

Policyholder Update – 27th November 2024

Hi All,

The following is a brief update from yesterday's second AHC meeting with the JPLs. Please note as always that I cannot share a comprehensive overview of everything discussed due to the NDAs we are subject to and the legally sensitive nature of some aspects of the proceedings, but I want to keep everyone as informed so far as possible.

AHC meeting 26th November

The purpose of the meeting was for the AHC to follow-up on the extensive disclosure we received after the first meeting in September and to ask further questions regarding the options that were presented to us: litigation to secure the company information, and placing the company into liquidation.

The committee prepared an extensive list of over 60 questions that were submitted to the JPLs in advance of the meeting. In addition to the above strategic matters, these included queries about the company's assets and the AUM, the custodian banks, the direct investments, the online portal and the JPLs' fees. Deloitte answered many, but not all, of the questions during the two-hour meeting, as they requested additional time to consult with their lawyers in relation to some of the issues we raised.

Yesterday morning, we also finally received a copy of the "Kroll Report", which we originally requested from the JPLs in September. The report was prepared in October 2023 at the request of the BMA to investigate Custodian Life, and ultimately formed the basis on which the BMA petitioned for the wind-up order. It was not ideal for the AHC to receive this 54-page report on the morning of our meeting, although the JPLs did have to get permission from the BMA and go through a legal process to unseal the report for us.

Key outcomes from the meeting include:

- The JPLs will prepare further information for the AHC on the pros and cons of placing the company into liquidation
- The JPLs acknowledged our many concerns about their ongoing fees and will look at options to have these reduced, and revert back to us before they submit another application to the court to be paid
- The JPLs will provide us with updated company financial information, as most of the disclosure that we received in September was based on a snapshot of the company in November '23 when they assumed control of it. We require current data to be able to make informed decisions
- The second creditors report is being drafted, as these are issued on a six-monthly schedule (the first report having been issued to policyholders in May this year)

- The JPLs have still not been fully recognized as legally in control of the almost \$60m assets in the custodian bank XNT, which is based in Malta. This issue was highlighted in the first creditors report and may be related to Joint Provisional Liquidators having limited recognition in some jurisdictions. Nonetheless the accounts have been frozen by XNT and they have provided details of the assets in them
- There still remain about \$15m in direct assets that are unaccounted for. The JPLs have achieved full legal control over some of the other direct assets
- The JPLs confirmed that they have not sold any financial instruments to meet their fees. Rather they have used cash balances from company equity (this was confirmed to policyholders in June this year, but we wanted to make sure that it is still the case)
- The JPLs confirmed that the Custodian Life website is not under JPL control

What to expect for the hearing on Friday 29th

The committee is of the unanimous opinion that we are still as yet unable to make a fully informed decision on the options presented to us. Specifically, we need additional time to digest the Kroll Report and consider its implications, the JPLs need to provide updated company information and a cost-benefit analysis of putting the company into a liquidation, and we need time to discuss with our legal counsel further specifics and potential risks in relation to litigation. Therefore, we expect another short adjournment to be granted by the judge so that both the JPLs and the AHC have the additional time needed.

Our lawyer is keen to provide a comprehensive update to the court on the events to date, and has asked whether Friday's hearing can be attended by policyholders via a Zoom link in order to facilitate increased transparency in the proceedings and to keep policyholders well-informed. We are still awaiting to hear back from the judge but will circulate the Zoom link if the request is approved.

JPL fees

It has come to our attention that a significant part of the JPLs' costs are being allocated to responding to policyholder emails. While it is every policyholder's right to contact Deloitte for information, we would respectfully suggest considering whether it is essential and likely to lead to any meaningful response/update from them, given that matters are somewhat stalled until the company information can be recovered/reconciled or it goes into a liquidation.

The work of the AHC

Finally, I would like to briefly address some concerns that policyholders have expressed about the pace at which the proceedings are progressing. I fully appreciate that it may

appear that matters are not moving quickly enough or even that the committee is dragging its heels, but nothing could be further from the truth. Over the past three months, we have had an enormous amount of material to digest and analyse, and have been maintaining correspondence with Deloitte for most of that time without the benefit of a lawyer, as we took action to ensure that our legal costs would be apportioned to the company's assets in the first instance in order to protect policyholders so far as possible (notwithstanding undetermined issues of segregation).

We are based in various countries around the world and maintain full-time work commitments, yet have been meeting regularly, on average one to two times a week, to discuss matters and ensure that progress is constantly being made and that the work of Deloitte is properly monitored. Events were also stalled temporarily by the unfortunate and unexpected death of one of the named JPLs at Deloitte. However, now that we have legal counsel working on our behalf, I do expect that going forward things will start to move a bit more quickly.

Conclusion

Apologies for the longer-than-usual update, but there was quite a lot of information to cover on this occasion. As mentioned, I do feel that we are much closer to making a decision and we are certainly far better informed than we were four months ago, prior to the establishment of the AHC. While we cannot place arbitrary timelines in place, I do not expect there to be multiple adjournments going forward without measurable progress or decisions being made. Whichever route we choose, our singular focus remains, as always, reestablishing the ability for policyholders to gain access to their capital as soon as possible.