

HIH PRESS RELEASE

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Major Litigation Claims

Following the release of the HIH Royal Commission findings in April this year, Tony McGrath and Alex Macintosh, the liquidators of the HIH Insurance group (including the FAI Insurance group) ("HIH"), have continued their investigations into the collapse of the insurance group. The current investigations have focused on the potential major litigation actions available to the liquidators to recover damages to improve the return to creditors. The actions involve a series of potential defendants including auditors, actuaries, reinsurers, directors and advisors.

Whilst the HIH Royal Commission has provided a valuable reference source, the focus of the liquidators' enquiries has been on civil recovery actions, which are outside the scope of the HIH Royal Commission and are not dependant on the findings contained in the report of Justice Neville Owen into the collapse of HIH.

The overall strategy for the major litigation is being developed with a view to achieving settlement with the potential defendants. However in the event an appropriate settlement cannot be achieved in the first instance, the liquidators expect to proceed with a number of actions in the next six months, with other actions to follow at a later stage. Some potential defendants have already made approaches to the liquidators regarding settlement discussions.

A team comprising leading senior counsel and three Sydney law firms have assisted in narrowing down the vast number of potential actions available to the HIH liquidators. In aggregate the potential damages are considered to be in excess of \$1 billion. Many of the proposed defendants are common to a number of the actions, and the resources of those target defendants to meet the claims are not unlimited.

A significant factor in assessing the various claims and formulating the litigation strategy has been the cost benefit analysis of the actions, as there is a potential for these matters to run for five to ten years.

In view of the very significant costs and the impact that the legal actions are anticipated to have on the return to HIH and FAI creditors, the Liquidators will continue to consult with the relevant Committees of Inspection to ensure their ongoing support in pursuing the major claims.

In addition to investigating the major legal claims, the liquidators have instigated legal action and successfully recovered a number of outstanding debts and other relatively smaller claims. Some of the preference payments made to creditors in the last days of HIH, have been or are being recovered, such as the Cooper settlement, which was agreed in principle last week. The investigation of a number of these other claims is continuing.

The APRA Claim

In November 2002 the HIH liquidators filed a claim against the Australian insurance regulator APRA. The filing was a protective measure lodged on legal advice to preserve the position of HIH creditors, because at the time wide ranging legislative changes in respect of civil liability, were being enacted by relevant state governments.

The Liquidators were aware at the time that detailed further investigation, legal analysis and advice would be needed before determining whether to actually serve and pursue the claim against APRA.

The Liquidators have now concluded their views, and as part of the overall litigation strategy, do not intend to proceed with the claim against APRA. Accordingly the liquidators will shortly formally discontinue the action against APRA.

This decision has been taken in consultation with the relevant Committees of Inspection.

As the Liquidators have made clear however, major claims against various other defendants will be pursued. It is possible that even though the Liquidators will not pursue the claim filed against APRA, other defendants may join APRA to proceedings commenced by the Liquidators.

Dividend Prospects

Subject to the ultimate approval of the proposed distribution scheme, the Liquidators' objective is to pay a first interim dividend to creditors of the major licensed insurance companies in the HIH group in the second half of next year.

It is expected that the first interim dividend will be no more than 5 cents in the dollar for any of the companies.

The timing of the first dividend will depend in particular on projected and actual asset recoveries, further reconciliation of the position of the separate HIH companies, resolution of creditor priority and other legal issues, and ultimately the Court's approval of the proposed distribution schemes.

The final dividend prospects for creditors remain very difficult to predict, even on an average basis. However the Liquidators expect that on an average basis, it would be reasonable to expect a total return of between 10 and 20 cents in the dollar, spread over 7 to 10 years.

The impact on individual creditors and groups of creditors will not be uniform. Factors affecting the ultimate outcome for individual creditors will include: which of the companies they have a claim against; the nature of the claim; whether any special arrangements apply to them; the extent to which any reinsurance proceeds will become available to give them effective priority under Section 562A of the Corporations Act; and whether they benefit from Section 116 of the Insurance Act, which in liquidations of insurance companies gives some priority to creditors with liabilities in Australia.

The overall conclusion in relation to final dividend rates for creditors not benefiting from government assistance schemes is that:

- The Liquidators hope to be in a position to pay a first interim dividend of up to 5 cents in the dollar for the main licensed insurance companies in the HIH Group in the second half of 2004, (subject to the ultimate approval of the proposed distribution schemes).
- Average final returns, spread over 7 to 10 years, may be between 10 and 20 cents in the dollar.
- Some creditors will receive better than average returns because of the financial position of the particular company their claim is against.
- Some creditors will receive better than average returns, because they hold security or because they benefit from Section 562A or Section 116 priorities.
- Some creditors will receive worse than average, very poor returns, either because of the financial position of the particular company their claim is against, or because they do not benefit from the legislative priorities.

The Liquidators expect to be in a position to recommend distribution schemes to creditors of each of the main HIH and FAI companies in the first half of 2004. These distribution schemes, which will be implemented to facilitate the dividend payments, are to be developed in consultation with the Committees of Inspection and will require creditor and Court approval and review by ASIC.

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