



FOCUS MANAGEMENT INC. (In Official Liquidation)

Final report to creditors and to the Grand Court of the Cayman Islands from the Joint Official Liquidators

23 July 2018

Strictly private and confidential

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Basis of Report and Disclaimer

1.1 Basis of Report

On February 20, 2008, Jean Robillard of Raymond Chabot Inc. (Canada) and Hugh Dickson of Grant Thornton Specialist Services (Cayman) Limited (whilst entirely separate firms, for convenience referred to collectively as “Grant Thornton”) were appointed Joint Provisional Liquidators (JPLs) of Focus Management Inc. (Focus) by the Grand Court of the Cayman Islands (the Court) and on October 31, 2008 were appointed Joint Official Liquidators of Focus. On December 11, 2012, Nicolas Boily was appointed Joint Official Liquidator of Focus in place of Jean Robillard (deceased) by the Court. References to Joint Official Liquidators (JOLs) throughout this report mean Hugh Dickson and Nicolas Boily jointly.

In accordance with the Cayman Islands Companies Winding Up Rules, 2018 (the CWR), this final report has been prepared by the JOLs firstly, for updating creditors on the progress of the liquidation since the previous creditors’ report dated 26 October 2017 and secondly, this report will form the basis of an application to the Court seeking the dissolution of the Company.

1.2 Disclaimer

None of the JOLs, Grant Thornton, their partners, employees, professional advisers or agents accept any liability or assume any duty of care to any third party (whether it is an assignee or successor of another third party or otherwise) in respect of this report and any such party who receives a copy of this report whether from Grant Thornton or any other source shall have no right of recourse against Grant Thornton, their partners, employees, professional advisers or agents.

In preparing this report, the JOLs have relied upon information available to them at the time of preparation and have not performed an audit examination on this information. Except where specifically stated, the JOLs have been unable to establish the reliability of the sources of information presented to them by reference to independent evidence.

Discontinuation of proceedings against financial institutions

2. BNP Paribas – lack of funding required to pursue Bahamian litigation

- As creditors are aware, the Bahamian legal action was the last substantive matter in the liquidation.
- The bank has made it clear it would vigorously defend any continuation of the legal action. Given the nature of the allegation the JOLs anticipate that even if Focus were successful in the initial action, the judgment would almost certainly be appealed by the bank, involving further funding requirements. An action of this nature could easily require several million dollars of funding to prosecute through first instance and up to two levels of appeal.
- The estate has approximately US\$121,000 in funds remaining, with unpaid professional and legal costs of over \$500,000. The estate simply lacks the funding to realistically progress the action to even a first instance judgment.
- As previously advised, the JOLs' own attempts to find parties prepared to finance a legal action against the bank have been unsuccessful.
- Creditors will also recall from the 3 November 2017 creditors' meeting that one creditor representative proposed to approach the Canadian authorities seeking their agreement to indemnify and hold harmless the JOLs for all expenses relating to our continued prosecution of claims in The Bahamas for the benefit of Focus creditors.
- The Autorité des Marchés Financiers (AMF) response to that request is that they will not assume any financial risk regarding any legal proceeding prosecuted by the JOLs or Focus' creditors.
- As such, in the absence of funding to continue the action, it would be improper for the JOLs as officers of the Court to proceed further with an action that the JOLs know cannot be funded to get the case to a first instance judgment and to cover any potential adverse costs. Moreover, the JOLs do not believe that such a course would be supported by the Court.
- The JOLs have a current opportunity to discontinue the proceedings without further costs or adverse costs which the estate cannot afford. As such, the JOLs consider they have no practical option but to apply to the Court for the requisite sanction to discontinue the action and to close out the liquidation. The Liquidation Committee is in support of this course of action.
- The JOLs have considered the issue carefully, but despite our best efforts, investment of significant unpaid fees and costs to date, and exploration of funding opportunities, at this stage the JOLs have no option but to discontinue the proceedings and close the liquidation file.
- The JOLs understand that creditors will be very disappointed as the legal action represented the last realistic possibility for a recovery by creditors, but in the absence of adequate funding there is no practical alternative.

Asset recoveries

3. Horizon Bank International Ltd. (Horizon) – contingent final dividend

- The JOLs have to date received an interim dividend of USD229,173 in relation to USD904,907 and CAD354,596 claims filed with the Horizon liquidator in 2008.
- Further dividend distribution has been contingent upon the outcome of the long delayed proprietary claim dispute in the High Court of Justice in St. Vincent and the Grenadines, ongoing since 2010.
- The latest update from the Horizon liquidator is that the parties settled the litigation prior to the scheduled June 2018 trial. The settlement has closed and the Horizon liquidator is in the process of finalising the Custodians accounts and will begin planning for a final distribution shortly. The Horizon liquidator is unable to provide a distribution estimate at the moment but advise that it will be less than the distribution made in 2010.
- Based on prior estimates, any further recovery from Horizon, if any, is not anticipated to exceed USD100,000 at best. There is consequently no firm indication either of quantum or timing of recovery from Horizon.
- In order to close the Focus file, the JOLs propose to assign any recoveries in the Horizon liquidation to the JOLs as partial contribution to outstanding costs of the liquidation, which significantly exceed any possible recovery.

Law enforcement

4. Law enforcement – a matter for the Authorities

- There is nothing further the JOLs can do in relation to law enforcement or the prospects for prosecution of individuals connected to Focus. Any decisions regarding criminal prosecution remain a matter for the authorities.
- As previously advised, the Royal Cayman Islands Police Service's position is that this remains a Royal Canadian Mounted Police (RCMP) led investigation and they do not wish to make any comments that will have an adverse effect on potential criminal or civil legal proceedings in Canada.
- The RCMP's position is that all information regarding criminal investigations are confidential, and they are not in a position to provide any further update on the file.
- The JOLs have expressed their concerns to both the RCMP and RCIPS over the failure to prosecute the individuals involved.

Dissolution

5. Dissolution of Focus

- The Focus liquidation has been ongoing since February 2008. Any recovery from Horizon would be insufficient to cover the unpaid legal and professional costs of the estate, and there are no other matters outstanding.
- The JOLs have realised known assets to date with any remaining final distribution in the Horizon liquidation to be applied against outstanding legal costs, the expenses of dissolving the estate and partial settlement of the JOLs fees since 2013 already approved by the Court.
- As there is no firm indication either of further recovery from Horizon or the timing of same and in light of the lack of funds needed to pursue any meaningful recovery from the Bahamian litigation or otherwise, the JOLs consider that it is uneconomical to keep the liquidation open.
- The JOLs have therefore instructed their attorneys to apply to the Court for an order to discontinue the Bahamian action and to dissolve the Company pursuant to section 152 of the Companies Law (2018 Revision).
- The application is scheduled to be heard by the Court on 14 August 2018 at 10:00AM Cayman Time. Any creditor may appear and be heard on the application. If any creditor has any objection to the proposed application for dissolution, or wishes to be heard by the Court on the application, the JOLs would be grateful for such confirmation before the hearing date along with full details of the reasons for objection. If creditors do not wish to appoint counsel to represent them, creditors are welcome to communicate their views to the JOLs, who will provide the Court with copies of the same. In the absence of any such notice being received, the JOLs will assume that creditors have no objection to the hearing.

Liquidators' Final Accounts

FOCUS MANAGEMENT INC. (IN OFFICIAL LIQUIDATION)		
Joint Liquidators' Abstract Of Receipts And Payments		
20 February 2008 to 31 March 2018		
RECEIPTS	USD	CAD
<i>Third party funding:</i>		
Funds received from AMF	110,607.85	269,599.17
Funds received from Triglobal	-	357,827.41
Funds received from Ivest	10,000.00	104,137.11
Advances	145.56	3,100.00
Total third party funding	120,753.41	734,663.69
<i>Liquidation estate:</i>		
Funds received from broker	7,769.83	-
Telephone deposit refunded	79.92	-
Recoveries - Horizon, PNB	229,172.81	969,331.08
Cash at Bank (rec'd from UEB)	17,657.16	-
Bank/ISA InterestGross	87.58	0.09
Uncleared cheques refunded	9,217.42	-
Other refunds, credits & receipts	3,185.49	-
Total liquidation estate	267,170.21	969,331.17
<i>Inter-account transfers</i>	<i>623,097.92</i>	<i>(625,176.55)</i>
TOTAL RECEIPTS	1,011,021.54	1,078,818.31
PAYMENTS		
Records recovery charges	38,243.90	-
Liquidators Fees (GTSS)	512,371.30	227,206.64
Liquidators Expenses (GTSS)	60,077.20	9,361.62
Liquidators Fees (RCGT)	67,594.08	464,608.93
Liquidators Expenses (RCGT)	-	7,929.92
Legal Fees (Caribbean)	233,292.81	3,635.61
Legal Fees (Canadian)	-	104,293.50
Legal Fees (Swiss Action)	15,000.00	-
Loan repayment (Ivest)	-	116,568.55
Loan repayment (advances)	-	3,000.00
Bank Charges	2,487.72	127.87
Foreign exchange loss	36,892.99	14,254.09
Tax	-	29,537.32
TOTAL PAYMENTS	965,960.00	980,524.05
Cash balances in hand	45,061.54	98,294.26

- Since the estate did not have sufficient funds, most of the funds for investigation were provided by third parties, namely: (i) the AMF; (ii) Triglobal; and (iii) Ivest.
- The estate has also been subsidized by the JOLs and their legal counsel, who have not drawn outstanding fees and expenses totaling approximately US\$0.5 million since 2013 pending the determination of whether material recoveries could have been achieved.
- The JOLs have now determined that there is no prospect of a recovery for the estimated US\$69 million of Focus creditors.

Focus Management Inc. (In Official Liquidation) Final Statement of Net Liabilities as at 31 March 2018

	USD
ASSETS	
Cash at bank	121,311.35
LIABILITIES	
Unsecured creditors	68,873,812.82
Trade creditors	74,672.11
Liquidators' fees & expenses outstanding	525,944.53
Legal fees outstanding	19,426.92
Provision to discontinue legal action & dissolve	8,091.46
Total liabilities	69,501,947.84
Net liabilities	(69,380,636.49)

Disclosure Note: contingent asset has been estimated at approx. US\$100,000 and represents potential final dividend in the Horizon liquidation. Any receipt is dependent on the final dividend calculations. As such, it is disclosed rather than accrued in the accounts.