

## CHC Update for Claimants

Update: 17<sup>th</sup> May 2017

By Notice of Motion dated 1st March 2017 in respect of Custom House Capital Limited (“CHC”) the Liquidator lodged an application in the High Court seeking, among other things:-

An order granting the Official Liquidator recourse to client money or client financial instruments for costs and expenses incurred in the reconciliation and distribution of the remaining client assets;

Directions from the Court as to how the Liquidator’s costs are to be apportioned across the client accounts;

Directions from the Court regarding the distribution to clients of CHC of the client assets which have been mixed or pooled together including those that have been affected by misappropriated monies.

On the 6th April 2017, the Official Liquidator’s Directions Application came before Ms. Justice Finlay Geoghegan. At that time, the Court made directions regarding the appointment of Representative Parties to the Liquidator’s applications and set timelines for each party to make submissions. The matter is next for mention on the 15th June 2017.

The Court has listed the matter for full hearing for three days commencing on 27th June 2017.

What does this mean for claimants?

The June hearing should provide directions to the Official Liquidator on how to treat the various outstanding assets classes as well as confirming how misappropriated funds will be recovered. It remains unclear, however, how long the reconciliation and distribution process will take to complete. It is expected that the outcome of the hearing may facilitate the early certification of some compensation claims.

Update: 7<sup>th</sup> October 2016

The Liquidator has recently reported to the Examiner’s Court that the reconciliation and return/distribution of Segregated Assets has been materially completed at this stage. In this regard, the ICCL has been advised by the Administrator that in respect of compensation claims solely related to Segregated Assets, no compensatable losses arose. However, we understand that the vast majority of clients that held Segregated Assets, also participate in Pooled Assets and/or Property Assets which still require a reconciliation and distribution process to be completed. The ICCL has yet to be advised as to when the certification of these associated claims will be completed by the Administrator.

The matter of the Liquidator’s fees for the period 1 November 2013 to 10 June 2016 is due before the Examiners Court on the 4th November 2016.

## Update 15<sup>th</sup> December 2015

On 10th February 2015, at the High Court, the Official Liquidator<sup>1</sup> of Custom House Capital Limited [“CHC”], Mr Kieran Wallace, informed the Court of his intention to proceed with the liquidation of CHC (in respect of client asset positions) on the following basis:

- Reconcile and return segregated client assets (subject to the payment of a management fee by each client in accordance with existing contractual terms and conditions) within a target timeline of December 2015;
- Determine the funding requirement for the reconciliation and return of pooled client assets;
- As appropriate, make a MiFID application to access pooled client assets to defray the associated reconciliation and return costs of pooled assets only;

On 9 TH July 2015, at the High Court the above timelines were re-confirmed by the Liquidator.

### What does this mean for Compensation purposes?

Claimants are advised that the ICCL continues to stand ready to pay any certified losses and has the necessary funds and procedures in place to make the payments within a matter of days of any forthcoming certification. However, the Official Liquidator, in his capacity as Administrator, has advised the ICCL that, of the remaining claims awaiting certification of loss, he cannot certify an individual client’s losses in CHC, to enable the ICCL to pay compensation, until such time as he has reconciled each client’s position within various asset classes – e.g. Property Funds, Pooled Bank accounts etc.

- Segregated Asset Claims only - In respect of claims that solely relate to Segregated Assets, the ICCL would expect that the full and final certification of that client’s compensatable loss should immediately follow the reconciliation of that client’s position. In any event, not significantly later than December 2015, being the timeline indicated by the Official Liquidator to the Court for reconciliation purposes
- Segregated and Pooled Asset Claims - In respect of claims that relate to both Segregated and Pooled Assets, the ICCL would expect that the interim certification of that client’s compensatable loss in respect of their Segregated Assets, should immediately follow the reconciliation of that client’s position. In any event, not significantly later than December 2015, being the timeline indicated by the Official Liquidator to the Court for reconciliation purposes.

The certification of their claim in respect of Pooled Assets cannot properly be completed until the reconciliation has been completed which is not expected until sometime in 2016 at the earliest.

- Pooled Asset Claims - In respect of claims that relate solely to Pooled Assets, the certification of these claims by the Administrator cannot commence until the reconciliation work, which forms part of the Liquidation work, has been completed. This work is not expected to commence until sometime in 2016 at the earliest. The timeline to completion of this reconciliation work is estimated by the Liquidator as circa two years.<sup>1</sup>

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<sup>1</sup> 1 The Official Liquidator was also appointed as Administrator for the purpose of certifying clients’ losses in accordance with the legislative requirements of the Investor Compensation Act, 1998.