

25 January 2022

**CIRCULAR TO CLIENTS AND CREDITORS**

Dear Sir or Madam,

**UNION STANDARD INTERNATIONAL GROUP PTY LTD (IN LIQUIDATION)  
ACN 117 658 349 (“the Company”)**

**1 UPDATE ON LIQUIDATION**

We refer to our appointment as Liquidators of the Company and previous reports. Herein we provide a brief update to creditors on the outcome of the recent Court application and other matters in this Liquidation.

We have made meaningful progress since our last report, investigating the Company’s affairs and unravelling the materially deficient historical financial reporting.

We have now obtained a decision from the Courts that provides clarity on the standing of the various classes of creditors of the Company and the available assets. We have successfully recovered meaningful funds from the Australian held assets, however there are substantial funds which have been handled offshore which we are looking to pursue.

This is a complex Liquidation, involving dealings with parties in multiple countries, and various regulatory bodies. Lodged creditor claims now exceed \$350M, and this amount may increase further. It is clear that there have been serious breaches of law and mishandling of client funds historically. We anticipate that prosecution of certain persons involved may follow in due course.

There are insufficient funds available to declare a meaningful dividend to creditors at this stage, and therefore we are moving to hold public examinations as we pursue recovery actions for the benefit of creditors. We anticipate that this Liquidation will continue for some time and will provide further updates as the matter progresses.

We confirm that we have been reporting regularly to the appointed Committee of Inspection (“COI”) as the Liquidation has progressed. That communication is confidential, as it deals with commercially sensitive information. We can confirm that the COI members have supported our work thus far and our intended actions moving forward.

Novabrif Pty Ltd Trading as BRI Ferrier ABN 61 643 013 610  
Chartered Accountants  
Level 30, Australia Square, 264 George Street NSW 2000 GPO Box 7079, Sydney NSW 2001  
T 02 8263 2300 E [info@brifnsw.com.au](mailto:info@brifnsw.com.au) W [www.briferrier.com.au](http://www.briferrier.com.au)

**BRI Ferrier... throughout Australia and New Zealand.**

## 2 TRUST PROCEEDINGS

As you may recall, we filed an application in the Federal Court of Australia on 23 April 2021 seeking directions on various issues, including the treatment of funds recovered in the Liquidation and the different classes of entitlements to the funds. Those proceedings have now been determined, and we set out herein a summary for creditors.

As part of these proceedings, interim orders were made by Justice Jagot on 24 June 2021 which confirmed the appointment of two (2) “contradictor” creditors and their respective lawyers, as representatives for the major creditor classes, being the “Trading” clients and “Investor” clients. The purpose of appointing the contradictors was so that they could advance arguments to the Court in respect of their respective classes of creditors views on the matters to be addressed in our application, while we, as Liquidators, remained relatively neutral and led the factual evidence.

The interim orders also set down a timetable for evidence, submissions and a final hearing on 28 and 29 October 2021. The matter was complex, with limited precedent case law on these particular circumstances of the Company’s affairs. As a result, there were a number of issues raised between the parties which resulted in interlocutory hearings which threatened to delay the process. Despite this, we were able to resolve these issues and retain the October hearing dates.

On 26 November 2021, Justice Jagot handed down her decision with detailed reasons over 46 pages. Creditors can access a copy of the judgment from our website:

<https://briferrier.com.au/about-us/current-matters/union-standard-international-group-pty-ltd>

A summary of key aspects of Justice Jagot’s decision is below:

- Both Trading and Investor clients are the trust creditors of the Company, with equal standing, such that they are entitled to a pro-rata distribution of any surplus trust assets, after costs;
- The assets and funds recovered to date, comprised of the operational bank accounts, trust bank accounts, term deposits, money processor recoveries, hedge fund recoveries and tax recoveries, are impressed with a trust and held for the benefit of trust creditors;
- Our expenses and remuneration are costs to be paid from the available trust assets;
- The costs of the Court application are to be paid from the available trust assets;
- Claims by Trading and Investor clients are calculated as at 8 July 2020 (being the Voluntary Administration appointment date);
- All available funds that are recovered are to be converted to AUD;
- Any Trading or Investor clients with an account balance of AUD\$50 or less are not entitled to participate in any distribution;
- Any negative account balances can be set off against positive account balances for Trading or Investor clients with multiple accounts; and
- Any deposits made by Trading or Investor clients into the Company’s trust accounts after 8 July 2020 were made in error and can be returned in full.

Following the judgement being handed down, we worked with the contradictors to agree proposed orders by consent, which were then put to Justice Jagot for her consideration. On 14 December 2021, Justice Jagot made orders as sought, a copy of which are attached as **Annexure “1”**.

As a result of this decision, all funds currently held in the Liquidation are impressed with a trust for the benefit of Trust creditors, being both Trading and Investor clients. We have therefore pooled all available funds into one Liquidation bank account, to be treated as held for the benefit of Trust creditors.

We note that Justice Jagot’s orders of 24 June 2021 remain in effect. Those orders established a costs approval process where we regularly report to the COI and obtain approval from the COI for same. In this regard, we have held regular meetings with the COI and this process will continue going forward.

### **3 UPDATE ON REALISATIONS & CLIENT CLAIMS**

Since our last report, we have continued to progress our work in pursuing various asset recoveries.

Creditors will recall that a substantial portion of the Company’s assets (being clients funds) were located offshore and not made available to the Liquidation. We have previously provided detail around deliberate efforts of parties acting with or for the shareholder seeking to move client accounts and misappropriate funds held with money processors. Whilst these assets are being investigated for recovery, we have turned our attention to the more readily available assets located within Australia, so that the Liquidation can progress.

A significant amount of work was undertaken in relation to company tax that was paid to the Australian Taxation Office (“ATO”) in the years prior to our appointment. Our analysis of the historical financial statements indicated that they had not correctly accounted for the transactions with the Investor clients, and in doing so, that the profit had been dramatically overstated. The effect was that the Company had incurred significant trading losses and had incorrectly paid the ATO around \$6M in company tax between FY2017 and FY2020.

We conducted detailed review of the underlying accounting transactions and investor client liabilities. With the advice and assistance of the Company’s external accountants, the historical income tax returns were recast and relodged, resulting in the recovery of the overpaid tax, plus a minor amount of interest.

There have been limited further recoveries from the funds held with money processors located offshore and loans with related entities. We are continuing to investigate these assets, where those funds may ultimately be pursued as claims against the parties involved.

There is currently around \$8M in available funds, which pursuant to the recent Court orders, are all impressed with a trust in favour of the trust creditors. However, the lodged creditor claims continue to increase, where we have received approximately \$357M to date, of which approximately \$349M are from trust creditors.

Whilst a formal adjudication of the claims has not been conducted, there is obviously a substantial shortfall for creditors based on funds to hand and real questions to be answered as to where client funds (in particular investor clients) have gone. As there are insufficient funds available to pay a meaningful dividend to trust creditors, we are moving towards the recovery phase of the matter. This is discussed further below.

## 4 PUBLIC EXAMINATIONS

With the Trust Proceedings now concluded and funds in hand, we are shifting our focus to progressing the potential recoveries by holding a Public Examination in Court. Public examinations are a formal process which allow Liquidators to compel relevant parties to produce documents and ask questions under oath. The outcome is that evidence is gathered which can then be used to pursue recoveries via litigation (or other means) and/or prosecution of parties involved.

We believe there are many parties (including but not limited to directors, agents, advisors and professionals) that should be examined on the Company's historical affairs. We have engaged lawyers to provide advice and consider the document production and examinee list. The first step to commencing the public examination process is to file an application with the Court, which will then allow us to request the Court to issue notices to parties to produce documents and set dates for Court attendance to be asked questions under oath. Given the complex nature of Company's dealings with clients and the quantum of missing funds, we anticipate that the public examination process will be substantive and may occur in stages. We are hopeful that the outcomes will be recoveries for creditors and prosecution of the true parties behind the Company's operations.

We have reported to the COI in regard to the public examination process, and the COI have expressed support for this course of action. Much of our enquiries are confidential and commercially sensitive therefore we are unable to provide further detail, so as not to prejudice potential recovery actions. However, should any creditors have information they consider is relevant to our investigations and public examinations, they are invited to contact our office without delay. Such communication can be done on a confidential basis, if necessary.

## 5 FURTHER CORRESPONDENCE

We intend to provide a more detailed report to all creditors once we have completed the public examination process. In the interim, we will continue to provide regular reporting to the COI who are the creditors appointed representatives.

As part of the recent orders made by the Court, we will shortly be issuing correspondence to clients who have deposited funds into the Company's bank accounts after our appointment in error. This will establish the process (including the information and documentation we require to be produced) and timeframe for the return of these funds.

We have updated the Frequently Asked Questions on our website and if you have any additional queries, please email our team at [usg@brifnsw.com.au](mailto:usg@brifnsw.com.au).

Yours faithfully

**UNION STANDARD INTERNATIONAL GROUP PTY LTD (IN LIQUIDATION)**



**PETER KREJCI**

Joint and Several Liquidator

---

The logo for BRI Ferrier, featuring the text "BRI Ferrier" in white on a dark grey rectangular background. A green triangle is positioned at the bottom right corner of the grey rectangle.

**BRI Ferrier**

---

**Union Standard International  
Group Pty Ltd  
(In Liquidation)**

**ACN 117 658 349**

---

**Annexure "1"  
Court Order dated 14 December 2021**

---



Federal Court of Australia

District Registry: New South Wales

Division: General

No: NSD754/2020

**IN THE MATTER OF UNION STANDARD INTERNATIONAL GROUP PTY LIMITED (IN LIQUIDATION)  
ACN 117 658 349**

**PETER PAUL KREJCI AND ANDREW JOHN CUMMINS AS JOINT AND SEVERAL LIQUIDATORS OF UNION STANDARD INTERNATIONAL GROUP PTY LIMITED (IN LIQUIDATION) ACN 117 658 349** and another named in the schedule  
Plaintiff

**ANDREW MCCLOSKEY** and another named in the schedule  
Intervener

**ORDER**

**JUDGE:** JUSTICE JAGOT

**DATE OF ORDER:** 14 December 2021

**WHERE MADE:** Sydney

**THE COURT ORDERS THAT:**

1. Pursuant to s 90-15(1) of Sch 2 to the *Corporations Act 2001* (Cth), the plaintiffs would be justified in:
  - (a) treating the funds held in Trust Accounts as beneficially held by Trading Clients, Interest-bearing Clients and other Investing Clients, to be distributed on a pari passu basis;
  - (b) treating the Money Processor Recoveries as beneficially held by Trading Clients, Interest-bearing Clients and other Investing Clients, to be distributed on a pari passu basis;
  - (c) treating the Hedge Recoveries as held for the sole benefit of Trading Clients, Interest-bearing Clients and other Investing Clients, to be distributed on a pari passu basis;
  - (d) treating the Tax Recoveries as if held for the sole benefit of Trading Clients, Interest-bearing Clients and other Investing Clients, to be distributed on a pari passu basis;



- (e) treating the Operating Accounts as if held for the sole benefit of Trading Clients, Interest-bearing Clients and other Investing Clients, to be distributed on a pari passu basis;
- (f) treating the Term Deposits as if held for the sole benefit of Trading Clients, Interest-bearing Clients and other Investing Clients, to be distributed on a pari passu basis;
- (g) calculating the entitlements of Trading Clients and Investing Clients as at 8 July 2020;
- (h) setting off positive net account balances against negative net account balances in all accounts held by the same Trading Client and/or Investing Client;
- (i) treating Trading Clients and Investing Clients, in respect of each account with a balance of AU\$50 or less, as having no entitlement to participate in recoveries;
- (j) returning deposits made by Trading Clients and Investing Clients into the designated trust accounts after 8 July 2020;
- (k) converting into AUD any funds recovered from Money Processors;
- (l) converting into AUD any funds held in the Frozen Accounts, should the plaintiffs be released from their undertaking not to deal with the moneys held in those accounts;
- (m) having previously paid any expenses and approved remuneration, incurred during their roles as either Voluntary Administrators or Liquidators, out of any of the funds referred to in paragraphs (a) to (f) above;
- (n) paying all of their unpaid expenses and approved remuneration out of any of the funds referred to in paragraphs (a) to (f) and (k) above; and
- (o) paying the costs of these proceedings, and the costs of the interveners, out of any of the funds referred to in paragraphs (a) to (f) and (k) above.

Date that entry is stamped: 14 December 2021

  
Registrar



## Definitions

- Company** means Union Standard International Group Pty Limited (In Liquidation) ACN 117 658 349.
- Frozen Accounts** means two accounts held by the Company with the Commonwealth Bank of Australia, which are frozen pursuant to an undertaking given by the Liquidators in proceedings brought against the Company by the Australian Securities and Investments Commission.
- Hedge Recoveries** means payments received, or to be received, by the plaintiffs pursuant to agreements between the Company and its hedge counterparties for the purpose of hedging the Company's exposure.
- Interest-bearing Clients** means those persons who:
- (a) deposited funds with the Company;
  - (b) were credited with interest from time to time on the balance of those funds; and
  - (c) claim to have been entitled to engage in margin foreign exchange trading contracts and/or contracts for difference trading through a platform provided by the Company.
- Investing Clients** means those persons who:
- (a) deposited funds with the Company; and
  - (b) were credited with interest from time to time on the balance of those funds.
- Liquidators** means Peter Paul Krejci and Andrew Cummins in their capacity as joint and several liquidators of the Company.
- Money Processors** means offshore money processing entities used by the Company to receive and transmit moneys from clients to the Company.



<b>Money Processor Recoveries</b>	means moneys recovered, or to be recovered, from Money Processors.
<b>Operating Accounts</b>	means moneys held in any accounts previously held in a designated operating account of the Company.
<b>Tax Recoveries</b>	means moneys recovered, or to be recovered, by way of a tax refund from the Australian Tax Office to the Company.
<b>Term Deposits</b>	means moneys held in any accounts previously held in a designated term deposit of the Company.
<b>Trading Clients</b>	means those persons who entered into margin foreign exchange trading contracts and/or contracts for difference trading through a platform provided by the Company.
<b>Trust Accounts</b>	means moneys held in any accounts previously held in a designed trust account of the Company.



**Schedule**

No: NSD754/2020

Federal Court of Australia

District Registry: New South Wales

Division: General

Second Plaintiff            UNION STANDARD INTERNATIONAL GROUP PTY  
LIMITED (IN LIQUIDATION) ACN 117 658 349

Second Intervener        SHIH KUEI CHENG