reasons above, our clients will

¹ The Plaintiff does not intend to file a reply to the Defendant's Response to Commercial List Statement.

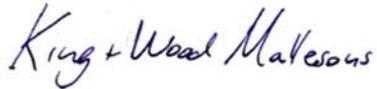
² *Harman v Secretary of State for Home Department* [1983] 1 AC 280.

³ *Hearne v Street* (2008) 235 CLR 125.

have no choice but to enter into a litigation funding agreement to further prosecute the Company's claims against ASIC for the benefit of the Company and its creditors.

12 We look forward to hearing from you before 5pm (AWST) on Thursday, 27 April 2023.

Yours sincerely



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24 October 2023

Mr Joseph Longo
 Australian Securities and Investments Commission
 Level 7
 120 Collins Street
 MELBOURNE VIC 3000

By Email: joseph.longo@asic.gov.au

Dear Mr Longo

Forex Capital Trading Pty Ltd (In Liquidation) (ACN 119 086 270) (Company) | Request for repayment of void dispositions

- 1 We are the joint and several liquidators of the Company (**Liquidators**).
- 2 The purpose of this letter is to advise the Australian Securities and Investments Commission (**ASIC**) that it has received amounts totalling \$1,531,143 after the Liquidators' appointment. These payments are void dispositions within section 468 of the *Corporations Act 2001* (Cth) (**Corporations Act**)¹ and, accordingly, must be repaid to the Company.
Background and previous correspondence with ASIC and CMN
- 3 On 24 October 2022, we wrote to you in relation to various payments which were made to ASIC by the Company on or around 27 June 2021, being the date for the commencement of the Court ordered winding up (**FTI Letter**). The FTI Letter sought the recovery of the following amounts from ASIC as unfair preferences:
 - (a) a \$20 million pecuniary penalty to ASIC (**Pecuniary Penalty**); and
 - (b) an amount of \$1.18 million in legal costs paid in relation to proceedings commenced by ASIC against the Company in (**Contravention Proceedings**).
- 4 A copy of the FTI Letter is **enclosed** for ease of reference. The FTI Letter sets out relevant background matters in relation to the Company.
- 5 In response to the FTI Letter, ASIC engaged Craddock Murray Neumann (**CMN**). Our solicitors, King Wood Mallesons (**KWM**), are currently engaged in continuing conferral with CMN on behalf

¹ Unless otherwise defined, all references to sections in this letter are references to the Corporations Act.

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 Liability limited by a scheme approved under Professional Standards Legislation.

p. 2 of 4

of the Liquidators in relation to seeking recovery of the Pecuniary Penalty from ASIC as an unfair preference.

- 6 The purpose of this present letter is to separately require ASIC to repay to the Company amounts totalling \$1,531,143 on the basis the payment of these amounts were void dispositions. This void disposition claim is in addition to the claim the subject of the correspondence with CMN.

Repayment of void dispositions

- 7 For the reasons set out below, we have formed the view that the following payments made to ASIC by the Company:
 - (a) on 28 June 2021, for \$1,180,000 in respect of ASIC's legal costs (**Legal Costs**), made in accordance with order 18 of the orders of Middleton J dated 29 April 2021 (**Penalty Orders**); and
 - (b) on 12 July 2021, for \$351,143 in respect of ASIC's investigation costs (**Investigation Costs**), made in accordance with ASIC's invoice dated 24 June 2021 and issued pursuant to section 91(e) of the *Australian Securities and Investments Commission Act 2001* (Cth),
 were dispositions of the Company's property made after the commencement of the Company's winding up on 27 June 2021 and are therefore void dispositions pursuant to section 468.

- 8 A copy of the Penalty Orders is **enclosed** with this letter for ease of reference.

The Legal Costs and Investigation Costs are void dispositions

- 9 Section 468(1) states:

Any disposition of property of the company, other than an exempt disposition, made after the commencement of the winding up by the Court is, unless the Court otherwise orders, void.

- 10 The resolution to wind up the Company voluntarily was made on 27 June 2021. The Company was later wound up in insolvency pursuant to section 459A on 7 December 2021.

- 11 Section 513A relevantly states:

If the Court orders under section 233, 459A, 459B or 461 that a company be wound up, the winding up is taken to have begun or commenced:

(a) if, when the order was made, a winding up of the company was already in progress – when the last-mentioned winding up is taken because of this Division to have begun or commenced;

....

- 12 Section 513B relevantly states:

Where a company resolves by special resolution that it be wound up voluntarily, the winding up is taken to have begun or commenced:

...

(e) otherwise—on the day on which the resolution was passed.

- 13 The sole member of the Company passed a resolution to wind up the Company on 27 June 2021. The Company was wound up in insolvency pursuant to s 459A on 7 December 2021. Therefore, sections 513A and 513B operate such that the commencement of the court-ordered winding up of the Company was 27 June 2021.
- 14 Any disposition of the Company's property after this time, unless an 'exempt disposition' for the purposes of s 468(2), is therefore a void disposition for the purposes of s 468.
- 15 We **enclose** with this letter copies of the receipts issued by ASIC to the Company which relevantly record 'Payment Dates' of:
 - (a) 28 June 2021 in respect of the Legal Costs; and
 - (b) 12 July 2021 in respect of the Investigation Costs.
- 16 Having regard to the 'Payment Dates' of the Legal Costs and the Investigation Costs, it is clear these payments were dispositions of the Company's property made *after* the commencement of the Company's winding up on 27 June 2021.
- 17 As the payments were not made by us as Liquidators, the Company was not the subject of any other external administration so as to enliven the possible application of s 468(2)(aa) to (ad), and neither payment was made out of an account maintained by the Company with an Australian ADI, the Legal Costs and Investigation Costs are not exempt dispositions.
- 18 They are therefore void dispositions pursuant to section 468 and should be repaid to the Company immediately.

Request for repayment of void dispositions

- 19 Accordingly, the Liquidators hereby request that ASIC immediately (and by no later than 28 days after the date of this letter) repay to the Company the amount of \$1,531,143. Payment can be made directly into the following Macquarie account in the name of the Company and controlled by the Liquidators:

Name: *Forex Trading Capital Pty Ltd (In Liquidation)*

BSB: *182 222*

Account: *2369 75967*

- 20 Should payment not be made, or an application for validation of the disposition not be initiated, we will apply to the Court ourselves, thus placing a further burden on the creditors of the Company.



- 21 We also refer to ASIC's obligations as a model litigant as defined in Appendix B of the *Legal Services Directions 2017* (Cth) to deal with claims promptly, to not cause unnecessary delay and to pay legitimate claims without litigation.
- 22 If you would rather that we direct our correspondence regarding this additional void disposition claim to CMN, please let us know. However, we are eager to resolve this matter without the need to incur further costs, which is mitigating the return to unsecured creditors, including those impacted by the Company's conduct.
- 23 We look forward to hearing from you.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Daniel Woodhouse'.

Daniel Woodhouse

Official Liquidator



Our Ref CM2201508

21 November 2023

King Food Mallesons
Level 30
V.1 Building
250 St Georges Terrace
PERTH WA 6000
Attention Mr Sam Dundas

BY MAIL ONLY sam.dundas@au.kwm.com

Dear Sir

FOX CAPITAL TRADING PTY LTD (IN LIQUIDATION)

ACN 119 086 270 (Company)

Our client Australian Securities and Investments Commission (ASIC)

1. We refer to the letter from Daniel Goodhouse in his capacity as Liquidator of the Company to ASIC dated 24 October 2023 **Liquidator's Letter** we act for ASIC in relation to the matters contained in the Liquidator's Letter.
2. ASIC is presently considering the contents of the Liquidator's Letter and anticipates being able to respond substantively by 19 December 2023. We kindly request that the Liquidators not take any steps adverse to ASIC including the commencement of proceedings prior to 19 December 2023.
3. ASIC considers that the deferral of any legal proceedings could be reasonable in circumstances here

a) the Liquidator's Letter advances a new claim against ASIC in respect of payments which it is alleged to have received from the Company. Our client is presently considering that claim including obtaining advice of Counsel

b) ASIC is required to consider and assess the Liquidators' claim in accordance with Appendix C of the *Legal Services Directions 2017*. ASIC is also bound to apply the *Public Governance, Performance and Accountability Act 2013*. Given the significant quantum of the claim it may also be necessary for ASIC to consult with a number of stakeholders including the Department of Finance. This can only usefully occur once a reasonable opportunity has been allowed for ASIC to obtain and consider legal advice

**Craddock Murray Neumann
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1. ASIC is mindful that significant legal costs will likely be incurred by all parties if it becomes necessary to litigate the claim in the Liquidator's Letter and the requested extension would allow ASIC a reasonable opportunity to consider and respond to the contentions contained therein and
2. ASIC is unable to discern any specific prejudice to the Liquidators in agreeing to not take any steps adverse to ASIC prior to 19 December 2023 particularly in circumstances where the claim in the Liquidator's Letter was made for the first time on 24 October 2023.
4. Kindly indicate whether the Liquidators agree to not take any steps adverse to ASIC including the commencement of proceedings prior to 19 December 2023.
5. Should the Liquidators commence proceedings ASIC reserves the right to rely on this correspondence on the question of costs.

Yours faithfully

CRADDOCK MURRAY NEUMANN LAWYERS

per

A handwritten signature in blue ink, appearing to read 'D. Olthof'.

Dennis Olthof
Senior Associate

TO Khaled Metlej and Dennis Olthof
Craddock Murray Neumann Lawyers
Level 21, 227 Elizabeth Street
Sydney NSW 2000
kmetlej@craddock.com.au and
dolthof@craddock.com.au

24 NOVEMBER 2023

Dear Colleagues

Forex Capital Trading Pty Ltd (In Liquidation) (ACN 119 086 270) (Company) | Request for payment in relation to the Company's claims in respect of void dispositions (Claims)

- 1 We refer to the following correspondence:
 - (a) the letter from Daniel Woodhouse in his capacity as joint and several liquidator of the Company to ASIC dated 24 October 2022;
 - (b) the letter from Daniel Woodhouse in his capacity as joint and several liquidator of the Company to ASIC dated 24 October 2023; and
 - (c) your letter dated 21 November 2023.

- 2 Unless otherwise defined, capitalised terms take the meaning given to them in our previous correspondence.

The payments subject of the Void Dispositions

- 3 As you already know, the Liquidators are seeking the recovery of the following payments:
 - (a) the Pecuniary Penalty, being the \$20 million pecuniary penalty paid to ASIC pursuant to the Contravention Proceedings;
 - (b) the Legal Costs, being \$1,180,000 paid to ASIC in respect of its legal costs pursuant to the Contravention Proceedings; and
 - (c) the Investigation Costs, being \$351,143 paid to ASIC in respect of its investigation costs in relation to the Contravention Proceedings.
- 4 We have written separately to you regarding the recovery of the Pecuniary Penalty.
- 5 Notwithstanding that separate correspondence, we maintain the payment of the Legal Costs and Investigation Costs are void dispositions and must be repaid to the Company.

Request for an extension of time

- 6 By paragraph 2 of your 21 November 2023 letter, you request our clients not take any steps adverse to your client, including by commencing proceedings, prior to 19 December 2023.
- 7 We consider your client has had sufficient time to consider our clients' contentions. Your client is the recipient of dispositions of property of the Company which are deemed to be void by operation of s 468 of the Corporations Act. As such, the onus is on your client to validate those dispositions by application to the court. The 24 October 2023 letter provided you 28 days to either repay or bring an application to validate the Void Dispositions. This is double the statutory timeframe contemplated for third party applications in relation to an external administration. Your requested extension, if granted, would provide you a period four times greater than that contemplated by the Corporations Act.

Ongoing prejudice to our clients and the Company's creditors

- 8 Despite the assertion in paragraph 3(d) of your 21 November 2023 letter, your request for an extension of time in which to consider the Claims will cause prejudice to our clients. This prejudice is ultimately borne by the creditors of the Company.
- 9 We remind you that the Commonwealth Government has, via ASIC's regulatory activity, collected over \$20 million in penalties, legal costs and investigative costs from Forex (**ASIC Payments**), in circumstances where the actual individual victims of the Company's misconduct have to date received zero compensation. The former customers' net financial losses are estimated to be at least \$77.5 million. Since their appointment on 27 June 2021, the Liquidators have received a very large number of unsolicited enquiries from former customers regarding the payment of the ASIC Payments to ASIC. Put simply, those former customers do not understand how ASIC can properly retain the ASIC Payments in circumstances where those former customers have suffered significant losses which, in former customers' words, occurred "on ASIC's watch". In the absence of an explanation from your client, we do not understand either.
- 10 Further delays cause prejudice to our clients and the Company's creditors because:
- (a) our clients are receiving considerable pressure regarding the progress of the Claims from the Company's committee of inspection specifically, and creditors generally. As you are aware, our clients have a statutory obligation to have regard to any direction of the committee of inspection; and
 - (b) our client has already incurred, and is continuing to incur, significant legal costs engaging in correspondence with you.
- 11 Therefore, contrary to the assertions in your letter, the continuing delay is prejudicial to our clients, and ultimately, the creditors.

Increasing funding premiums

- 12 Our clients have entered into a litigation funding agreement (**LFA**) in order to secure the funding necessary to continue pursuing the Claims.
- 13 Under the LFA, the funder is entitled to a percentage of any amount recovered in connection with the Claims. As is customary for arrangements of this nature, the quantum of this entitlement increases each time particular milestones are reached in relation to the Claims, having regard to the increased time, cost and complexity of pursuing the Claims and the attendant increase in risk for the funder. Two such milestones that are relevant for present purposes, each of which will independently increase the amount to which the funder is entitled to, are:

- (a) when draft court documents are provided to you and your client; and
- (b) when proceedings are commenced.

14 The funder's increased entitlement to any amount recovered by the Liquidators self-evidently reduces the funds the Liquidators have available to distribute to the Company's creditors, who almost exclusively comprise of the Company's former customers.

Next steps

Extension of time to consider the Claims

- 15 While we do not accept your client has any proper basis to request a further extension of time to 'consider' the Claims, we are instructed our clients are willing to allow you a modest period to further consider the Claims and to make payment in accordance with the request below.
- 16 This extension has been granted on the understanding that your client requires further time to seriously consider the Claims and meaningfully engage with them. Please let us know if we have misunderstood. To the extent it assists, we would be happy for your counsel to reach out directly to the counsel we have engaged on this matter, Stewart Maiden KC and Paul Edgar SC, to discuss the Claim.

Provision of draft court documents and commencement of proceedings

- 17 We also put you on notice that we have been instructed to immediately finalise drafting the relevant documents to commence proceedings against your client in the Federal Court of Australia, seeking Court order for the immediate repayment of the Void Dispositions. Stewart Maiden KC and Paul Edgar SC have been engaged to draft and settle the necessary documents to commence such proceedings.
- 18 If your client is minded to meaningfully engage with our request for payment, we invite you and your client to respond to the request prior to **5pm AWST on 5 December 2023**. Doing so will avoid our clients triggering any further milestones under the LFA and will maximise the amount which will be available to distribution to creditors.
- 19 However, absent appropriate engagement from your client by this time, we are instructed to provide drafts of the relevant court documents to you for consideration your client. The provision of these draft court documents will trigger an increase in the funding premium which the funder is entitled to, further diminishing any return to creditors. As such, any attempt to compromise the Claims after this time may need to take this increase in the funding premium into account.
- 20 While our clients are minded to provide you with a short period to consider the court documents before commencing proceedings, should your client still not meaningfully engage with the Claims, we hold instructions from our clients, and the funder, to commence proceedings. To that end, please confirm whether you have instructions to accept service on behalf of your client.
- 21 The commencement of proceedings will trigger a further milestone under LFA and further increase the funder's entitlement, and further diminish any return to creditors. Your willingness to constructively engage prior to each of the above deadlines would be appreciated and will significantly increase the return to creditors.

Payment

- 22 Should it be necessary to prosecute these Claims in court, both parties will incur significant costs. We estimate these Claims may cost approximately \$100,000 to \$250,000 for the Liquidators to prosecute.

- 23 To avoid those further costs and maximise the return to the creditors of the Company, we invite ASIC to pay \$1,531,143 in respect of the Void Disposition into the following account by no later than **5pm AWST on 5 December 2023**:

Name: Forex Trading Capital Pty Ltd (In Liquidation)

BSB: 182 222

Account: 2369 75967

- 24 Should it be necessary to commence any application regarding the Claims, we will refer to this letter on the question of costs. We look forward to hearing from you.

- 25 Our clients' rights remain reserved.

Yours sincerely



Sam Dundas | Partner
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FOREX CAPITAL TRADING PTY LTD
ACN 119 086 270 (COMPANY)

Minutes of the general meeting of members

Held AT ON 27 JUN 2021 at 12:30 ~~XXX~~/PM

IN ATTENDANCE Abramo Da Via, sole director of Forex Capital Trading Limited (Vanuatuan Company Registration Number 32852) (**Sole Director**).

MEETING OPEN The Sole Director declared the meeting open.

QUORUM The Sole Director declared that there was a quorum present at the meeting and that the meeting had been validly convened.

NOTICE OF MEETING The Sole Director tabled and read the notice of general meeting sent to members. The Sole Director confirmed that proper notice of the meeting had been given to all members as required by the constitution of the Company. It was noted by the Sole Director that FTI Consulting had been authorised by the Company to assist with the convening of the meeting based upon information provided to them by the Company and directors.

SHORT NOTICE The Sole Director also tabled the agreement for meeting at short notice, and noted that it had been signed by members holding not less than 95% of the voting rights of shares held in the Company.

VOLUNTARY WINDING UP IT WAS RESOLVED AS A SPECIAL RESOLUTION that the Company be wound up voluntarily.

CONSENT TO ACT The Sole Director tabled the Consent to Act as Liquidators of the Company signed by that Daniel Hillston Woodhouse and Nathan Thomas of FTI Consulting.

LIQUIDATORS IT WAS RESOLVED that Daniel Hillston Woodhouse and Nathan Thomas Kirkham Stubing of FTI Consulting be appointed as Joint and Several Liquidators of the Company for the purpose of winding up the affairs and distributing the assets of the Company.

IT WAS RESOLVED that the future remuneration of the Joint and Several Liquidators of the Company from commencement to the conclusion of the liquidation (inclusive) be determined and approved for payment at a sum equal to the cost of time incurred by the Joint and Several Liquidators and staff of FTI Consulting, calculated at the hourly rates set out in the schedule of FTI Consulting Standard Rates effective 1 April 2020 and 1 July 2021, up to an initial capped amount of A\$35,000 plus GST, and that the Joint and Several Liquidators can draw the remuneration incurred from available funds at their discretion.

DESTRUCTION OF BOOKS AND RECORDS

IT WAS RESOLVED that the Joint and Several Liquidators be authorised to destroy the books and records of the Company upon finalisation of the liquidation of the Company, subject to obtaining prior approval of the Australian Securities and Investments Commission.

DISTRIBUTION IN KIND

IT WAS RESOLVED AS A SPECIAL RESOLUTION that the Joint and Several Liquidators be at liberty to divide among the members in kind the whole or any part of the assets of the Company.

POWERS OF LIQUIDATORS

IT WAS RESOLVED AS A SPECIAL RESOLUTION that the Joint and Several Liquidators not be subject to the limits on the powers of liquidators as set out in sections 477(2A) to (2B) of the *Corporations Act 2001*.

CONSTITUTION

IT WAS RESOLVED that the Joint and Several Liquidators may do such other things as are thought fit and may be done in accordance with the Constitution of the Company.

NOTICE OF PASSING OF RESOLUTION

It was noted that the minutes of the meeting and ASIC Form 205 be completed and signed immediately following the completion of the meeting and that the Company's directors/secretary then provide the documents forthwith to the Joint and Several Liquidators so that they may attend to lodgement with ASIC on behalf of the Company.

OTHER BUSINESS

The Sole Director asked if there were any other matters to raise. No matters or other business was raised.

CLOSURE

There being no further business the meeting was declared closed at 13:00 ~~XXX~~/PM.

Signed as a true and correct record


Signature of witness

Romina Lucia Kratter
Name of witness


Signature of director or secretary or authorised signatory

Abramo Da Via - Director
Name of director or secretary or authorised signatory

**Minutes of Meeting of Committee of Inspection (COI)
Forex Capital Trading Pty Ltd (In Liquidation)
ACN 119 086 270**

Held by teleconference on 19 April 2022 at 10am (AWST)

Opening of meeting	<p>The Chairperson declared the meeting open at 10:05am (AWST).</p> <p>The Chairperson advised that the first COI meeting on 13 April 2022 was inquorate and vacated with no business conducted.</p> <p>The Chairperson advised the proceedings would be recorded to facilitate an accurate account of the meeting and to assist in the preparation of the minutes.</p> <p>The Chairperson asked if there were any objections to the recording of the proceedings.</p> <p>No objections were forthcoming.</p>
Appointment of Chairperson	<p>Daniel Woodhouse introduced himself and informed the meeting that pursuant to Insolvency Practice Rule (IPR) 75-50 he would preside over the meeting as Chairperson.</p>
Attendance (via virtual meeting facilities)	<p>Daniel Woodhouse – the Chairperson</p> <p>Jiin Heng Choong – FTI Consulting</p> <p>Sam Dundas – King & Wood Mallesons (KWM)</p> <p>Patrick Mackenzie - KWM</p> <p>The Attendance Register with details of COI members present in person, by proxy or by attorney is contained in Appendix A.</p>
Virtual meetings/Electronic facilities	<p>The Chairperson advised that:</p> <ul style="list-style-type: none"> ■ the meeting was being held virtually in accordance with IPR 75-50. ■ all persons participating virtually in the meeting were taken for all purposes to be present in person at the meeting while so participating. ■ notice of arrangements for the use of electronic facilities had been given in the Notice of Meeting pursuant to IPR 75-35 and the electronic facilities were available and operating at the meeting.



	<ul style="list-style-type: none"> ■ the Liquidators had received the required written statements from those wishing to participate at the meeting and that the participants using the electronic facilities were taken to be present in person at the meeting pursuant to IPR 75-75 and were included in the record of persons present which will form part of the minutes of the meeting to be lodged with ASIC. 												
Notice of meeting	<p>The Chairperson advised that the meeting had been called in accordance with the Notice of Meeting dated 14 April 2022.</p> <p>The Chairperson tabled a copy of the Notice of Meeting and advised it had been sent to all members of the Committee of Inspection on 14 April 2022 in accordance with IPRs 75-10 – 75-25.</p> <p>The Chairperson also noted that the Notice of Meeting had been published in the ASIC Insolvency Notices Website in accordance with IPR 75-40.</p> <p>The Chairperson declared the meeting was convened at a time and place convenient to the majority of the COI entitled to receive notice of the meeting in accordance with IPR 75-30.</p> <p>The Chairperson noted that less than 10 business days’ notice of the meeting was given to committee members as it was deemed appropriate in the circumstances and unless there were any objections, the meeting would proceed. No objections were forthcoming.</p>												
Quorum	<p>The Chairperson advised that, at the meeting of creditors held on 16 March 2022, a COI was formed and the appointed COI members were:</p> <table border="1" data-bbox="755 1690 998 1806"> <thead> <tr> <th>COI Member</th> <th>Representing</th> </tr> </thead> <tbody> <tr> <td>David Williams</td> <td>Self</td> </tr> <tr> <td>John Tabone</td> <td>Self</td> </tr> <tr> <td>Wayne Korn</td> <td>Neville Scott</td> </tr> <tr> <td>Govinda Kesar</td> <td>Himself</td> </tr> <tr> <td>Xu Bian</td> <td>Self</td> </tr> </tbody> </table> <p>The Chairperson advised that a signed Confidentiality Deed Poll (CDP) had been received for David Williams, John Tabone and Wayne Korn. However, CDPs had not been received from Govinda Kesar and Xu Bian. To date, his staff had been unable to contact them. The Chairperson advised that Govinda Kesar and Xu Bian could not attend any COI meetings or receive any confidential information until they returned a signed CDP.</p> <p>The Chairperson advised that, given that all 3 COI members who have returned a signed CDP were present, a majority of the COI members were present and a</p>	COI Member	Representing	David Williams	Self	John Tabone	Self	Wayne Korn	Neville Scott	Govinda Kesar	Himself	Xu Bian	Self
COI Member	Representing												
David Williams	Self												
John Tabone	Self												
Wayne Korn	Neville Scott												
Govinda Kesar	Himself												
Xu Bian	Self												



	<p>quorum was constituted in accordance with IPR 80-5(6) and the meeting may proceed.</p>
Purpose of meeting	<p>The Chairperson advised that the purpose of the meeting was to:</p> <ul style="list-style-type: none"> ■ discuss the progress of the liquidation; ■ consider and approve the Liquidators entering into a Litigation Funding Agreement with Balance Legal Capital II UK Ltd ("Balance"); ■ consider and approve the Liquidators' remuneration for the period 27 June 2021 to 31 March 2022; and ■ any other business properly brought before the meeting.
Liquidators' update	<p>The Chairperson reminded the COI members of the confidentiality and sensitivity of information to be discussed in the meeting and that the information provided, if disclosed, may be prejudicial to claims identified in the liquidation. The Chairperson discussed the key content of the Liquidators' report and provided the following update to members on the progress of the Liquidation: <u>Invesus Group Limited (a company incorporated in Gibraltar) (Invesus) – Letter of Comfort (LOC)</u></p> <p>The Chairperson advised that:</p> <ul style="list-style-type: none"> ■ under the LOC, Invesus had irrevocably undertaken in favour of the Company that it would provide financial support to the Company to meet any debts, including judgment debts, incurred by the Company in respect of its customers. ■ the LOC expires on 30 June 2022, and so any demand under the LOC must be made prior to that date. ■ the Liquidators had received a funding offer from Balance to pursue Invesus under the LOC. <p>There was a confidential discussion in relation to the funding agreement, including that it required approval from either the COI, or creditors, or the Court. <u>Potential Unfair Preference Payments</u></p> <p>The Chairperson provided an update to the COI in relation to the Liquidators' investigations into the potential unfair preference payments identified, including the funds paid to the Australian Securities & Investments Commission.</p> <p>There was a confidential discussions held with respect to the ongoing investigations and potential claims identified.</p>
Questions	<p>The Chairperson asked for any further questions before he put forward the resolutions. No further questions were raised by COI members.</p>



Resolutions	<p>The Chairperson noted there were two resolutions that would be put to the meeting. The Chairperson noted that persons participating and able to vote at the meeting would also be able to amend proposed resolutions in accordance with IPR 75-70.</p> <p>The Chairperson advised that reasonable time would be allowed to debate any proposed resolution or amendments to the resolutions before the resolution or amended resolution would be put to a vote.</p> <p>The following resolutions were put to the meeting:</p> <p>Resolution 1:</p> <p><i>"That the Liquidators are authorised to enter into a Litigation Funding Agreement with Balance Legal Capital II UK Ltd on the Company's behalf involving a term or obligations extending for more than three months pursuant to section 477(2B) of the Corporations Act 2001."</i></p> <p>Moved by: John Tabone Seconded by: David Williams</p> <p>The Chairperson declared the resolution carried unanimously.</p> <p>Resolution 2:</p> <p><i>"That the remuneration of the Joint and Several Liquidators of Forex Capital Trading Pty Ltd (In Liquidation), their partners and staff, for the period from 17 July 2021 to 31 March 2022 (inclusive), calculated at the rates set out in the FTI Consulting Schedule of Rates annexed at Schedule F (Corporate Finance & Restructuring effective 1 July 2021, Strategic Communications effective 1 April 2021, Technology effective 1 May 2021 and Forensic Accounting and Fraud Investigations effective 1 May 2021) is approved for payment in the amount of \$926,893.50 exclusive of GST, to be drawn from available funds immediately or as funds become available."</i></p> <p>Moved by: David Williams Seconded by: John Tabone</p> <p>The Chairperson declared the resolution carried unanimously.</p>
General business	<p>The Chairperson asked whether there were any further questions.</p> <p>There were no questions.</p>

Closure	The Chairperson thanked the COI for their attendance and declared the meeting closed at 10:58am (AWST).
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Dated this 1st day of May 2022

Signed as a correct record.



Daniel Woodhouse
Chairperson

**Minutes of Meeting of Committee of Inspection (“COI”)
Forex Capital Trading Pty Ltd (In Liquidation)
ACN 119 086 270**

Held by video conference on 10 February 2023 at 10am (AWST)

Opening of meeting	The Chairperson declared the meeting open at 10:10am (AWST).
Appointment of Chairperson	Daniel Woodhouse introduced himself and informed the meeting that pursuant to Insolvency Practice Rule (IPR) 75-50 he would preside over the meeting as Chairperson.
Attendance (via virtual meeting facilities)	<p>The Chairperson advised the following people were present:</p> <p>Daniel Woodhouse – the Chairperson</p> <p>Andrew Clowes – FTI Consulting</p> <p>Ben Van Heurck – FTI Consulting</p> <p>Patrick Mackenzie – King & Wood Mallesons (KWM)</p> <p>David Williams – member of the COI</p> <p>John Tabone – member of the COI</p> <p>Wayne Korn – member of the COI</p>
Virtual meetings/Electronic facilities	<p>The Chairperson advised that:</p> <ul style="list-style-type: none"> ■ the meeting was being held virtually in accordance with IPR 75-50 ■ all persons participating virtually in the meeting were taken for all purposes to be present in person at the meeting while so participating ■ notice of arrangements for the use of electronic facilities was given in the Notice of Meeting pursuant to IPR 75-35 and the electronic facilities are available and operating.
Quorum	<p>The Chairperson advised the majority of the Committee of Inspection members were present, and therefore, there was a quorum in accordance with IPR 80-5(6).</p> <p>Two COI members were not present at the meeting and had now not attended the last four (4) COI meetings, those being:</p> <ul style="list-style-type: none"> ■ Govinda Kesar ■ Xu Bian

The Chairperson advised that a signed Confidentiality Deed Poll (**CDP**) had been received for David Williams, John Tabone and Wayne Korn. However, CDPs had not been received from Govinda Kesar and Xu Bian.

To date, his staff had been unable to contact Govinda Kesar or Xu Bian. The Chairperson advised that Govinda Kesar and Xu Bian could not attend any COI meetings or receive any confidential information until they returned a signed CDP.

If Govinda Kesar and Xu Bian do not attend five (5) consecutive COI meetings, they will be removed from the COI in accordance with IPR 80-10.

<p>Notice of meeting</p>	<p>The Chairperson advised that the meeting had been called in accordance with the Notice of Meeting dated 3 February 2023.</p> <p>The Chairperson tabled a copy of the Notice of Meeting and advised it had been sent to all members of the Committee of Inspection who had signed CDPs on 3 February 2023, in accordance with IPRs 75-10 – 75-25.</p> <p>The Chairperson also noted that the Notice of Meeting had been published in the ASIC Insolvency Notices Website in accordance with IPR 75-40.</p> <p>The Chairperson declared the meeting was convened at a time and place convenient to the majority of the COI entitled to receive notice of the meeting in accordance with IPR 75-30.</p> <p>The Chairperson noted that less than 10 business days’ notice of the meeting was given to committee members as it was deemed appropriate in the circumstances. No objections were received regarding the notice of meeting.</p>
<p>Purpose of meeting</p>	<p>The Chairperson advised that the purpose of the meeting was to:</p> <ul style="list-style-type: none"> ■ discuss the progress of the liquidation ■ consider, and if thought fit, approve the Liquidators’ remuneration up to 22 January 2023 ■ any other business properly brought before the meeting.
<p>Liquidators’ update</p>	<p>The Chairperson reminded the COI members of the confidentiality and sensitivity of information to be discussed in the meeting and that the information provided, if disclosed, may be prejudicial to claims identified in the liquidation.</p> <p>The Chairperson discussed the key content of the Liquidators’ update report to the COI dated 7 February 2023 (“Liquidators’ Report”), which was confidential and available to only those COI members who had signed a CDP. Due to its confidentiality, the Liquidators’ Report has not been annexed to the publicly available minutes of meeting.</p> <p>During the Chairpersons address to the COI, there was a confidential discussion in relation to:</p>

	<ul style="list-style-type: none"> ■ The status of the claim against Invesus Group Ltd (“Invesus”); ■ The status of the claim for unfair preference payments issued against the Australian Securities and Investments Commission (“ASIC”); and ■ Payment of the Liquidators’ remuneration.
Questions	<p>The Chairperson asked for any further questions before he put forward the resolutions.</p> <p>No further questions were raised by COI members.</p>
Resolutions	<p>The Chairperson noted there were two resolutions that would be put to the meeting. The Chairperson noted that persons participating and able to vote at the meeting would also be able to amend proposed resolutions in accordance with IPR 75-70.</p> <p>The Chairperson advised that reasonable time would be allowed to debate any proposed resolution or amendments to the resolutions before the resolution or amended resolution would be put to a vote.</p> <p>The following resolutions were put to the meeting:</p> <p>Resolution 1:</p> <p><i>“That the remuneration of the Joint and Several Liquidators of the Forex Capital Trading Pty Ltd (In Liquidation) ACN 119 086 270 and their partners and staff, for the period from 1 April 2022 to 22 January 2023, calculated at the hours spent at the rates set out in the FTI Consulting Schedule of Rates provided to creditors in Schedule F (Corporate Finance & Restructuring effective 1 July 2021, Strategic Communications effective 1 July 2021, Technology effective 1 May 2021 and Forensic Accounting and Fraud Investigations effective 1 May 2021) is approved for payment in the amount of \$841,476.00, exclusive of GST, to be drawn from available funds immediately or as funds become available.”</i></p> <p>Moved by: John Tabone</p> <p>Seconded by: David Williams</p> <p>The Chairperson declared the resolution passed by majority.</p> <p>Resolution 2:</p> <p><i>The costs of disbursements of the Joint and Several Liquidators of Forex Capital Trading Pty Ltd (In Liquidation), for the period 31 March 2022 to 22 January 2023 is determined and approved for payment at a sum equal to the cost of the disbursements incurred by FTI Consulting Technology and the Liquidators, calculated at the rates set out in Schedule G of FTI Consulting Disbursement</i></p>

	<p><i>Schedule, in the amount of \$49,088.45 plus GST, and the Liquidators can draw the cost of those disbursements.</i></p> <p>Moved by: David Williams</p> <p>Seconded by: John Tabone</p> <p>The Chairperson declared the resolution passed by majority.</p>
General business	<p>The Chairperson asked whether there were any further questions.</p> <p>There were no questions.</p>
Closure	<p>The Chairperson thanked the COI for their attendance and declared the meeting closed at 11:36am (AWST).</p>

Dated this 23rd day of February 2023

Signed as a correct record.



Daniel Woodhouse
Chairperson

Form 5011

Corporations Act 2001

s436E, 439A

Insolvency Practice Rules (Corporations) 2016

s75-145(1)(c)

Copy of minutes of meeting

Liquidator details

Registered liquidator number

500854

Registered liquidator name

DANIEL HILLSTON WOODHOUSE

Company details

Company name

FOREX CAPITAL TRADING PTY LTD

119 086 270

Section under which minutes are lodged

Date of meeting

11-12-2023

Are the minutes being lodged for a meeting convened under s436E, or
s439A of the Corporations Act 2001?

No

Certification

I certify that the attached minutes of meeting are a true copy of the original
minutes of meeting signed by the chair of the meeting as identified in the
minutes.

Yes

Authentication

This form has been authenticated by
Name DANIEL HILLSTON WOODHOUSE
This form has been submitted by
Name Benjamin VAN HEURCK
Date 21-12-2023

For more help or information

Web www.asic.gov.au
Ask a question? www.asic.gov.au/question
Telephone 1300 300 630

**Minutes of Meeting of Committee of Inspection
Forex Capital Trading Pty Ltd (In Liquidation)
ACN 119 086 270**

Held by teleconference on Monday, 11 December 2023 at 9:42am (AWST)

Opening of meeting	<p>The Chairperson declared the meeting open at 9:42am (AWST).</p> <p>The Chairperson advised the proceedings would be recorded to facilitate an accurate account of the meeting and to assist in the preparation of the minutes.</p> <p>The Chairperson asked if there were any objections to the recording of the proceedings.</p> <p>No objections were forthcoming.</p>
Appointment of Chairperson	<p>Daniel Woodhouse introduced himself and informed the meeting that pursuant to Insolvency Practice Rule (“IPR”) 75-50 he would preside over the meeting as Chairperson.</p>
Attendance (via virtual meeting facilities)	<p>Daniel Woodhouse – the Chairperson</p> <p>Ben Van Heurck - FTI Consulting</p> <p>Devika Varma – FTI Consulting</p> <p>John Tabone – COI member</p> <p>David Williams – COI member</p> <p>The Attendance Register with details of COI members present in person, by proxy or by attorney is contained in Appendix A.</p>
Virtual meetings/Electronic facilities	<p>The Chairperson advised that:</p> <ul style="list-style-type: none"> ■ the meeting was being held virtually in accordance with IPR 75-75. ■ all persons participating virtually in the meeting were taken for all purposes to be present in person at the meeting while so participating. ■ notice of arrangements for the use of electronic facilities had been given in the Notice of Meeting pursuant to IPR 75-35 and the electronic facilities were available and operating at the meeting. ■ the Liquidators had received the required written statements from those wishing to participate at the meeting and that the participants using the electronic facilities were taken to be present in person at the meeting pursuant to IPR 75-75 and were included in the record of persons present which will form part of the minutes of the meeting to be lodged with ASIC.

Notice of meeting	<p>The Chairperson advised that the meeting had been called in accordance with the Notice of Meeting dated 29 November 2023.</p> <p>The Chairperson tabled a copy of the Notice of Meeting and advised it had been sent to all members of the Committee of Inspection on 29 November 2023 in accordance with IPRs 75-10 to 75-25.</p> <p>The Chairperson also noted that the Notice of Meeting had been published in the ASIC Insolvency Notices Website in accordance with IPR 75-40.</p> <p>The Chairperson declared the meeting was convened at a time and place convenient to the majority of committee members entitled to receive notice of the meeting in accordance with IPR 75-30.</p> <p>The Chairperson noted that less than 10 business days' notice of the meeting was given to committee members as it was deemed appropriate in the circumstances and unless there were any objections, the meeting would proceed. No objections were forthcoming.</p>
Quorum	<p>The Chairperson advised that a signed Confidentiality Deed Poll ("CDP") had previously been received for David Williams and John Tabone. The CDP prevents the COI from, among other things, discussing matters raised in COI meetings, or distributing reports and updates prepared for the COI without the Liquidators' consent.</p> <p>The Chairman advised that on 18 September 2023, Mr Wayne Korn resigned from the COI. This resignation does not impact the operation of the COI as the committee can continue to act whilst it has at least two members. The Chairman may consider filling the vacancy left by Mr Korn by appointing a third member to the COI in the future. Additional members can be appointed by either creditors, at a meeting of creditors, or the COI, at a meeting of its members.</p> <p>The Chairperson advised that, given that all two COI members who have returned a signed CDP were present, a majority of the COI members were present and a quorum was constituted in accordance with IPR 80-5(6) and the meeting may proceed.</p>
Purpose of meeting	<p>The Chairperson advised that the purpose of the meeting was to:</p> <ul style="list-style-type: none"> ■ discuss the progress of the liquidation; ■ consider, and if thought fit, approve remuneration of the Liquidators; and ■ discuss any other business properly brought before the meeting.

Liquidators' update	<p>The Chairperson reminded the COI members of the confidentiality and sensitivity of information discussed in this meeting and that information, if disclosed, may be prejudicial to claims identified in the liquidation.</p> <p>The Chairperson discussed the key content of the Liquidators' report and provided the following update to members on the progress of the Liquidation:</p> <p>The Chairperson advised that:</p> <ul style="list-style-type: none"> ■ Mr Stubing, a joint and several Liquidator of Forex, resigned on 28 August 2023 by lodging a memorandum with the Federal Court of Australia. Mr Stubing's resignation will not impact any legal claims on foot nor the LFA's. ■ The Chairperson provided an update to the COI on confidential matters relating to the liquidation.
Questions	<p>The Chairperson asked for any further questions before he put forward the resolutions.</p> <p>Numerous questions that were confidential in nature were asked by the members of the COI regarding the liquidation.</p>
Resolutions	<p>The Chairperson noted there were resolutions on certain matters they would be putting to the meeting and persons participating and able to vote would also be able to propose and amend proposed resolutions in accordance with IPR 75-70.</p> <p>If a person participating proposes a resolution, they should advise the meeting of their name and the creditor they represent.</p> <p>The Chairperson advised that reasonable time would be allowed to debate any proposed resolution or amendments to the resolutions before the resolution or amended resolution would be put to a vote.</p> <p>The Chairperson tabled the Liquidators' Remuneration Approval Report dated 29 November 2023 and provided creditors with an overview of the remuneration and disbursement resolutions being sought by the Liquidators.</p> <p>The following resolution was put to the meeting:</p> <p>Resolution 1: Liquidators' Remuneration from 23 January 2023 to 20 October 2023</p> <p><i>"That the remuneration the Joint and Several Liquidators of the Forex Capital Trading Pty Ltd (In Liquidation) ACN 119 086 270 and their partners and staff, for the period from 23 January 2023 to 20 October 2023, calculated at the hours spent at the rates set out in the FTI Consulting Schedule of Rates provided to creditors in Schedule F (Corporate Finance & Restructuring effective 1 July 2021, Strategic Communications effective 1 July 2021, Technology effective 1 May 2021 and Forensic Accounting and Fraud Investigations effective 1 May 2021) and is</i></p>

approved for payment in the amount of \$441,500.00, exclusive of GST, to be drawn from available funds immediately or as funds become available.”

Moved by: John Tabone

Seconded by: David Williams

There being no objection, the Chairperson declared the resolution was carried unanimously.

Resolution 2: Liquidators’ disbursements incurred from 23 January 2023 to 20 October 2023

“The costs of disbursements of the Joint and Several Liquidators of Forex Capital Trading Pty Ltd (In Liquidation), for the period 23 January 2023 to 20 October 2023 is determined and approved for payment at a sum equal to the cost of the disbursements incurred by FTI Consulting Technology and the Liquidators, calculated at the rates set out in Schedule G of FTI Consulting Disbursement Schedule, in the amount of \$16,259.27 plus GST, and the Liquidators can draw the cost of those disbursements.”

Moved by: David Williams

Seconded by: John Tabone

There being no objection, the Chairperson declared the resolution was carried unanimously.

General business

The Chairperson asked those present at the meeting whether there were any further matters that they would like to discuss prior to the closure of the meeting. No further matters were raised.

Closure

There being no further business, the Chairperson thanked the Committee Members for their attendance and assistance to date and declared the meeting closed at 10:14am (AWST).

Dated this 15th day of December 2023

Signed as a correct record.



Daniel Woodhouse

Chairperson

Forex Capital Trading Pty Ltd (In Liquidation)
Meeting of Committee of Inspection held on 11 December 2023
Appendix A - Attendance Register

Creditor Name	Proxy	Proxy Type	Claim (\$)
John Tabone	-	-	1
David Williams	-	-	1

Electronic Lodgement Document No. 7EDB25582 Lodgement date/time: 31-10-2024 20:15:54 Reference Id: 204204656
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Form 5011
Corporations Act 2001
s436E, 439A
Insolvency Practice Rules (Corporations) 2016
s75-145(1)(c)

Copy of minutes of meeting

Liquidator details

Registered liquidator number

500854

Registered liquidator name

DANIEL HILLSTON WOODHOUSE

Company details

Company name

FOREX CAPITAL TRADING PTY LTD

119 086 270

Section under which minutes are lodged

Date of meeting

03-10-2024

Are the minutes being lodged for a meeting convened under s436E, or s439A of the Corporations Act 2001?

No

Certification

I certify that the attached minutes of meeting are a true copy of the original minutes of meeting signed by the chair of the meeting as identified in the minutes.

Yes

Authentication

This form has been authenticated by
Name DANIEL HILLSTON WOODHOUSE
This form has been submitted by
Name Devika VARMA
Date 31-10-2024

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**Minutes of Meeting of Committee of Inspection
Forex Capital Trading Pty Ltd (In Liquidation)
ACN 119 086 270**

Held by teleconference on Thursday, 3 October 2024 at 09:00am (AWST)

Opening of meeting	<p>The Chairperson declared the meeting open at 9:03am (AWST).</p> <p>The Chairperson advised the proceedings would be recorded to facilitate an accurate account of the meeting and to assist in the preparation of the minutes.</p> <p>The Chairperson asked if there were any objections to the recording of the proceedings.</p> <p>No objections were forthcoming.</p>
Appointment of Chairperson	<p>Daniel Woodhouse introduced himself and informed the meeting that pursuant to Insolvency Practice Rule (“IPR”) 75-50 he would preside over the meeting as Chairperson.</p>
Attendance (all via virtual meeting facilities)	<p>Daniel Woodhouse – the Chairperson</p> <p>Devika Varma – FTI Consulting</p> <p>David Williams – COI</p> <p>John Tabone – COI</p> <p>The Attendance Register with details of COI members present in person, by proxy or by attorney is contained in Appendix A.</p>
Virtual meetings/Electronic facilities	<p>The Chairperson advised that:</p> <ul style="list-style-type: none"> ■ the meeting was being held virtually in accordance with IPR 75-75. ■ all persons participating virtually in the meeting were taken for all purposes to be present in person at the meeting while so participating. ■ notice of arrangements for the use of electronic facilities had been given in the Notice of Meeting pursuant to IPR 75-35 and the electronic facilities were available and operating at the meeting. ■ the Liquidators had received the required written statements from those wishing to participate at the meeting and that the participants using the electronic facilities were taken to be present in person at the meeting pursuant to IPR 75-75 and were included in the record of persons present which will form part of the minutes of the meeting to be lodged with ASIC.
Notice of meeting	<p>The Chairperson advised that the meeting had been called in accordance with the Notice of Meeting dated 2 October 2024.</p>

The Chairperson tabled a copy of the Notice of Meeting and advised it had been sent to all members of the Committee of Inspection on 2 October 2024 in accordance with IPRs 75-10 to 75-25.

The Chairperson also noted that the Notice of Meeting had been published in the ASIC Insolvency Notices Website in accordance with IPR 75-40.

The Chairperson declared the meeting was convened at a time and place convenient to the majority of committee members entitled to receive notice of the meeting in accordance with IPR 75-30.

The Chairperson noted that less than 10 business days' notice of the meeting was given to committee members as it was deemed appropriate in the circumstances and unless there were any objections, the meeting would proceed. No objections were forthcoming.

Quorum

The Chairperson advised that a signed Confidentiality Deed Poll ("CDP") had been received for David Williams and John Tabone. The CDP prevents the COI from, among other things, discussing matters raised in COI meetings, or distributing reports and updates prepared for the COI without the Liquidators' consent.

The Chairperson advised that, given that all two COI members who have returned a signed CDP were present, a majority of the COI members were present and a quorum was constituted in accordance with IPR 80-5(6) and the meeting may proceed.

Purpose of meeting

The Chairperson advised that the purpose of the meeting was to:

- discuss the progress of the liquidation generally;
- discuss the progress of the litigation against ASIC and Invesus;
- consider, and if thought fit, approve the Liquidators entering into legal cost agreements;
- consider, and if thought fit, approve remuneration of the Liquidators; and
- discuss any other business properly brought before the meeting.

Liquidators' update

The Chairperson reminded the COI members of the confidentiality and sensitivity of information discussed in this meeting and the information, if disclosed, may be prejudicial to claims identified in the liquidation.

The Chairperson discussed the key content of the Liquidators' report and provided the COI members with a confidential update in relation to the status of the ongoing claims against Invesus Group Limited and ASIC.

	In addition, the Chairperson discussed the recent case law and reasoning behind the retrospective approval being sought for three cost agreements entered into with King and Wood Mallesons.
Questions	<p>The Chairperson asked for any further questions before he put forward the resolutions.</p> <p>There were no further questions.</p>
Resolutions	<p>The Chairperson noted that there were a number of resolutions on certain matters that would be put to the meeting. The Chairperson also noted that persons participating and able to vote at the meeting would also be able to amend proposed resolutions in accordance with IPR 75-70.</p> <p>The Chairperson advised that reasonable time would be allowed to debate any proposed resolution or amendments to the resolutions before the resolution or amended resolution would be put to a vote.</p> <p>The following resolutions were put to the meeting:</p> <p>Resolution 1 (Invesus claim, initial agreement):</p> <p><i>“That the Liquidators are retrospectively authorised to enter into the cost agreements between King & Wood Mallesons and Daniel Woodhouse and Ross Blakeley in their capacity as Liquidators and Forex Capital Trading Pty Ltd (in Liquidation) dated 24 January 2023 in respect to the Invesus Claim pursuant to Section 477(2B) of the Corporations Act 2001.”</i></p> <p>Moved by: John Tabone</p> <p>Seconded by: David Williams</p> <p>There being no objection, the Chairperson declared the resolution was carried unanimously.</p> <p>Resolution 2 (Invesus claim, agreement for appeal process):</p> <p><i>“That the Liquidators are retrospectively authorised to enter into the cost agreements between King & Wood Mallesons and Daniel Woodhouse and Ross Blakeley in their capacity as Liquidators and Forex Capital Trading Pty Ltd (in Liquidation) dated 18 September 2024 in respect to the Invesus Claim pursuant to Section 477(2B) of the Corporations Act 2001.”</i></p> <p>Moved by: John Tabone</p> <p>Seconded by: David Williams</p> <p>There being no objection, the Chairperson declared the resolution was carried unanimously.</p>

Resolution 3 (ASIC claim):

“That the Liquidators are retrospectively authorised to enter into the cost agreements between King & Wood Mallesons and Daniel Woodhouse and Ross Blakeley in their capacity as Liquidators and Forex Capital Trading Pty Ltd (in Liquidation) dated 29 September 2023 in respect to the ASIC Claim pursuant to Section 477(2B) of the Corporations Act 2001.”

Moved by: John Tabone

Seconded by: David Williams

There being no objection, the Chairperson declared the resolution was carried unanimously.

Resolution 4 – Liquidators’ remuneration from 21 October 2023 to 30 June 2024

“That the remuneration of the liquidators and their staff, for the period from 21 October 2023 to 30 June 2024, calculated at the hours spent at the rates set out in the FTI Consulting Schedule of Rates provided to creditors in Schedule F (Corporate Finance & Restructuring effective 1 October 2023, Strategic Communications effective 14 September 2022 and Technology effective 1 May 2022), is approved for payment in the amount of \$334,322.50, exclusive of GST, to be drawn from available funds immediately or as funds become available.”

Moved by: David Williams

Seconded by: John Tabone

There being no objection, the Chairperson declared the resolution was carried unanimously.

Resolution 5 – Liquidators’ remuneration from 1 July 2024 to 31 July 2024

“That the remuneration of the liquidators and their staff, for the period from 1 July 2024 to 31 July 2024, calculated at the hours spent at the rates set out in the FTI Consulting Schedule of Rates provided to creditors in Schedule G (Corporate Finance & Restructuring effective 1 July 2024 and Technology effective 1 May 2022), is approved for payment in the amount of \$29,255.50, exclusive of GST, to be drawn from available funds immediately or as funds become available.”

Moved by: David Williams

Seconded by: John Tabone

	<p>There being no objection, the Chairperson declared the resolution was carried unanimously.</p> <p>Resolution 6 – Disbursements incurred in the period 21 October 2023 to 31 July 2024</p> <p><i>“The costs of disbursements of the Joint and Several Liquidators of Forex Capital Trading Pty Ltd (In Liquidation), for the period 21 October 2023 to 31 July 2024 is determined and approved for payment at a sum equal to the cost of the disbursements incurred by FTI Consulting Technology and the Liquidators, calculated at the rates set out in Schedule H of FTI Consulting’s Disbursement Schedule, in the amount of \$63,845.08 plus GST, and the Liquidators can draw the cost of those disbursements.”</i></p> <p>Moved by: John Tabone</p> <p>Seconded by: David Williams</p> <p>There being no objection, the Chairperson declared the resolution was carried unanimously.</p>
<p>General business</p>	<p>The Chairperson asked those present at the meeting whether there were any further matters that they would like to discuss prior to the closure of the meeting.</p> <p>The COI members raised questions in relation to the claim against ASIC. These questions and the responses are confidential in nature, at this time, given they could prejudice ongoing litigation.</p>
<p>Closure</p>	<p>There being no further business, the Chairperson thanked the COI members for their attendance and assistance to date and declared the meeting closed at 9:39am (AWST).</p>

Dated this 31st day of October 2024

Signed as a correct record.



Daniel Woodhouse

Chairperson

Appendix A – Attendance register

Creditor name	Proxy	Proxy type	Claim (\$)
John Tabone	-	-	1
David Williams	-	-	1

Electronic Lodgement Document No. 7EDP45350 Lodgement date/time: 21-08-2025 18:31:26 Reference Id: 218683781
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Form 5011
Corporations Act 2001
s436E, 439A
Insolvency Practice Rules (Corporations) 2016
s75-145(1)(c)

Copy of minutes of meeting

Liquidator details

Registered liquidator number

500854

Registered liquidator name

DANIEL HILLSTON WOODHOUSE

Company details

Company name

FOREX CAPITAL TRADING PTY LTD

119 086 270

Section under which minutes are lodged

Date of meeting

24-07-2025

Are the minutes being lodged for a meeting convened under s436E, or
s439A of the Corporations Act 2001?

No

Certification

I certify that the attached minutes of meeting are a true copy of the original
minutes of meeting signed by the chair of the meeting as identified in the
minutes.

Yes

Authentication

This form has been authenticated by
Name DANIEL HILLSTON WOODHOUSE
This form has been submitted by
Name Holly WRIGHT
Date 21-08-2025

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**Minutes of Meeting of Committee of Inspection
Forex Capital Trading Pty Ltd (In Liquidation)
ACN 119 086 270**

Held virtually on Thursday, 24 July 2025 at 2:00 pm (AWST)

Opening of meeting	<p>The Chairperson declared the meeting open at 2:05pm (AWST).</p> <p>The Chairperson advised the proceedings would be recorded to facilitate an accurate account of the meeting and to assist in the preparation of the minutes.</p> <p>The Chairperson asked if there were any objections to the recording of the proceedings.</p> <p>No objections were forthcoming.</p>										
Appointment of Chairperson	<p>Daniel Woodhouse introduced himself and informed the meeting that pursuant to Insolvency Practice Rule (“IPR”) 75-50 he would preside over the meeting as Chairperson.</p>										
Attendance	<table border="0"> <tr> <td>Daniel Woodhouse (Liquidator)</td> <td>Chairperson</td> </tr> <tr> <td>Devika Varma</td> <td>FTI Consulting, assisting the Chairperson</td> </tr> <tr> <td>Reuben Corser</td> <td>FTI Consulting, assisting the Chairperson</td> </tr> <tr> <td>John Tabone</td> <td>Committee member</td> </tr> <tr> <td>Dave Williams</td> <td>Committee member</td> </tr> </table> <p>The Attendance Register showing persons present in person, by proxy or by attorney is contained in Appendix A.</p>	Daniel Woodhouse (Liquidator)	Chairperson	Devika Varma	FTI Consulting, assisting the Chairperson	Reuben Corser	FTI Consulting, assisting the Chairperson	John Tabone	Committee member	Dave Williams	Committee member
Daniel Woodhouse (Liquidator)	Chairperson										
Devika Varma	FTI Consulting, assisting the Chairperson										
Reuben Corser	FTI Consulting, assisting the Chairperson										
John Tabone	Committee member										
Dave Williams	Committee member										
Virtual meetings/Electronic facilities	<p>The Chairperson advised that:</p> <ul style="list-style-type: none"> ■ the meeting was being held virtually in accordance with IPR 75-75. ■ all persons participating virtually in the meeting are taken for all purposes to be present in person at the meeting while so participating. ■ notice of arrangements for the use of electronic facilities had been given in the Notice of Meeting pursuant to IPR 75-35 and the electronic facilities were available and operating at the meeting. ■ the participants using the electronic facilities were taken to be present in person at the meeting pursuant to IPR 75-75 and were included in the record of persons present which will form part of the minutes of the meeting to be lodged with ASIC. 										
Notice of meeting	<p>The Chairperson advised that the meeting had been called in accordance with the Notice of Meeting dated 22 July 2025.</p>										

The Chairperson tabled a copy of the Notice of Meeting and advised it had been sent by email to all members of the Committee of Inspection on 22 July 2025, in accordance with IPRs 75-10 – 75-25.

The Chairperson also noted that the Notice of Meeting had been published in the ASIC Insolvency Notices Website in accordance with IPR 75-40.

The Chairperson declared the meeting was convened at a time and place convenient to the majority of committee members entitled to receive notice of the meeting in accordance with IPR 75-30.

The Chairperson noted that less than 10 business days' notice of the meeting was given to committee members as it was deemed appropriate in the circumstances and unless there were any objections, the meeting would proceed. No objections were forthcoming.

<p>Quorum</p>	<p>The Chairperson advised that a signed Confidentiality Deed Poll (“CDP”) had been received for David Williams and John Tabone. The CDP prevents the COI from, among other things, discussing matters raised in COI meetings, or distributing reports and updates prepared for the COI without the Liquidators’ consent.</p> <p>The Chairperson advised that, given that both COI members had returned a signed CDP and were present, a majority of the COI members were present and a quorum was constituted in accordance with IPR 80-5(6) and the meeting may proceed.</p>
<p>Purpose of meeting</p>	<p>The Chairperson advised that the purpose of the meeting was to:</p> <ul style="list-style-type: none"> ■ discuss the progress of the liquidation; ■ consider, and if thought fit, approve the Liquidators’ remuneration for the period 16 February 2022 to 20 June 2023; ■ consider, and if thought fit, approve the Liquidators’ remuneration for the period 1 August 2024 to 30 June 2025; and ■ discuss any other business properly brought before the meeting. <p>The Chairperson enquired if there were any questions regarding the above. No questions were forthcoming.</p>
<p>Liquidators’ update</p>	<p>The Chairperson provided a preliminary update to members on the progress of the Liquidation regarding claims to date, monies awarded and a distribution to creditors.</p> <p>The Chairperson enquired if there were any questions prior to a comprehensive update.</p>

	<p>John enquired about the current status of the Invesus Group Limited (“Invesus”) appeal and whether there will be additional claims pursued in the Liquidation.</p> <p>The Chairperson advised that the Court of Appeal of the New South Wales Supreme Court had dismissed Forex Capital Trading Pty Ltd (In Liquidation)’s appeal against Invesus. As a result, all potential claims had been considered and exhausted.</p> <p>The Chairperson provided the COI members with a confidential update in relation to the status of the claims against Invesus and the settlement reached with ASIC.</p> <p>The Chairperson provided an update on final tasks required and the expected requirements of a dividend process.</p> <p>John enquired regarding the timing and particulars of a dividend as well as keeping all creditors informed in the process.</p> <p>The Chairperson advised his fiduciary duties regarding transparency to creditors and the expected timeline of same. The Chairperson explained that he would report to all unsecured creditors in relation to the claims and the dividend timeline in due course.</p>
Questions	<p>The Chairperson asked for any further questions before he put forward the resolutions.</p> <p>There were no further questions.</p>
Resolutions	<p>The Chairperson noted there were three resolutions that would be put to the meeting. The Chairperson also noted that persons participating and able to vote at the meeting would also be able to amend proposed resolutions in accordance with IPR 75-70.</p> <p>The Chairperson advised that reasonable time would be allowed to debate any proposed resolution or amendments to the resolutions before the resolution or amended resolution would be put to a vote.</p> <p>The following resolutions were put to the meeting:</p> <p>Resolution 1: Liquidators’ remuneration from 16 February 2022 to 20 June 2023</p> <p><i>“That the remuneration of the Liquidators and their staff, for the period from 16 February 2022 to 20 June 2023, calculated at the hours spent at the rates set out in the FTI Consulting Schedule of Rates provided to creditors in Schedule F (Corporate Finance & Restructuring effective 1 July 2021, Forensic Accounting and Fraud Investigation effective 1 May 2021), is approved for payment in the</i></p>

amount of \$19,803.00, exclusive of GST, to be drawn from available funds immediately or as funds become available.”

Moved by: John Tabone

Seconded by: David Williams

There being no objection, the Chairperson declared the resolution was carried unanimously.

Resolution 2: Liquidators’ remuneration from 1 August 2024 to 30 June 2025

“That the remuneration of the Liquidators and their staff, for the period from 1 August 2024 to 30 June 2025, calculated at the hours spent at the rates set out in the FTI Consulting Schedule of Rates provided to creditors in Schedule G (Corporate Finance & Restructuring effective 1 July 2024, Strategic Communications effective 1 July 2024 and Technology effective 1 May 2022), is approved for payment in the amount of \$310,795.50, exclusive of GST, to be drawn from available funds immediately or as funds become available.”

Moved by: John Tabone

Seconded by: David Williams

There being no objection, the Chairperson declared the resolution was carried unanimously.

Resolution 3: Disbursements incurred in the period 1 August 2024 to 30 June 2025

“The costs of disbursements of the Joint and Several Liquidators of Forex Capital Trading Pty Ltd (In Liquidation), for the period 1 August 2024 to 30 June 2025 is determined and approved for payment at a sum equal to the cost of the disbursements incurred by FTI Consulting Technology and the Liquidators, calculated at the rates set out in Schedule H of FTI Consulting’s Disbursement Schedule, in the amount of \$78,940.65 plus GST, and the Liquidators can draw the cost of those disbursements.”

Moved by: David Williams

Seconded by: John Tabone

There being no objection, the Chairperson declared the resolution was carried unanimously.

General business	<p>The Chairperson asked those present at the meeting whether there were any further matters that they would like to discuss prior to the closure of the meeting.</p> <p>John enquired regarding the available funds being drawn from to pay the Liquidators' fees.</p> <p>The Chairperson advised the total funds available for the Liquidators' remuneration to be drawn from and confirmed that the Liquidators' total remuneration remained in line with estimated fees set out in the remuneration report.</p>
Closure	<p>There being no further business, the Chairperson thanked the Committee Members for their attendance and declared the meeting closed at 2:30pm.</p>

Dated this 21st day August 2025

Signed as a correct record



Daniel Woodhouse

Chairperson

Appendix A – Attendance register

Creditor name	Proxy	Proxy type	Claim (\$)
John Tabone	-	-	344,666.50
David Williams	-	-	2,635.00

Electronic Lodgement Document No. 7EDV19702 Lodgement date/time: 14-01-2026 19:22:49 Reference Id: 225776844
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Form 5011
Corporations Act 2001
s436E, 439A
Insolvency Practice Rules (Corporations) 2016
s75-145(1)(c)

Copy of minutes of meeting

Liquidator details

Registered liquidator number

500854

Registered liquidator name

DANIEL HILLSTON WOODHOUSE

Company details

Company name

FOREX CAPITAL TRADING PTY LTD

119 086 270

Section under which minutes are lodged

Date of meeting

15-12-2025

Are the minutes being lodged for a meeting convened under s436E, or
s439A of the Corporations Act 2001?

No

Certification

I certify that the attached minutes of meeting are a true copy of the original
minutes of meeting signed by the chair of the meeting as identified in the
minutes.

Yes

Authentication

This form has been authenticated by
Name DANIEL HILLSTON WOODHOUSE
This form has been submitted by
Name Holly WRIGHT
Date 14-01-2026

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**Minutes of Meeting of Committee of Inspection
Forex Capital Trading Pty Ltd (In Liquidation)
ACN 119 086 270
("Forex CT" or "the Company")**

Held virtually on Monday, 15 December 2025 at 9:00 am (AWST)

Opening of meeting	The Chairperson declared the meeting open at 9.05 pm (AWST).										
Appointment of Chairperson	The Chairperson introduced himself and informed the meeting that pursuant to Insolvency Practice Rule ("IPR") 75-50 he would preside over the meeting as Chairperson.										
Attendance	<table border="0"> <tr> <td>Daniel Woodhouse (Liquidator)</td> <td>Chairperson</td> </tr> <tr> <td>Reuben Corser</td> <td>FTI Consulting, assisting the Chairperson</td> </tr> <tr> <td>Renae Stirling</td> <td>FTI Consulting, assisting the Chairperson</td> </tr> <tr> <td>John Tabone</td> <td>Committee member</td> </tr> <tr> <td>David Williams</td> <td>Committee member</td> </tr> </table> <p>The Attendance Register showing persons present in person, by proxy or by attorney is contained in Appendix A.</p>	Daniel Woodhouse (Liquidator)	Chairperson	Reuben Corser	FTI Consulting, assisting the Chairperson	Renae Stirling	FTI Consulting, assisting the Chairperson	John Tabone	Committee member	David Williams	Committee member
Daniel Woodhouse (Liquidator)	Chairperson										
Reuben Corser	FTI Consulting, assisting the Chairperson										
Renae Stirling	FTI Consulting, assisting the Chairperson										
John Tabone	Committee member										
David Williams	Committee member										
Virtual meetings/Electronic facilities	<p>The Chairperson advised that:</p> <ul style="list-style-type: none"> ■ the meeting was being held virtually in accordance with IPR 75-75; ■ all persons participating virtually in the meeting are taken for all purposes to be present in person at the meeting while so participating; ■ notice of arrangements for the use of electronic facilities had been given in the Notice of Meeting pursuant to IPR 75-35 and the electronic facilities were available and operating at the meeting; and ■ participants using the electronic facilities were taken to be present in person at the meeting pursuant to IPR 75-75 and were included in the record of persons present which will form part of the minutes of the meeting to be lodged with ASIC. 										
Notice of meeting	<p>The Chairperson advised that the meeting had been called in accordance with the Notice of Meeting dated 11 December 2025.</p> <p>The Chairperson tabled a copy of the Notice of Meeting and advised it had been sent by email to all members of the Committee of Inspection on 11 December 2025, in accordance with IPRs 75-10 – 75-25.</p> <p>The Chairperson also noted that the Notice of Meeting had been published in the ASIC Insolvency Notices Website in accordance with IPR 75-40.</p>										

<p>Quorum</p>	<p>The Chairperson declared the meeting was convened at a time and place convenient to the majority of creditors entitled to receive notice of the meeting in accordance with IPR 75-30.</p> <p>The Chairperson noted that less than 10 business days’ notice of the meeting was given to committee members as it was deemed appropriate in the circumstances and unless there were any objections, the meeting would proceed. No objections were forthcoming.</p> <p>The Chairperson advised that a signed Confidentiality Deed Poll (“CDP”) had been received for David Williams and John Tabone. The CDP prevents the COI from, among other things, discussing matters raised in COI meetings, or distributing reports and updates prepared for the COI without the Liquidators’ consent.</p> <p>The Chairperson advised that, given that both COI members had returned a signed CDP and were present, a majority of the COI members were present and a quorum was constituted in accordance with IPR 80-5(6) and the meeting may proceed.</p>
<p>Purpose of meeting</p>	<p>The Chairperson advised that the purpose of the meeting was to:</p> <ul style="list-style-type: none"> ■ discuss the progress of the liquidation; ■ consider, and if thought fit, approve the Liquidators’ remuneration and disbursements for the period 1 July 2025 to 30 November 2025; and ■ discuss any other business properly brought before the meeting. <p>The Chairperson enquired if there were any questions prior to a comprehensive update. No questions were forthcoming.</p>
<p>Liquidators’ update</p>	<p>The Chairperson provided an update to members on the progress of the liquidation and discussed the key content of the Liquidators’ report.</p> <p>The Chairperson advised that the Liquidators intend to declare a dividend to creditors and discussed the three key issues to be resolved before the dividend process could commence.</p> <ul style="list-style-type: none"> ■ Priority (employee) claims <p>The Chairperson advised that the Australian Taxation Office (“ATO”) had, that morning, responded to the Liquidators’ queries on the correct application of the Superannuation Guarantee Charge (“SGC”) to advances made to the Company’s former employees under the Fair Entitlements Guarantee Scheme (“FEG”). The Chairperson advised that, with these queries now resolved, the Liquidators could proceed with a priority dividend process. The Liquidators expect to be able to pay a priority dividend around March/April 2026.</p> ■ Unclaimed money <p>The Chairperson advised that, at the time of the Liquidators’ appointment, numerous former customers had balances remaining in their Forex CT trading accounts. These funds were held by the Company on trust. The Liquidators have returned balances of \$20 or more to former customers who have provided their bank details to the Liquidators. The Chairperson advised that remaining balances of \$20 or more will be submitted to the Victorian State Revenue Office as unclaimed money. As the Victorian State Revenue Office does not accept funds under \$20 as unclaimed money, the Chairperson advised that the Liquidators</p>

will be seeking the Court's approval to treat balances under \$20 as liquidation funds.

- Tax clearance requirements

The Chairperson advised that, at the time of the Liquidators' appointment, the Company had several outstanding income tax returns. The Liquidators appointed tax agents to complete those returns. The Chairperson advised that, once those returns are finalised and lodged, the Liquidators will request tax clearance from the ATO.

The Chairperson advised that the Liquidators were also preparing an application to the Court to obtain orders to modify the statutory dividend process. The Chairperson advised that there were approximately 8,600 potential claimants and the Liquidators did not believe it would be possible to adjudicate such a large volume of claims in the time allowed by the statutory dividend process.

Accordingly, the Liquidators intended to apply to the Court to extend the statutory dividend timeline from two months to four months. The extension would provide further time for:

- the Liquidators to adjudicate claims; and
- former customers wishing to claim the full amount of their net loss to collate the supporting information required.

The Chairperson discussed the proposed extensions to the dividend timeline.

The Chairperson discussed the additional modifications to the statutory dividend process being sought. These modifications would allow former customers to either:

- accept a 15% discount on their net loss incurred from 1 January 2016, in lieu of providing supporting documentation, similar to the process adopted when undertaking the Invesus claim process; or
- submit a claim for the full value of their net loss, which would require the former customer to provide documentation in support of their claim.

The Chairperson outlined the challenges that could be involved in submitting a claim for the full value of a former customer's net loss. The Chairperson advised that, as former customers are submitting a damages claims for misleading, deceptive and unconscionable conduct, they must show that they were subject to misleading, deceptive or unconscionable conduct and that conduct caused their loss. This causation link, and supporting documentation, must be shown for each separate loss incurred. For example, for each deposit made and trade where they lost money.

The Chairperson asked for any questions on the Liquidators' update.

Mr Williams noted that it would be impossible to provide supporting documentation to prove misleading, deceptive and unconscionable conduct both due to the time elapsed since former customers traded with Forex CT and that communication with Forex CT was via phone calls.

Questions

Mr Tabone questioned how a former customer could prove their claim and reiterated the difficulty of providing supporting documentation. Mr Tabone reiterated that communication with Forex CT agents was verbal and advised that, at the time, he didn't think he would need to be recording those phone calls. He also advised that, as agents changed frequently, it would be difficult to track down all communication with Forex CT and provide those details to the Liquidators.

The Chairperson advised that the Liquidators were aware of these challenges and they were factors in the application made to the Court to modify the adjudication process as part of the Invesus claim process.

Mr Tabone reiterated the difficulties faced and expressed that it would not be possible for former customers to prove a claim as they did not receive emails for each trade made. The pressure to add more funds to trading accounts and advice on trades was made over the phone.

Mr Williams agreed and advised agents forced former customers to complete trades on the spot, over the phone.

The Chairperson reiterated that the Liquidators understood the challenges raised and confirmed that these challenges were why the Liquidators were seeking to modify the dividend process, which (if the Court approved) would remove this requirement and make it easier for former customers to claim in the liquidation.

Ms Stirling (assisting the Liquidator) explained the additional investigations undertaken to determine whether the simplified adjudication process adopted for the Invesus claim, whereby former customers could accept a 15% discount on their claim in lieu of providing supporting documentation, could be extended beyond the Relevant Period. As a result of these investigations, the Liquidators will be seeking to adopt the simplified adjudication process for all losses incurred from 1 January 2016.

Mr Williams sought confirmation of the claims process and that this would mean former customers would not need to provide supporting documentation, if they accepted a 15% discount on their net loss.

Ms Stirling confirmed that, if approved by the Court, former customers would be offered the opportunity to accept a 15% discount on their net loss in lieu of providing supporting documentation for their claim.

Ms Stirling advised that the Liquidators had recalculated the value of all discounted claims to include transactions between 1 January 2016 and 27 June 2021, after which the Liquidators were appointed. In comparison to the Invesus claims process, the extended period will allow former customers to make a simplified claim for losses incurred in an additional year prior to the Relevant Period and 15 months after the Relevant Period.

Ms Stirling outlined the process the Liquidators proposed adopting for former customers to submit claims. Former customers would be able to login to an online portal, similar to that used for the Invesus claim, view their claim information and

transaction details, and elect whether or not to participate in the simplified process. Where a former customer elects to participate in the simplified process, their claim will be registered and they will only need to confirm their bank account details for the payment of the dividend. If a former customer elects not to participate, they will need to submit a formal claim and provide supporting documentation.

Mr Williams commented that this would allow former customers to make a claim and noted that, without this process, the liquidation would have been a waste of time.

The Chairperson asked whether there were any further questions. None were forthcoming.

The Chairperson noted there were two resolutions that would be put to the meeting. The Chairperson also noted that persons participating and able to vote at the meeting would be able to amend proposed resolutions in accordance with IPR 75-70.

The Chairperson advised that reasonable time would be allowed to debate any proposed resolution or amendments to the resolutions before the resolution or amended resolution would be put to a vote.

The Chairperson read the first resolution on the Liquidators' remuneration to the meeting.

Mr Tabone asked to confirm the rates used were FTI Consulting's rates effective 1 July 2025.

The Chairperson confirmed this was correct.

Mr Tabone sought to confirm the period remuneration was being sought for and enquired about the quantum of remuneration being sought for this period.

The Chairperson confirmed remuneration was being sought for the five months from a July 2025 to 30 November 2025. The Chairperson outlined the work undertaken during the period including:

- communicating with and responding to queries from former customers;
- finalising administrative matters around the litigation funding;
- assessing priority claims and engaging with the ATO on technical aspects of their claim for SGC;
- investigating the Company's activities before and after the Relevant Period to determine whether the simplified adjudication process could be extended beyond that period;
- updating and reconfiguring the model for former customer claims to extend the calculation to include transactions from 1 January 2016 to 27 June 2021;
- commencing preparations for the online claims portal;
- dealing with unclaimed moneys in the Company's client funds account;
- preparing the court application for the modified dividend process; and

Resolutions

- appointing an external tax accountant to prepare the Company's outstanding pre-appointment tax returns and preparing and providing information for completion of company tax returns to the external accountant.

Mr Tabone sought confirmation on how the estimated dividend range provided may be impacted by the remuneration sought.

The Chairperson advised that, including the remuneration approval being sought, the liquidators' remuneration remained within the total estimate provided through the liquidators remuneration approval reports.

Ms Stirling advised that the estimated dividend range provided of five to 10 cents in the dollar was based on the total fee estimate referenced by the Chairperson. The variance from five to 10 cents will be driven by the volume of creditor claims received. The five cent return was based on all known creditors submitting a claim while the 10c estimate was based on the value of claims lodged to date.

The Chairperson asked if there were any further questions. None were forthcoming.

The following resolutions were put to the meeting:

Resolution 1: Liquidators' remuneration from 1 July 2025 to 30 November 2025

"That the remuneration of the liquidators and their staff, for the period from 1 July 2025 to 30 November 2025, calculated at the hours spent at the rates set out in the FTI Consulting Schedule of Rates provided to creditors in Schedule F (effective 1 July 2025), is approved for payment in the amount of \$293,510.00, exclusive of GST, to be drawn from available funds immediately or as funds become available."

Moved by: David Williams

Seconded by: John Tabone

There being no objection, the Chairperson declared the resolution was carried unanimously.

Resolution 2: Disbursements incurred in the period 1 July 2025 to 30 November 2025

"The costs of disbursements of the Joint and Several Liquidators of Forex Capital Trading Pty Ltd (In Liquidation), for the period 1 July 2025 to 30 November 2025 is determined and approved for payment at a sum equal to the cost of the disbursements incurred by the Liquidators, calculated at the rates set out in Schedule G of FTI Consulting's Disbursement Schedule, in the amount of \$2,067.80 plus GST, and the Liquidators can draw the cost of those disbursements."

Moved by: John Tabone

Seconded by: David Williams

There being no objection, the Chairperson declared the resolution was carried unanimously.

General business	The Chairperson asked those present at the meeting whether there were any further matters that they would like to discuss prior to the closure of the meeting. No further matters were raised.
Closure	There being no further business, the Chairperson thanked the Committee Members for their attendance and declared the meeting closed at 9.37am.

Dated this 14th day January 2026

Signed as a correct record



Daniel Woodhouse
Chairperson

Appendix A – Attendance register

Creditor name	Proxy	Proxy type	Claim (\$)
John Tabone	n/a	n/a	344,666.50
David Williams	n/a	n/a	2,635.00



Forex Capital Trading Pty Ltd (In Liquidation) ACN 119 086 270
("the Company" or "Forex CT")

Dear Sir/Madam

Forex Capital Trading Pty Ltd ACN 119 086 270 (In Liquidation) ("the Company" or "Forex CT")

We've been receiving a lot of queries about whether our emails and letters are a scam, which is understandable given the subject matter.

We also understand that our word may not be too comforting, as you've likely never dealt with us before.

So, in this email, we've outlined a few ways that you can independently confirm the contents of our emails and letters, as well as the legitimacy of our contact details.

1. The easiest way is to obtain a copy of the Federal Court of Australia's order that approved the emails and letters we sent you about the value of your claim, and how to register it. You can access the court order through the Commonwealth eCourts Portal: <https://comcourts.gov.au>. The relevant file number is "WAD83/2022" (make sure there are no spaces when you search this).
2. You can also access a copy of the order and the Court's reasons from the Federal Court of Australia's website: <https://www.judgments.fedcourt.gov.au/judgments/Judgments/fca/single/2022/2022fca0600>.
3. If you would prefer to navigate to the Federal Court of Australia's website independently, you can search for the judgement with the file number ("WAD 83 of 2022") or by searching "Forex" in the Case Name / MNC search option. The Court Orders include copies of our most recent emails and letters at Annexures A, B, C and D, and a copy of the questions posed on the registration portal at Annexure G.

Other websites

You may also like to check information available on the following websites:

- ASIC Insolvency Notices Portal (<https://publishednotices.asic.gov.au/browsesearch-notices/>), and search for "Forex"
- FTI's creditor information page (<https://www.fticonsulting.com/creditors/forex-capital-trading-pty-ltd>)

Finally, you can confirm that Daniel Woodhouse, Nathan Stubing and Ross Blakeley are registered with the Australian Securities and Investments Commission ("ASIC"). You can do this by searching the "Registered Liquidator" register under the "Professional registers" search option on ASIC's website (www.asic.gov.au).

Why have you asked me to verify my identity and for my bank details?

We understand you may be apprehensive about providing these details.

We are required to verify the identity of each person submitting a claim and this is part of the electronic verification process. We are asking for your bank account information so you can receive any potential future monetary distributions resulting from your claim.

The Federal Court of Australia approved the questions asked in the registration portal. You can access a copy of this order by following the instructions above.

Who is FTI Consulting?

FTI Consulting is a global consulting firm with offices located in 29 countries with over 6,400 employees worldwide. We regularly undertake liquidations of companies. Information about FTI Consulting can be found on our website: <https://www.fticonsulting.com>.

If you have any questions, please email the Liquidators at fxct@fticonsulting.com.

Yours sincerely

Daniel Woodhouse

Joint and Several Liquidator

Forex Capital Trading Pty Limited (In Liquidation)



Forex Capital Trading Pty Ltd (In Liquidation) ACN 119 086 270
("the Company" or "Forex CT")

Dear Sir/Madam

Forex Capital Trading Pty Ltd ACN 119 086 270 (In Liquidation) ("the Company" or "Forex CT")

Invesus Claim Update

I refer to our emails on:

- 26 May 2022 about your calculated loss during the Relevant Period (i.e. between 1 January 2017 to 1 April 2019) and registering your claim.
- 7 June 2022 providing further information about the claim process.

Update On Claim Registration Process

To date, we have received over 1,500 registrations from Former Customers, resulting in a net claim of ~\$40.2m against Invesus for losses in the Relevant Period.

Thank you to everyone who has lodged their claim so far.

As we have previously said, we received Orders from the Federal Court of Australia ("Court") to allow us to adjudicate your claims at 85% of the losses suffered during the Relevant Period. The allowance is in lieu of the Liquidators completing a legal assessment of more than 11,000 individual claims.

The Court gave the Orders because it is not possible to adjudicate everyone's claims by 30 June 2022 in accordance with the Corporations Act. Therefore, we would not have been able to make a claim against Invesus to recover money.

The Court said:

- "The Expedited Process is a creative and efficient proposal, tailored to the particular circumstances which are faced by the former customers and the Liquidators, notably the pending 30 June 2022 deadline and the extraordinary costs that would be incurred if adjudication of claims proceeded in the usual way," and;
- "The Liquidators also propose the discount on claims as a matter of fairness: in their view it provides a fair price for the ease of saving the former customers the need to collate evidence and formally prove their individual claims," and;
- "On the evidence before me, it is apparent that considerable care and effort has been employed by the Liquidators..." and;
- "The orders sought are within the scope of the relief contemplated... and in my view it is open to the Liquidators to proceed in accordance with the Expedited Process. To do so is consistent with their obligations as liquidators".

The Orders are for the claim against Invesus for the Relevant Period losses only.

Former Customers can lodge a claim for amounts outside of the Relevant Period at any time.

Request For Claims Not Yet Received

If you have not registered your claim, please lodge it immediately. Every dollar registered is a dollar we can potentially claim for you from Invesus.

We emailed you on 26 May 2022 with your unique claim number and instructions on how you can register your claim. If you did not receive this email or are having difficulty lodging your claim, please contact the Liquidators at fxct@fticonsulting.com.

If you do not register your claim by 17 June 2022, we may not be able to include your loss in the demand against Invesus. This may reduce the potential return to Former Customers.

Only if the claim against Invesus succeeds and there is sufficient recovery from Invesus or from other sources will there be money available to pay Former Customer Claims. There is no guarantee that any claim against Invesus will succeed or will result in giving you a payment from the liquidation.

In order to maximise the value of the claim against Invesus, the Liquidators strongly encourage Former Customers to submit any claim as soon as possible and prior to 17 June 2022. There is a risk that if you do not make a claim before then, you may not be able to participate in any distribution of funds ultimately recovered from Invesus as you will not have participated in creating those funds.

ABC News Article

Some of you may have seen the news article issued by the ABC on 10 June 2022:

<https://www.abc.net.au/news/2022-06-10/forexct-invesus-fti-consulting-compensation-losses/101130282>.

The article provides a link to the Court Judgement for you to review.

Thank you for your support to date.

If you have any questions, please email the Liquidators at fxct@fticonsulting.com.

Yours sincerely

Daniel Woodhouse

Joint and Several Liquidator

Forex Capital Trading Pty Limited (In Liquidation)



Forex Capital Trading Pty Ltd (In Liquidation) ACN 119 086 270
("the Company" or "Forex CT")

Dear Sir/Madam

Forex Capital Trading Pty Ltd ACN 119 086 270 (In Liquidation) ("the Company" or "Forex CT")

Invesus Claim Update

I refer to:

- our previous emails about the claim against Invesus Group Limited ("Invesus") for Former Customers' losses between 1 January 2017 and 1 April 2019 ("Relevant Period").
- the Orders of the Federal Court of Australia, allowing the Liquidators to undertake an abridged claim adjudication process ("Orders").

In accordance with the Orders, we adjudicated 1,729 Relevant Period claims with a quantified net value of \$43,645,127.26, after the 15% allowance that you accepted.

We issued a demand on Invesus for the payment of \$43,645,127.26 on 22 June 2022, before the Letter of Comfort deadline of 30 June 2022. Invesus has initially denied liability, which we and our funder anticipated. Accordingly, we are now reviewing our legal enforcement alternatives, including commencing proceedings against Invesus in court on behalf of the Company.

We will continue to provide updates on the claim against Invesus.

Liquidation Process and Communications

By law, the Liquidators are the only people able to deal with claims in the liquidation, including the claims that were adjudicated in accordance with the Orders. These claims have formed the basis of the Company's claim against Invesus for the benefit of creditors.

If you are contacted by Invesus, or anyone other than the Liquidators or staff from FTI Consulting to discuss your claim or the liquidation, please immediately contact us at fxct@fticonsulting.com.

If you have already been contacted by anyone other than the Liquidators, please let us know by emailing the Forex CT Claims Team at fxct@fticonsulting.com.

The Liquidators will not authorise anyone other than the staff of FTI Consulting to contact you about Forex CT and the liquidation.

Thank you for your support to date.

Yours sincerely

Daniel Woodhouse

Joint and Several Liquidator

Forex Capital Trading Pty Limited (In Liquidation)



Forex Capital Trading Pty Ltd (In Liquidation) ACN 119 086 270
("the Company" or "Forex CT")

Dear Sir/Madam

Forex Capital Trading Pty Ltd ACN 119 086 270 (In Liquidation) ("the Company" or "Forex CT")

We are writing to provide you with an update on claims we are pursuing in the liquidation, and to warn you about potential scams, which have risen as we near the end of the year.

Invesus Claim

As discussed in our previous updates, we issued a demand on Invesus for the payment of \$43,645,127.26 on 22 June 2022. Invesus has initially denied liability, which we and our funder anticipated.

On 15 August 2022, we commenced an action against Invesus in the Supreme Court of New South Wales, seeking payment of the ~\$43.6m. As with any legal claim, after we commenced the action, we were required to serve the claim on Invesus.

Because Invesus is based in Gibraltar, we needed to follow international legal conventions, and use a different service method than we would ordinarily use in Australia. This meant the process took a bit longer to complete.

The claim was served on Invesus under the Hague Service Convention on 15 November 2022 and we received confirmation of service on 15 December 2022.

On 22 December 2022 we received notice that Arnold Bloch Leibler is acting for Invesus. The next hearing about the claim has been listed for 3 February 2023. At this hearing, the judge will set out the steps required to resolve the claim.

We will update you about the Invesus claim after the next court hearing.

ASIC Claim

In our report to creditors of 28 February 2022, we identified a potential unfair preference claim against the Australian Securities and Investments Commission ("ASIC"), totalling \$21.18m. This related to pecuniary penalties and court costs, and investigations fees, that the Company paid to ASIC to settle ASIC's claims against the Company, which arose prior to our appointment.

On 24 October 2022, we issued a demand for payment on ASIC for \$21.18m as an unfair preference claim. We received a response to our claim on 16 December 2022. ASIC has initially denied liability and requested that we provide additional information to support the claim.

We are considering our response to ASIC and what further options are available to the Liquidators to recover the funds for the benefit of all creditors.

Likelihood of recovery

Only if the claim against Invesus or ASIC succeeds and there is sufficient recovery from Invesus, ASIC or from other sources will there be money available to pay Former Customer Claims. There is no guarantee that any claim against Invesus or ASIC will succeed or will result in giving you a payment from the liquidation.

Beware of scams

Several Former Customers have contacted us after receiving phone calls or emails offering a refund of their Forex CT accounts. These **are not** legitimate calls or emails.

By law, the Liquidators are the only people able to deal with claims in the liquidation.

The Liquidators will not authorise anyone other than the staff of FTI Consulting to contact you about Forex CT and the liquidation. If you are contacted about your claim, you may like to ask for the person's name, position and who they represent, and either:

- email us at fxct@fticonsulting.com with details of the contact to confirm whether the contact was legitimate (always create a new email to do this); or
- call our offices to confirm the individual is employed by FTI Consulting and what their contact details are.

When emailing us about a potential scam, you should always create a fresh email or enter our email address in the to field yourself as email addresses can be "spoofed" (that is, an email can look like it is from a legitimate email address, when it is not).

You can also check for updates on our website - <https://www.fticonsulting.com/creditors/forex-capital-trading-pty-ltd>. You can navigate to this site independently by searching "FTI Consulting Creditors Portal" and then navigating to the Forex CT page by selecting "F" and then "Forex Capital Trading Pty Ltd (In Liquidation)".

All claims are managed through our claims' registration portal - <https://www.forexctclaims.com.au/>. If you are asked to lodge details of your claim elsewhere, this is not legitimate. Please do not provide your details and let us know about the contact you received.

If we are able to pay funds to Former Customers in the future, we will never ask you to contribute to the cost of the payment. In a liquidation, the liquidators are generally paid from the assets of the company, subject to creditor approval. We may also receive litigation funding, as we have for the claim against Invesus. We will never ask you to pay money to us to cover our costs or transaction fees.

In June 2022, we sent an email about how to check the veracity of our appointment and correspondence with you. If you did not receive or cannot locate a copy of this email, it is available on our website - <https://www.fticonsulting.com/creditors/forex-capital-trading-pty-ltd>.

The Government's ScamWatch website (<https://www.scamwatch.gov.au/>) also provides information on how to identify scams, such as confirming email and web addresses before clicking on them.

If you are contacted by someone about your claim against Forex CT and you are unsure whether it is a scam, please contact us at fxct@fticonsulting.com.

Queries over the holiday period

Our offices will close this Friday, 23 December 2022 and will reopen on Monday, 9 January 2023. Queries received during this time may not be addressed until we return in January 2023.

Our email address for queries is fxct@fticonsulting.com. We also have a messaging service that you can call, where you can provide your details and leave a question or message to call you back:

- Victoria and Tasmania – (03) 9604 0665
- New South Wales and Australian Capital Territory – (02) 8247 8048
- Queensland – (07) 3225 4944
- Western Australia, South Australia and Northern Territory – (08) 6430 1313

Yours sincerely

Daniel Woodhouse

Joint and Several Liquidator

Forex Capital Trading Pty Limited (In Liquidation)



Forex Capital Trading Pty Ltd (In Liquidation) ACN 119 086 270 ("the Company" or "Forex CT")

Dear Sir/Madam

Forex Capital Trading Pty Ltd ACN 119 086 270 (In Liquidation) ("the Company" or "Forex CT")

We are writing to provide you with an update on the claims we are pursuing in the liquidation, and to warn you about new potential scams, which Former Customers have recently contacted us about.

Invesus Claim

In our last update, we confirmed that the next hearing about the claim had been listed for 3 February 2023. This hearing was adjourned to 24 February 2023, to allow us to agree security for costs with Invesus' legal representatives. This is normal in litigation matters, particularly where the party bringing the claim (i.e. Forex CT) is in liquidation.

At the hearing on 24 February 2023, the judge set out the next two steps in the litigation process:

- Invesus to file its' defence by 31 March 2023; and
- the Liquidators to file any reply to Invesus' defence by 14 April 2023.

A further hearing has also been listed for 28 April 2023, where the judge will consider and set out further steps required to resolve the claim.

We will update you about the Invesus claim after the next court hearing.

ASIC Claim

As advised in our email on 23 December 2022, we issued a demand for payment on ASIC for \$21.18m as an unfair preference claim, on 24 October 2022. ASIC has, initially, denied liability and requested that we provide additional information to support the claim.

We are continuing to engage with ASIC and are considering litigation funding options to pursue the claim further.

Likelihood of recovery

Only if the claim against Invesus or ASIC succeeds and there is sufficient recovery from Invesus, ASIC or from other sources will there be money available to pay Former Customer Claims. There is no guarantee that any claim against Invesus or ASIC will succeed or will result in giving you a payment from the liquidation.

Beware of scams

Impersonating the Liquidators/FTI Consulting

Several Former Customers have contacted us after receiving phone calls from people claiming to be the liquidators and/or staff from FTI Consulting. These people are telling Former Customers that money has been recovered in the liquidation, sometimes referring to money recovered from Forex CT's "crypto assets". **These are not legitimate calls** and Forex has no "crypto assets".

Former Customers are being asked by these people to download apps and provide remote access to their devices (phones, iPads/tablets, computers, etc.), including asking Former Customers to install Atomic and TeamViewer on their phones.

To be very clear:

- **we will never** ask to access to your electronic devices.
- **we will never** ask you to download any software or apps.
- **we will never** ask you to login to your email or bank accounts – either with or without us viewing your device.
- **we will never** ask you to transfer money to the Liquidators, FTI Consulting, or any other party.
- **we will never** ask you to contribute to the cost of any payment, whether that be our costs or transactions fees.

The Liquidators recover their fees and costs from the Company's assets, subject to the approval of the Committee of Inspection, Creditors, or the Court. As previously advised, the Liquidators can (and have) also seek funding to pursue legal claims – such as the claims against Invesus and ASIC.

We are also aware of other Forex CT scam attempts, such as emails requesting telephone calls to discuss a claim for compensation, or deposit refunds with Forex CT. These emails often claim to be from financial or legal recovery officers, appointed to assist Former Customers in locating their funds or recovering funds from Forex CT.

For example, several Former Customers have recently received emails appearing to be from Darren Henderson of Legal Recovery Solutions Ltd. The email claims that Legal Recovery Solutions has been given the "responsibility of assisting their [Forex CT's] past clients in recovering their funds from the corporate wallet of Forex CT". **This is untrue.**

These types of emails are not legitimate and are not affiliated to the Liquidators, or FTI Consulting.

By law, the Liquidators are the only people able to deal with claims in the liquidation. The Liquidators have not authorised any other parties to contact Former Customers.

What can I expect if funds are recovered in the liquidation

If funds are recovered in the liquidation, we will email all Former Customers and provide an update on our website - <https://www.fticonsulting.com/creditors/forex-capital-trading-pty-ltd>. You will always be able to check the contents of our emails with notices on our website.

Any payments that result from a recovery will be made through a formal dividend process. This requires us to send you a specific notice of dividend and to publish this notice on ASIC's published notices website –

<https://publishednotices.asic.gov.au/>. If we are able to pay a dividend in the future, we will tell you how to participate in the process, how to independently check the process, and how to check for our formal notice on the Published Notices website.

Claims will also continue to be managed through our claims' registration portal -

<https://www.forexctclaims.com.au/>. If you are asked to lodge details of your claim elsewhere, this is not legitimate. Please do not provide your details and let us know about the contact you received.

What should I do if I suspect I am the target of a scam?

If you are contacted about your claim, you may like to ask for the person's name, position and who they represent, and either:

- email us at fxct@fticonsulting.com with details of the contact to confirm whether the contact was legitimate (always create a new email to do this); or
- call our offices to confirm the individual is an FTI Consulting employee and, if so, their contact details.

When emailing us about a potential scam, please create a fresh email or enter our email address in the to field yourself as email addresses can be "spoofed" (that is, an email can look like it is from a legitimate email address, when it is not).

The Government's ScamWatch website (<https://www.scamwatch.gov.au/>) also provides information on how to identify scams, such as confirming email and web addresses before clicking on them.

If you are contacted by someone about your claim against Forex CT and you are unsure whether it is a scam, please contact us at fxct@fticonsulting.com.

Contact details

Our email address for queries is fxct@fticonsulting.com. We also have a messaging service that you can call, where you can provide your details and leave a question or message to call you back:

- Victoria and Tasmania – (03) 9604 0665
- New South Wales and Australian Capital Territory – (02) 8247 8048
- Queensland – (07) 3225 4944
- Western Australia, South Australia and Northern Territory – (08) 6430 1313

Yours sincerely

Daniel Woodhouse

Joint and Several Liquidator

Forex Capital Trading Pty Limited (In Liquidation)



Forex Capital Trading Pty Ltd (In Liquidation) ACN 119 086 270
("the Company" or "Forex CT")

Dear Sir/Madam

Forex Capital Trading Pty Ltd ACN 119 086 270 (In Liquidation) ("the Company" or "Forex CT")

We are writing to provide you with an update on the claims we are pursuing in the liquidation.

Invesus Claim

In our last update, we confirmed that the next hearing about the claim had been listed for 28 April 2023. Prior to the hearing, both parties' lawyers (Invesus' and the Liquidators') agreed a timeline for the next steps in the process and submitted this to the Court as an application for Consent Orders (in essence, proposed orders for the Court to consider without each party needing to attend Court).

On 27 April 2023, the judge made the orders submitted, which set the following timeline:

- the Liquidators to file their evidence by 23 June 2023; and
- Invesus to file its evidence in reply by 4 August 2023.

A further hearing has also been listed for 15 September 2023, where the judge will consider and set out further steps required to resolve the claim.

We will update you about the Invesus claim after the next court hearing.

ASIC Claim

As advised in our previous emails, we have been considering options available to pursue an unfair preference claim against ASIC for \$21.18m.

On 13 April 2023, the Committee of Inspection approved the liquidators entering into a litigation funding agreement to pursue the claim further. We have since executed and entered into this funding agreement.

The terms of the litigation funding agreement are confidential and, as such, we cannot disclose them. We will continue to pursue the claim against ASIC with the litigation funder and provide an update in due course.

Likelihood of recovery

Only if the claim against Invesus or ASIC succeeds and there is sufficient recovery from Invesus, ASIC or from other sources will there be money available to pay Former Customer Claims. There is no guarantee that any claim against Invesus or ASIC will succeed or will result in giving you a payment from the liquidation.

Beware of scams

As noted in our previous updates, Former Customers should remain vigilant about potential scams. As a reminder, we will **never** ask you to:

- provide access to your electronic devices.
- download any software or apps.
- login to your email or bank accounts.
- transfer money to the Liquidators, FTI Consulting, or any other party.
- contribute to the cost of any payment, whether that be our costs of transaction fees.
- provide us with your passwords.

Claims continue to be managed through our claims' registration portal - <https://www.forexctclaims.com.au/>. If you are asked to lodge details of your claim elsewhere, this is not legitimate. Please do not provide your details and let us know about the contact you received.

Contact details

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Yours sincerely

Daniel Woodhouse

Joint and Several Liquidator

Forex Capital Trading Pty Limited (In Liquidation)



Forex Capital Trading Pty Ltd (In Liquidation) ACN 119 086 270
("the Company" or "Forex CT")

Dear Sir/Madam

Forex Capital Trading Pty Ltd ACN 119 086 270 (In Liquidation) ("the Company" or "Forex CT")

Claim against the Australian Securities and Investments Commission

As previously reported, the Liquidators of Forex CT have identified claims against the Australian Securities and Investments Commission ("ASIC") of approximately \$21.5m.

We have engaged with ASIC for approximately two years to recover this money. However, to date, ASIC has resisted paying the money to the Liquidators for the benefit of Forex CT's creditors. As a result, we have commenced a claim in the Federal Court of Australia ("Court") for the payment of approximately \$21.5m.

The first hearing was due to be heard on 8 February 2024. However, with the consent of the Liquidators and ASIC, the Court made, among others, the following orders on 7 February 2024:

- Forex CT must serve its Statement of Claim on ASIC and file it with the Court by 9 February 2024. This was done on 7 February 2024. The Statement of Claim and the Court orders can be viewed at: <https://www.fticonsulting.com/creditors/forex-capital-trading-pty-ltd>.
- ASIC must serve its defence on Forex CT and file it with the Court by 8 March 2024.
- Forex CT may then serve ASIC with any reply to ASIC's defence and file that reply with the Court by 22 March 2024.

The first case management is listed for 9:30am (AWST) on 10 April 2024. At that time, the Court will make further orders, which will dictate the next steps.

We will provide another update, after the first case management is heard by the Court.

Claim against Invesus

As you know, the Liquidators, on behalf of Forex CT, have also commenced a claim against Invesus in the Supreme Court of New South Wales. This claim is for approximately \$42.5m.

Since our last update, the Supreme Court of New South Wales has listed this matter for trial on 26 June 2024. While we wanted an earlier trial, this was the earliest time the Court had available.

Accordingly, there will be nothing to update until after the trial has been heard and the Supreme Court of New South Wales has issued its judgement.

Beware of scams

Impersonating the Liquidators/FTI Consulting

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- access to your electronic devices.
- download any software or apps.
- login to your email or bank accounts – either with or without us viewing your device.
- transfer money to the Liquidators, FTI Consulting, or any other party.
- contribute to the cost of any payment, whether that be our costs or transactions fees.
- provide us with your passwords.

Claims continue to be managed through our claims' registration portal - <https://www.forexctclaims.com.au/>. If you are asked to lodge details of your claim elsewhere, this is not legitimate. Please do not provide your details and let us know about the contact you received.

What can I expect if funds are recovered in the liquidation

Only if the claim against Invesus or ASIC succeeds and there is sufficient recovery from Invesus, ASIC or from other sources will there be money available to pay Former Customer Claims. There is no guarantee that any claim against Invesus or ASIC will succeed or will result in giving you a payment from the liquidation.

If funds are recovered in the liquidation, we will email all Former Customers and provide an update on our website – <https://www.fticonsulting.com/creditors/forex-capital-trading-pty-ltd>. You will always be able to check the contents of our emails with notices on our website.

Any payments that result from a recovery will be made through a formal dividend process. This requires us to send you a specific notice of dividend and to publish this notice on ASIC's published notices website – <https://publishednotices.asic.gov.au/>. If we are able to pay a dividend in the future, we will tell you how to participate in the process, how to independently check the process, and how to check for our formal notice on the Published Notices website.

Claims will also continue to be managed through our claims' registration portal – <https://www.forexctclaims.com.au/>. If you are asked to lodge details of your claim elsewhere, this is not legitimate. Please do not provide your details and let us know about the contact you received.

Contact details

Our email address for queries is fxct@fticonsulting.com. We also have a messaging service that you can call, where you can provide your details and leave a question or message to call you back. That number is (08) 6430 1313.

Yours sincerely

Daniel Woodhouse
Joint and Several Liquidator
Forex Capital Trading Pty Limited (In Liquidation)

— Forex Capital Trading Pty Ltd (In Liquidation) ACN 119 086 270
("Forex CT")

Dear Sir/Madam

We are writing to provide you with an update on the claims we are pursuing in the liquidation.

Claim against the Australian Securities and Investments Commission

As you know, we identified claims against the Australian Securities and Investments Commission ("ASIC") of approximately \$21.5m. We have been trying to recover this money from ASIC for over three years.

We have previously reported that we had commenced proceedings in the Federal Court of Australia ("Federal Court") to try and recover this money, or as much as possible for the benefit of creditors, including Forex CT's former customers.

By an Order of the Federal Court, the Liquidators, on behalf of Forex CT, and ASIC attended a mediation in Melbourne on 8 August 2024. Mediation is a process where parties meet with an impartial, qualified mediator to see whether their claim can be resolved by settlement as an alternative to the judge imposing a decision on the parties. A settlement resolution is faster and much cheaper than going to court and avoids the risk of an adverse decision from the judge.

While the parties were unable to reach a settlement resolution on 8 August 2024, we agreed with ASIC to keep the mediation open until 31 October 2024 to allow negotiations to continue.

I am pleased to advise that after more than 2 months of extended mediation, we agreed to settle the claims against ASIC for a payment of \$11.5m by ASIC to the Liquidators. A Settlement Deed was signed by ASIC, the Liquidators and Forex CT on 22 October 2024. ASIC must pay the money into our lawyer's trust account by 19 November 2024. Once this money is received, we will formally end the Federal Court proceeding against ASIC.

We believe this is a good outcome for Forex CT and its creditors, as:

- it provides a faster outcome than a court hearing (noting the proceedings were still at a very early stage).
- all court hearings involve risk and Forex CT could have lost its case against ASIC.
- if Forex CT lost, we would not have recovered any money from ASIC unless we could successfully appeal the Federal Court's decision. We did not have any committed funding for an appeal.
- if ASIC lost, they could have appealed the Federal Court's judgment. Again, we did not have committed funding to defend an appeal.
- if either ASIC or Forex CT appealed the Federal Court's decision, it would have delayed the final outcome (until well into 2026).
- we will not incur the costs associated with a court hearing and any appeal (both legal and Liquidators' fees and costs).

FTI Consulting (Australia) Pty Limited

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- the litigation funding premium, under the funding agreement, would have increased, if we had proceeded to trial, with further increases likely if we had proceeded to an appeal.

Claim against Invesus

On 26 and 27 June 2024, Forex CT's claim against Invesus for approximately \$42.5m was heard by Justice Ball in the Supreme Court of New South Wales. Unfortunately, Justice Ball ruled against Forex CT and in favour of Invesus. Justice Ball dismissed Forex CT's claim and ordered Forex CT to pay Invesus' costs of the proceeding. However, as this proceeding was funded under a litigation funding agreement, the adverse costs order does not impact creditors of Forex CT, or reduce the amount of money which may be available to distribute to creditors (as explained below).

Following discussions with KWM, Senior Counsel and Balance Legal Capital (the litigation funder for the Invesus Claim), we agreed to appeal Justice Ball's decision. The Notice of Appeal was filed with the New South Wales Court of Appeal ("Court of Appeal") on 18 October 2024. We do not yet know when the Court of Appeal will hear our appeal. At present, we anticipate it will be heard in the first half of 2025.

Distribution of Money

Liquidators are required to pay surplus money to creditors, after paying the costs of the liquidation. By law, that money is paid to priority creditors such as employees first and then to unsecured creditors.

Given the successful resolution of the claim against ASIC, it is now likely that a dividend will be paid to creditors.

How much will I get paid?

At this time, we are unable to tell you how much you will be paid. This will depend on a number of factors, including:

- whether the appeal against Invesus is successful.
- the costs to undertake the liquidation such as (among other things) the Liquidators' fees, legal fees and amounts due to the litigation funders.
- the total amount owed to creditors.

We expect to be in a position to give an estimate of the amounts to be paid to creditors once the dividend process has commenced and all proofs of debt are received. However, this timing estimate is subject to change, and particularly reliant on when the Invesus appeal is heard in court.

When will I be paid?

There are, potentially, more than 8,500 former customers who will be entitled to prove for a dividend. This will be complex and could take 6 months. Therefore, we will need to make an application to Court to extend the statutory dividend timeline from two months to six months.

We are also unlikely to be able to pay you any money until the appeal against Invesus has been resolved and any additional money recovered.

Therefore, a dividend is not likely until at least the middle of 2025, but potentially longer.

What do I need to do now?

At this stage, nothing is required from you. We will write to you again when we can pay a dividend and tell you (among other things):

- what you need to do to participate in the dividend process.
- how much you will be paid, including what percentage it represents on your total claim.
- when you will be paid.

In the meantime, claims continue to be managed through our claims' registration portal - <https://www.forexctclaims.com.au/>. If you are asked to lodge details of your claim elsewhere, this is not legitimate. Please do not provide your details and let us know about the contact you received.

Beware of scams

Impersonating the Liquidators/FTI Consulting

To be very clear, **we will never ask you to:**

- give access to your electronic devices.
- download any software or apps.
- login to your email or bank accounts – either with or without us viewing your device.
- transfer money to the Liquidators, FTI Consulting, or any other party.
- contribute to the cost of any payment, whether that be our costs or transaction fees.
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Contact details

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We also have a messaging service that you can call and provide your details and leave a question or message to call you back. That number is (08) 6430 1313.

Yours sincerely

Daniel Woodhouse
Liquidator



Forex Capital Trading Pty Ltd (In Liquidation) ACN 119 086 270
 (“the Company” or “Forex CT”)

Dear Sir/Madam

Forex Capital Trading Pty Ltd ACN 119 086 270 (In Liquidation) (“the Company” or “Forex CT”)

I am writing to provide you with an update on the liquidation and initial information about the payment of a distribution to creditors, covering the following topics:

- Claim against ASIC for return of penalties paid now settled for ~\$7.9m in net proceeds:
 - Pursuit of claim against ASIC would not have been possible without support of litigation funder.
- Claim against Invesus – the offshore owner of Forex CT – has been finalised, after Court of Appeal ruled in favour of Invesus:
 - Majority of costs for the Invesus claim were borne by litigation funder.
- Distributions to creditors to be paid in around the next 6-9 months, pending Court application to amended dividend process timeline:
 - Payment period will need to be longer than the usual 2 months, given potentially more than 8,600+ claims to process.
 - Initial estimate is that the dividend range is between 5 and 10 cents in the dollar. That is, for every \$1 claim creditors have, 5-10c is expected to be paid.
- Creditors do not need to take any action at this stage – further details will be sent during the process

Claim against the Australian Securities and Investments Commission

As advised in our last update, we settled our claim against the Australian Securities and Investments Commission (“ASIC”) for \$11.5m. The net amount received was ~\$7.9m, after deducting the amounts due to the litigation funder, Litigation Capital Management Ltd (“LCM”).

The amounts owed to LCM included:

- the repayment of the funding LCM provided to Forex CT to pursue the claim; and
- LCM’s commission for providing the funding.

LCM’s commission represents the risk that LCM took funding the claim and was a term of the Litigation Funding Agreement approved by the Committee of Inspection in April 2023. If the ASIC claim had been unsuccessful, LCM would not have received any money (and would be out of pocket for the costs it had paid). That is, LCM took all of the risk if the claim against ASIC was unsuccessful. Without litigation funding, the Liquidators would not have had the money to commence proceedings against ASIC and we would have been unable to recover any money for creditors.



The majority of money recovered from ASIC has been placed in a term deposit and will remain invested until we are in a position to pay a dividend to creditors. Interest earned on the term deposit will form part of the liquidation funds available to unsecured creditors.

The ASIC claim is now complete.

Claim against Invesus

At the time of our last update, we had commenced the appeal against Invesus in the New South Wales Court of Appeal. The appeal was listed to be heard in March 2025.

In the lead up to the hearing, we worked with our solicitors, Balance Legal Capital (“Balance”) (the litigation funder for the Invesus claim) and Senior Counsel to prepare for the appeal. This included preparing and filing submissions with the Court and attempting to settle the claim with Invesus. Ultimately, no settlement was achieved as offers received from Invesus did not provide for any money to be paid to Forex and its creditors.

The appeal was heard on 20 March 2025. On 14 April 2025, the Court of Appeal handed down its decision and, unfortunately, dismissed the appeal with costs (that is, Forex was required to pay Invesus’ costs).

In consultation with our solicitors and Balance, we decided not to pursue a further appeal to the High Court as prospects of obtaining special leave to do so, or being successful, were very limited.

Under the litigation funding agreement, Balance paid all of the adverse costs of the litigation and the majority of the liquidators and our solicitors fees and costs.

The Invesus claim is now complete.

Distributions to creditors

Liquidators are required to pay surplus money to creditors, after paying the costs of the liquidation. By law, that money is paid to priority creditors such as employees first and then to unsecured creditors.

Given the successful outcome against ASIC, we will be paying a dividend to creditors.

What does the dividend process involve?

Under the Corporations Act 2001 (“the Act”), there are five main steps liquidators must follow to pay a dividend. They are, broadly, as follows:

1. Liquidators must notify creditors of their intention to declare a dividend.
2. Creditors have three weeks to submit their claims.
3. Liquidators then have two weeks to assess each claim received and either admit the claim (meaning the creditor can participate in the dividend payment), reject the claim (meaning the creditor cannot participate in the dividend payment), or ask the creditor for further information to assess the claim.
4. Creditors may appeal the liquidators’ decision to the Court (within a two week time frame).
5. The liquidators declare and then pay the dividend.



By law, this process normally takes approximately two months. While this time is usually sufficient, there are potentially more than 8,600 creditors in the Forex liquidation. This is considerably more than a typical liquidation and, consequently, it will not be possible to adjudicate all claims in this time.

Therefore, we need to apply to the court to extend the dividend timeline to allow more time both for creditors to submit their claims and for the liquidators to adjudicate those claims. We will also be seeking to simplify the claims and adjudication process, as we did with the claims process we completed in 2022 for the Invesus claim.

Additional information will be provided when the application is made to the court.

How much will I be paid?

Our initial estimate is that the dividend range will be between 5 and 10 cents in the dollar. That is, for every \$1 claim creditors have, 5-10c is expected to be paid. The final dividend amount will vary depending on:

- the final value of all claims admitted in the liquidation; and
- the costs involved in adjudicating claims and paying the dividend.

When will I be paid?

At this stage, we estimate a dividend will be paid in the next 6 to 9 months, subject to:

- the court providing the orders we need to adjudicate creditors' claims. I note that we have instructed our lawyers to make this application; and
- ASIC and the Australian Taxation Office ("ATO") each providing clearance to finalise the liquidation and pay a dividend.

We have commenced the process of obtaining these clearances from ASIC and the ATO. However, these clearances can take time to finalise and timing typically varies depending on the complexity of the company's pre appointment activities.

In particular, as Forex had not lodged all of its tax returns prior to our appointment, we must complete these returns to enable the ATO to assess any debt that may arise from the outstanding returns. We have engaged a tax accountant to assist in this process.

What do I need to do now?

At this stage, nothing is required from you. We will write to you again when the application to amend the dividend process is made and when we commence the dividend process. At the relevant time, notice will be given to creditors including information on (amongst other things):

- what you need to do to participate in the dividend process; and
- when you will be paid.



Beware of scams

We are aware of people impersonating the liquidators or claiming to be able to assist you in recovering money from Forex. We expect that the number of scams may increase as we get closer to distributing a dividend to creditors.

To be very clear, **we will never** ask you to:

- access to your electronic devices.
- download any software or apps.
- login to your email or bank accounts – either with or without us viewing your device.
- transfer money to the Liquidators, FTI Consulting, or any other party.
- contribute to the cost of any payment, whether that be our costs or transactions fees.
- provide us with your passwords.

The Liquidators recover their fees and costs from the Company's assets, subject to the approval of the Committee of Inspection, Creditors, or the Court. As previously advised, the Liquidators can (and have) also seek funding to pursue legal claims – such as the claims against Invesus and ASIC.

Contact details

Our email address for queries is fxct@fticonsulting.com.

We also have a messaging service that you can call and provide your details and leave a question or message to call you back. That number is (08) 6430 1313.

Yours sincerely

Daniel Woodhouse

Joint and Several Liquidator

Forex Capital Trading Pty Limited (In Liquidation)