



***Ross Asset Management Limited (In Liquidation) ("RAM")  
Bevis Marks Corporation Limited (In Liquidation)  
McIntosh Asset Management Limited (In Liquidation)  
Mercury Asset Management Limited (In Liquidation)  
Dagger Nominees Limited (In Liquidation)  
Ross Investment Management Limited (In Liquidation)  
Ross Unit Trusts Management Limited (In Liquidation)  
United Asset Management Limited (In Liquidation)  
together "the Ross Group Companies" or "the Group Companies"***

**Outcome of Third Liquidation Committee Meeting**

The third meeting of the Liquidation Committee ("the Committee") was held on 30 May 2013 by way of teleconference. The purpose of the meeting was to update the committee on the progress of the liquidators' investigations to date. Please note investigations are ongoing and have not yet been finalised. Accordingly any information provided in this report is subject to change if it is believed that it can be made more accurate. It was agreed that future communications concerning the liquidation process will continue to be sent from the Liquidator on behalf of the Committee.

This report is subject to the restrictions set out at Appendix A.

**Net Contributions of Investors**

The Liquidators are using the records of the Group Companies to attempt to establish the net cash position of each of the current investors. I.e. total contributions (either cash or cash value of shares) less total withdrawals over the life of each investor's portfolio. The purpose of this is to establish a basis for the ultimate distribution of any assets realised, and also to assist in the identification of transactions which are potentially voidable or subject to any other legal recovery. This exercise is relatively well progressed although some of the more detailed analysis on some investors is yet to be completed.

The analysis attempts to determine what the overall cash position of each investor is (referred to in the table below as 'Net Cash Contributions'). The current status on an investor by investor basis is set out in the table below. Where an investor holds multiple portfolios we have set off the balances of those portfolios against one another to reach a net cash claim for that investor.

	Investors	Net Cash Contributions
Net Contributions >0	625	\$107,562,652.76
Net Contributions <0	207	-\$48,172,605.73
No Net Contributions or = 0	14	\$0.00
<b>TOTAL</b>	<b>846</b>	

1. This is the position at 6 November 2012, being the date of the appointment of receivers.
2. The above analysis does not include investors who closed all of their accounts prior to the appointment of receivers.
3. Data is drawn from RAM's electronic database since 30 June 2000 and from paper files prior to that date.
4. A full reconciliation of this data against RAM bank records has not been completed.





The figure of circa \$454 million which has previously been reported is the total value of the combined portfolios, as recorded in the RAM database, at the date the Group Companies were placed into receivership. This includes growth reported from share trading. This growth has not been included in the above analysis as it would appear a large amount is fictitious so can not be relied on as accurate.

### **Inland Revenue**

Inland Revenue (IR) is still considering tax aspects relevant for possible investor tax refunds, focussing on 3 areas. Firstly, determining the quantum of non-fictitious foreign investments which can be used by investors to calculate 5% fair dividend rate (FDR) FIF income. Secondly, determining the quantum of management fees able to be deducted by investors noting that investors will generally have been charged based on 'higher' portfolio values including fictitious investments. Thirdly, considering whether any of the distributions received by investors could be taxable under ordinary principles noting that the distributions may not relate to FIF investments.

Inland Revenue hopes to issue further guidance in due course to assist investors who may be seeking to obtain tax refunds. Inland Revenue's letter dated 19 March 2013 still remains relevant regarding possible investor tax refunds.

In relation to the first matter (quantum of prior year foreign investments), IR is intending to review work we have already undertaken to see whether this is sufficient to satisfy IR's evidential requirements. If IR agrees with our approach, further work will be required in respect of prior years. The results of this work will be advised to investors when completed, to assist investors request tax refunds should they wish to do so.

Inland Revenue are also considering whether Ross Asset Management Limited (in Liquidation) may be eligible for a tax refund having paid tax on the higher management fees from investors.

### **Outstanding shareholders' current account**

Discussions with Mr and Mrs Ross and their advisors continue in relation to the outstanding shareholders' current account with the aim of achieving a settlement which would benefit investors by having the potential to be more timely and providing an overall better return than bringing legal proceedings against Mr and Mrs Ross. We are not in a position to disclose details of those negotiations at this time.

### **Share Realisations**

All international brokers have been contacted in order to realise the shares under their control. This disposal of shares is progressing as quickly as can be achieved, however some international brokers are requesting that Court Orders in their local jurisdictions be obtained before they will sell any of the shares in their custody. We are working through options to progress these issues as they arise and if possible avoid the cost of obtaining such Court Orders. We attach at Appendix B a table setting out the current position in relation to the realisation of shares.

### **Clawback**

The Liquidators are reviewing payments which have been made to investors in the period leading up to the appointment of receivers. This review is ongoing and involves the gathering of evidence to satisfy the requirements of the insolvent transaction provisions in the Companies Act 1993 or other available remedies to recover monies paid out.





Several possible investor transactions have been identified as good examples where repayments have occurred which has resulted in the investor receiving significantly more than they had contributed. We are currently obtaining legal advice as to whether the evidence we hold is likely to be sufficient to have a Court rule that the monies need to be repaid. It is not currently possible to determine the overall value and timing of any monies which may be recovered from clawback options. Investors who have been identified in our above analysis will be written to in the near future.

### **Clarification of factual information**

It has come to our attention that certain information is being distributed to investors which is factually incorrect.

In order to correct some of the recent queries received we advise as follows

1. The \$1,000 per week living allowance which was granted to Mr Ross by the High Court was payable from his personal assets. The available funds from which to make the payments ran out on 22 February 2013. No payments have been made since this date. The assets of the Ross Group Companies have not been used to fund any \$1,000 per week payments.
2. John Fisk and David Bridgman of PWC are not conflicted from acting as receivers or liquidators of the Ross Group Companies. Statements purportedly made by David Ross that PWC was the auditor or accountant for the Ross Group are incorrect.
3. There has been no legal action commenced in regard to clawback at this stage. As noted above, the amount potentially recoverable through clawback is not yet quantifiable, but figures publicly mentioned of over \$100 million are likely to be materially wrong.
4. Due to the disparate nature of the dealings of the Ross Group it is not possible to give it a definitive label as a Ponzi scheme or otherwise. Some transactions show the characteristics of a Ponzi scheme, whereas others suggest a legitimate share trading business. Investor contributions will have been used for a variety of purposes, including payment of distributions to other investors, the purchase of shares and operating expenses of the business. The Liquidators are reviewing the transactions entered into by the Ross Group as a part of our general investigations, however, the cost of tracing how all deposits received from investors have been treated would likely outweigh any benefits to investors from doing so.

We intend to place the above information on our website as a 'Q & A' section and will update it with answers to any further general queries such as these as they arise.

### **Receipt of Reports by Email**

We remind investors and creditors that they can receive future correspondence by email should they wish. If you have received a hard copy of this report and you wish to receive future correspondence by email, please email [receiverships@nz.pwc.com](mailto:receiverships@nz.pwc.com) advising you wish to receive future reports by email and providing details of which portfolio or portfolios you represent.



If you have any other queries, please submit your enquiry through the on-line form via our website, through the dedicated phone line (04) 462 7040, by writing to our mailing address or to the email address above. We will endeavour to respond to all enquiries as quickly as possible. Please mark any queries for the Liquidation Committee so that these can be passed to them for consideration.

Dated 12 June 2013

A handwritten signature in blue ink, appearing to read 'John Fisk'.

John Fisk  
Liquidator

## ***Appendix A***

### ***Restrictions***

The statements and opinions expressed herein have been made in good faith, and on the basis that all information relied upon is true and accurate in all material respects, and not misleading by reason of omission or otherwise.

We have not independently verified the accuracy of information provided to us, and have not conducted any form of audit in respect of the Group Companies. Accordingly, we express no opinion on the reliability, accuracy, or completeness of the information provided to us and upon which we have relied. Whilst all care and attention has been taken in compiling this report, we do not accept any liability whatsoever arising from this report.

The statements and opinions expressed in this report are based on information available as at the date of the report.

We reserve the right, but will be under no obligation, to review or amend our report, if any additional information, which was in existence on the date of this report was not brought to our attention, or subsequently comes to light.

We have relied on forecasts and assumptions prepared by the Group Companies about future events which, by their nature, are not able to be independently verified. Inevitably, some assumptions may not materialise and unanticipated events and circumstances are likely to occur. Therefore, actual results in the future will vary from the forecasts upon which we have relied. These variations may be material.

In addition the following should be noted:

- Certain numbers included in tables throughout this report have been rounded and therefore do not add exactly.
- Unless otherwise stated all amounts are stated in New Zealand dollars



# Appendix B – Share Realisation Summary

Ross Group Companies (In Liquidation)

Share Realisation Summary

at 12/06/2013

	Estimated to Realise *	Net Realisation ~	Yet to be Realised	Proprietary Claims #	Estimated Total Realisations available for Investors & Creditors^	Brokerage Fees Paid
NZ Broker Holdings	\$744,752.64	\$620,087.65	\$0.00	\$70,140.83	\$549,946.82	\$4,727.41
Australia Broker Holdings	\$1,730,609.70	\$601,548.93	\$654,756.84	\$83,035.67	\$1,173,270.11	\$14,265.54
USA Broker Holdings	\$874,088.74	\$184,097.30	\$643,766.44	\$158,945.90	\$668,917.84	\$9,822.07
Other Broker Holdings	\$491,830.25	\$17,560.47	\$450,461.17	\$279,443.31	\$188,578.33	\$1,051.68
NZ Registry Holdings	\$589,736.57	\$3,658.21	\$586,259.39	\$226,881.63	\$363,035.97	\$0.00
Australia Registry Holdings	\$1,448,814.91	\$120,895.10	\$1,319,593.84	\$174,595.91	\$1,265,893.03	\$290.37
USA Registry Holdings	\$1,135.96	\$0.00	\$1,135.96	\$0.00	\$1,135.96	\$0.00
Other Registry Holdings	\$37,008.98	\$0.00	\$37,008.98	\$0.00	\$37,008.98	\$0.00
<b>Totals</b>	<b>\$5,917,977.77</b>	<b>\$1,547,847.66</b>	<b>\$3,692,982.63</b>	<b>\$993,043.24</b>	<b>\$4,247,787.05</b>	<b>\$30,157.07</b>

\* - Based on share portfolio valuations dated 21 February 2013. Some holdings have more recent valuations.

~ - Value of shares sold after brokerage fees have been deducted.

# - All shares held in the name of RAM Companies possibly subject to proprietary claims of which the liquidators are currently aware. It is unlikely that all shares will be determined as proprietary.

^ - Sum of shares realised to date, shares yet to be realised less provision for proprietary claims. Costs of realisations need to be met from these funds.