

To the Creditor  
As addressed

7 November 2024

Dear Creditor,

**PROSPERO MARKETS PTY LTD (IN LIQUIDATION)**  
**A.C.N 145 048 577 ("THE COMPANY")**

We refer to previous correspondence regarding the Liquidation of the Company, in particular, the circular to creditors issued on 10 October 2024.

Below is an update on the proceedings NSD1020/2024 in which judicial advice and directions are sought on a proposed process to distribute the 'Client Money' held in the Company's trust and general funds accounts, given the potentially competing claims and issues applicable to clients' ultimate entitlements. The proceedings were commenced to ensure that Court approval is obtained for the proposed distribution process as a means of ensuring that the most equitable outcome is obtained for the Company's clients and creditors.

A case management hearing was held before the docket Judge, Justice Cheeseman on 17 October 2024. Since the last case management date on 19 September 2024, the Court has appointed Mark Wilson from W Advisers as contradictor and Mr Wilson has agreed in-principle on the scope of issues to be addressed at final hearing of the judicial advice and remuneration approval application. Orders were jointly submitted to the Court in respect of the contradictor's appointment and scope.

Prior to the case management hearing on 17 October 2024, in recognition of enquiries received by us from clients seeking expeditious return of the 'Client Money' on grounds of financial hardship amongst others, we prepared an affidavit in support of a request for an urgent final hearing date before the close of Court term in 2024 to avoid any further delay in distributing the funds. That affidavit was filed and relied on at the case management hearing to seek the earliest available hearing dates, in response to which the Court made enquiries with the National Registrar for the earliest available hearing dates.

Despite our best efforts, the Court was unable to accommodate a date any earlier than 1 April 2025 on which the application has been listed for final hearing. Whilst we attempted to avoid further delay in seeking the earliest available hearing date, the Court's limited availability is a matter beyond our control and as Liquidators, we are dutybound to abide by, and assist, the Court.

Novabrif Pty Ltd Trading as BRI Ferrier ABN 61 643 013 610  
Chartered Accountants  
Level 26, 25 Bligh Street NSW 2000 GPO Box 7079, Sydney NSW 2001  
**T** 02 8263 2333 **E** [info@brifnsw.com.au](mailto:info@brifnsw.com.au) **W** [www.briferrier.com.au](http://www.briferrier.com.au)

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Each of the member firms is a separate and independent entity operating under the name 'BRI Ferrier' or related names.

The following orders were made on 17 October 2024 (a sealed copy of which is attached):

**BY CONSENT, THE COURT ORDERS THAT:**

**Contradictor**

1. Mark Wilson of W Advisers of Level 5, 151 Macquarie Street (solicitors) is appointed as a contradictor to assist the Court to perform its judicial function in deciding whether the proposed advice/directions sought in the Amended Originating Process should be given, having regard to the interests of the creditors of the Company, and as between those creditors, in relation to the following issues:
  - (a) The proposed payment of the costs of the distribution, in whole or in part, from the Client Money (and not the general funds of the Company) and the treatment of any potential shortfall claims resulting from any such payment (prayers 1 and 15 of the Amended Originating Process);
  - (b) The proposed 'pooling' of the Client Money accounts (prayers 9 and 12 of the Amended Originating Process);
  - (c) The Proposed Distribution Process, including specifically, the proposed approach to the claims of the MT4 Offshore Database clients (prayers 10, 19 and 20 of the Amended Originating Process).

**Hearing timetable**

2. The matter be listed for hearing with an estimate of 2 days commencing on 1 April 2025.
3. By 18 February 2025, the plaintiffs file and serve submissions and any updating affidavit evidence.
4. By 4 March 2025, the contradictor and the defendants file and serve submissions.
5. By 18 March 2025, the plaintiffs file and serve submissions in reply.

**THE COURT ORDERS THAT:**

6. By 7 November 2024, the contradictor inform the parties and the Associate to Cheeseman J whether in the contradictor's opinion any additional issues should be added to order 1 of these orders.
7. Liberty to apply on 3 days' notice be granted to:
  - (a) the defendants and contradictor; and
  - (b) any person, including any creditor of the Company or the Australian Securities and Investments Commission, who can demonstrate by affidavit a sufficient interest to vary these Orders on the giving of three (3) business days' notice to the Plaintiffs, and to the Court.

Practically, this means that distribution of 'Client Money' will be unable to occur until judgment is received following the conclusion of the final hearing on 1 to 3 April 2025. The proposed distribution process envisages an additional period for any disputed claims to be resolved before 'Client Money' is distributed. This means that the revised timeline for distribution is likely to be by June 2025 assuming no creditors commence proceedings to dispute their entitlement.

Additionally, further delays may potentially arise if the Court reserves its decision and indicates a requirement to provide written reasons before approving the proposed distribution process. The length of that period cannot be determined at this stage, however, given the agreement as to scope of issues between us and the contradictor, it is anticipated that less than two or three days will be required for the final hearing and any scope for dispute requiring resolution by the Court is likely to be narrow based on the facts presently known.

We continue our efforts to distribute 'Client Money' as soon as possible, however we must discharge our duties in the best interests of all creditors regardless of the value of their respective entitlements. We will continue to progress our investigations and adjudications of claims in the meantime to avoid unnecessary delays in the liquidation generally and remain committed to providing updates to creditors as developments occur. In this regard, we note that the asset recovery legal proceedings in Singapore are well advanced.

We note that the dividend to the priority and unsecured creditors, will follow after the Client Money is distributed and the residual general funds is known. We anticipate that this will occur during the months that follow the distribution of Client Money. However, for the reasons outlined above, we cannot advise an exact timeframe for the priority and unsecured creditors dividend at this time.

We recommend that any interested parties seeking to be heard in the proceedings obtain independent legal advice and communicate with the Court. Should you have queries regarding other matters of the Liquidation, please contact our office by email to [prosperomarkets@brifnsw.com.au](mailto:prosperomarkets@brifnsw.com.au) or by telephone 1300 291 012 (toll free) or + 61 2 8044 0530 (international).

Yours faithfully

**PROSPERO MARKETS PTY LTD (IN LIQUIDATION)**



**JONATHON KEENAN**

Joint & Several Liquidator



Federal Court of Australia

District Registry: New South Wales Registry

Division: General

No: NSD1020/2024

**JONATHON SHERWOOD KEENAN** and others named in the schedule  
Plaintiff

**YUYA HUANG** and another named in the schedule  
Defendant

### **ORDER**

**JUDGE:** Justice Cheeseman

**DATE OF ORDER:** 17 October 2024

**WHERE MADE:** Sydney

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  - (a) the defendants and contradictor; and
  - (b) any person, including any creditor of the Company or the Australian Securities and Investments Commission, who can demonstrate by affidavit a sufficient interest to vary these Orders on the giving of three (3) business days' notice to the Plaintiffs, and to the Court.

Date orders authenticated: 24 October 2024

  
Registrar

Note: Entry of orders is dealt with in Rule 39.32 of the *Federal Court Rules 2011*.



## **Schedule**

No: NSD1020/2024

Federal Court of Australia

District Registry: New South Wales Registry

Division: General

Second Plaintiff                      PETER PAUL KREJCI

Third Plaintiff                        ANDREW JOHN CUMMINS

Second Defendant                  LEI ZHANG