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## **FOCUS MANAGEMENT INC. (In Official Liquidation)**

**Report to the Creditors by the Joint Official Liquidators  
September 15<sup>th</sup>, 2015**

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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 said Court. References to Joint Official Liquidators (JOLs) throughout this report mean Hugh Dickson and Nicolas Boily collectively.

In accordance with Order 10 of The Companies Winding Up Rules 2008 (As Amended) of the Cayman Islands (the CWR), this seventh report has been prepared by the JOLs solely for the purpose of annual reporting to the Focus creditors on the conduct of the liquidation and the state of Focus’ affairs since the JOLs’ last report dated 17 September 2014.

## 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.

Investigations are on-going and new information continues to be received. This may result in material changes to the information provided in this report.

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## Asset recoveries

### 2.1 Horizon Bank International Ltd. (Horizon)

- The JOLs lodged claims with the Horizon liquidator in 2008 for a total amount of USD904,907 and CAD354,596.
- So far, the JOLs have received an interim dividend of USD229,173.
- The latest update received from the Horizon liquidator in September 2015 is that the USD3 million proprietary claim dispute is still on-going.
- The dispute had been delayed for some time due to health issues with opposing counsel and in part due to the procedural process in St. Vincent. Whilst opposing counsel has since resumed practice the matter has not progressed.
- The Horizon liquidator has advised the JOLs that their legal counsel is considering alternatives that would bring this matter to a conclusion. The Horizon liquidator is awaiting further guidance from their overseas counsel and as such are unable to provide an indicative timeframe for conclusion at this stage.
- The Horizon liquidator still expects to make a final dividend in the future. There is no change to the previous estimate of a distribution to Focus in the region of USD100,000.

### 2.2 PNB Management Inc. (PNB)

- As previously reported, this matter has been closed since last quarter of 2013. Total dividend of CAD969,331 was received against Focus' claim of CAD19 million filed in 2010. No further dividend will be received.

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# Law enforcement

## 3.1 Law enforcement

- The JOLs have assisted the Cayman Islands and Canadian authorities with their investigations since 2008, and have made repeated inquiries as to the prospects for criminal prosecution of individuals involved in Focus' operations. Any decision regarding criminal prosecution is a matter for the authorities.
- The Financial Crime Unit of the Royal Cayman Islands Police Service (RCIPS) had submitted a report to the Cayman Islands Director of Public Prosecutions (DPP) in February 2012.
- In March 2015 the JOLs submitted a formal enquiry to the RCIPS who assigned an independent Detective Inspector to conduct a file review. The JOLs met with the Detective Inspector in April 2015 and were advised that:
  - a) the Royal Canadian Mount Police (RCMP) is the lead agent on the case and any decisions on a Cayman prosecution would be subsidiary to any decision by the RCMP; and
  - b) for confidentiality reasons the RCIPS could not advise on RCMP's decision without their consent.
- As regards the two Canadian individuals involved in the matter, the JOLs have made inquiries of the Canadian authorities and understand that the RCMP file was initially with the Federal Attorney General but subsequently passed to the Provincial Attorney General. The JOLs understand that the file is still under review.

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# Proceedings against financial institutions

## 4.1 BNP Paribas

- The JOLs are continuing their efforts to determine whether BNP Paribas Bahamas Limited (BNP), through its Swiss parent company has any liability to the estate.
- The JOLs reached an agreement in 2012 whereby BNP would:
  - Produce relevant banking information and;
  - Supply guarantee from its parent company to meet any subsequent damages award.
- In December 2012 the Cayman Court sanctioned the JOLs' entering into the BNP agreement.
- In April 2013 the Bahamian Court sanctioned the Ivest liquidators entering into the BNP agreement.
- By October 2013 the JOLs received a partial batch of the requested documentation from BNP. BNP has refused to provide a number of records on the basis of confidentiality.
- In February 2014 the JOLs, upon legal advice, issued a writ against BNP to avoid any prospective action by the JOLs being time barred. The JOLs also served BNP a draft statement of claim in March 2014.
- In June 2014 the Cayman Islands court sanctioned the continuance of proceedings against BNP.
- The JOLs have since secured the services of a Swiss law firm to handle proceedings with BNP's Swiss parent company. The matter is now being considered at the parent company level, and in the meantime the legal action is on hold. Should BNP decide to settle the matter the JOLs will have to determine whether to continue with the court proceedings in the Bahamas, file proceedings in another jurisdiction, or close out the case.
- In light of the on-going litigation the JOLs cannot comment further on the proceedings at this stage.

## Receipts and Payments Account

<b>FOCUS MANAGEMENT INC. (IN OFFICIAL LIQUIDATION)</b>		
<b>Joint Liquidators' Abstract Of Receipts And Payments</b>		
<b>20 February 2008 to 31 August 2015</b>		
<b>RECEIPTS</b>	<b>USD</b>	<b>CAD</b>
<i>Third party funding:</i>		
Funds received from AMF	110,607.85	269,599.17
Funds received from Triglobal	-	357,827.41
Loan received from Ivest	10,000.00	104,137.11
Advances received	145.56	3,100.00
<b>Total third party funding</b>	<b>120,753.41</b>	<b>734,663.69</b>
<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	78.33	0.09
Uncleared cheques refunded	9,217.42	-
Other refunds, credits & receipts	3,185.49	-
<b>Total liquidation estate</b>	<b>267,160.96</b>	<b>969,331.17</b>
<i>Inter-account transfers</i>	<i>623,097.92</i>	<i>- 625,176.55</i>
<b>TOTAL RECEIPTS</b>	<b>1,011,012.29</b>	<b>1,078,818.31</b>
<b>PAYMENTS</b>		
Records recovery charges	38,243.90	-
Liquidators Fees (GTSS)	512,371.30	227,206.64
Liquidators Expenses (GTSS)	54,941.54	9,361.62
Liquidators Fees (RCGT)	67,594.08	464,608.93
Liquidators Expenses (RCGT)	-	7,718.97
Legal Fees (H&J/Truman Bodden)	281,485.62	3,635.61
Legal Fees (McCarthy)	-	104,293.50
Legal Fees (Swiss Action)	15,000.00	-
Loan repayment (Ivest)	-	116,568.55
Loan repayment (advances)	-	3,000.00
Bank Charges	2,064.68	127.87
Foreign exchange loss	36,892.99	14,254.09
Tax	-	29,537.32
<b>TOTAL PAYMENTS</b>	<b>1,008,594.11</b>	<b>980,313.10</b>
Cash balances in hand	2,418.18	98,505.21
	<b>1,011,012.29</b>	<b>1,078,818.31</b>

- Since the estate did not have sufficient funds for investigation, most of the funds were provided by third parties, namely the AMF, Triglobal and Ivest.
- The estate has also been subsidised by the JOLs, who have not drawn fees since 2013 pending the determination of whether material recoveries can be achieved.
- Absent any material recoveries from the BNP litigation, there is no prospect of recovery for the estimated US\$69million of creditors.