



McGrathNicol

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Brite Advisors Pty Ltd (In Liquidation) (Receivers and Managers Appointed)
ACN 135 024 412
(Brite Advisors)

Update – October Application

Rob Kirman and I write to you in our capacity as Court appointed Receivers and Managers of the property, assets and undertakings held by Brite Advisors on trust for others (**Receivers**).

As we explain below, the Receivers plan to file an application with the Court shortly. The application will seek a short extension of time to file the Explanatory Memorandum, being the document which will set out the Receivers' proposal for distribution. The application will also seek orders to implement a solution to various issues identified by the Receivers. The Receivers anticipate that this will result in a delay in distributing the Explanatory Memorandum of approximately one month.

This short extension has become necessary primarily due to errors recently identified by the Receivers during their verification of certain data in Brite Advisors' systems, namely the data recording the money and investments held by each Beneficiary as at 13 December 2023 (**13 December Data**).

These errors are the result of Brite Advisors' historic conduct and are explained further below. The Receivers are making the application to ensure that Beneficiaries' entitlements can be appropriately adjusted prior to issuing Valuation Notices.

The Receivers will seek orders to allow them to publish the affidavit material filed in support of the application, making it available to Beneficiaries in advance of the hearing. Once you have had the opportunity to review this material, if you have any queries or feedback regarding the application please email BriteAdvisorsIdentification@mcgrathnicol.com and note that the Receivers will bring such correspondence to the attention of the Court.

Salesforce Rebuild Update

The Receivers are pleased to report that the rebuild of the Salesforce rebuild has been completed and is ready for the 13 December Data to be uploaded upon completion of the data verification process (discussed in detail below).

Identity Proofing Update

The Receivers are pleased to report that the Identity Proofing process is progressing well and as at the date of this Circular, the Receivers have successfully verified the identity of 1,755 Beneficiaries. **Beneficiaries are encouraged to complete the Identity Proofing process as soon as possible.** Please refer to our update dated 24 September 2024 for further information on the Identity Proofing process, accessible here <https://www.mcgrathnicol.com/creditors/brite-advisors-pty-ltd/>.



Valuation Notice Update

As previously reported to the Court, prior to being uploaded to the Salesforce platform, the Receivers were to interrogate the 13 December Data to identify any material errors so as to ensure, as best as possible, the integrity of the data. Most of that work has now been completed, however a number of material matters impacting the valuation of Beneficiaries entitlements remain outstanding and may take some time to resolve.

Dividend Data

The Receivers have reviewed market data of all historical dividends paid in respect of the securities purportedly held on behalf of Beneficiaries during Brite Advisors' operation to calculate the value of dividends earned which should have been credited to Beneficiaries' accounts. The Receivers have compared this to the actual dividends historically reported to Beneficiaries and recorded in the 13 December Data.

The Receivers have identified that the dividends which should have been earned on securities held by Beneficiaries are materially misstated in the 13 December Data. The Receivers estimate that the errors span a period of approximately six years, impact approximately 1,855 Beneficiaries, relate to approximately 445 securities, and understate dividends which should have been received on a net basis by approximately US\$855,000.

The Receivers have undertaken significant work already to rectify these issues where they have a material impact.

The Receivers will seek authorisation from the Court to amend the 13 December Data and adjust each Beneficiaries' claim so that material errors in the reporting of the dividends which have been identified are corrected.

Withholding tax

The Receivers have identified that historical withholding tax has been inconsistently applied and reported to Beneficiaries. There is also a concern that errors in the application of withholding tax have resulted in insufficient amounts having been withheld to meet obligations to tax authorities. The Receivers have sought specialist tax advice in this regard.

Noting the complexity of the issue and the various tax jurisdictions involved, this matter will likely take some time to resolve. To avoid the delay of the issuing of the Valuation Notices, as an interim step, the Receivers propose to seek authorisation from the Court to reverse all withholding tax amounts from the 13 December Data so that entitlement verification process can take place excluding any applicable withholding tax from the Valuation Notices. Once tax advice has been obtained by the Receivers, further information will be provided to Trustees and Beneficiaries and orders will be sought to apply withholding tax appropriately and as it should have been applied at the time.

Unlisted Securities valuations

Structured notes

Structured notes with a cost value of over USD\$5.5m in the 13 December Data present complexities around ascertaining a market valuation for those assets as at 13 December 2023. These securities were previously valued by Brite Advisors using cost price only.

The Receivers are in the process of engaging an expert to value these securities, noting that there is not an available historic market price which can be used. This issue impacts 58 Beneficiaries and the Receivers propose to withhold Valuation Notices for the impacted Beneficiaries pending obtaining valuation advice.



Minerva Notes

The Receivers will seek orders from the Court in relation to a proposed approach to the verification of entitlements related to holdings of Minerva Notes.

Conclusion

The Receivers have formed a view as to how these outstanding data integrity issues should be addressed in the best interests of the Beneficiaries, and intend to make an application to the Court for orders to address the issues swiftly, then send Valuation Notices to Beneficiaries as quickly as possible.

Until the Valuation Notices are issued, and the Beneficiaries and Corporate Trustees have an opportunity to confirm or dispute their entitlements, the Receivers are unable to finalise and file their proposed Explanatory Memorandum.

As described above, the Receivers are currently expecting the resolution of these issues to delay the circulation of the Explanatory Memorandum by approximately one month.

Yours faithfully

Brite Advisors Pty Ltd (In Liquidation) (Receivers and Managers Appointed)

Linda Smith
Receiver and Liquidator