



***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 Eighth Liquidation Committee Meeting

The eighth meeting of the Liquidation Committee (“the Committee”) was held on 19 August 2015 at PwC’s offices in Wellington. Five committee members attended in person, one attended by telephone and one apology was received. This document is the Committee’s agreed communication to be sent to all creditors and investors following the meeting. 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.

Clawback

1. Appeal

The liquidators successfully obtained judgment in the first clawback case on 23 June 2015. The relevant investor had received withdrawals of \$954,000. The Judge ordered that the investor pay back circa \$454,000 being the amounts paid to him which were greater than his original contribution of \$500,000. The investor has appealed this decision, on the basis that he gave value for the payments he received and/or changed his position in reliance on the payments. The liquidators have cross-appealed seeking repayment of the full value of withdrawals. An application was made for urgency/priority in the Court of Appeal. Subsequent to the meeting of the committee the Court of Appeal confirmed that it will hear the appeal on 10 November 2015. The approach taken by the liquidators was endorsed by the committee.

2. Future Claims Strategy

Now that the liquidators have some guidance from the High Court further work has been undertaken to identify potential claims against investors who have withdrawn money from RAM in the period leading up to its collapse.

The liquidators would prefer to wait for the above appeal to be heard before commencing any further legal proceedings, however, they also need to take steps to preserve those potential claims where they may be time barred, in part or in full, due to being older than six years. Accordingly, at the date of the meeting, the liquidators had written to circa 23 further investors whose claims may become time barred before the end of 2015 asking them to enter into standstill agreements. The effect of a standstill agreement is that the liquidators agree not to issue proceedings until after the appeal in exchange for the investor not challenging those proceedings as time barred. If any investors do not agree to enter into such an agreement, or do not respond in time, proceedings will be commenced in order to protect the position. It is likely that the liquidators will write to further investors requesting standstill agreements be entered into. The decision to issue the standstill agreements was initially made by the liquidators, without any prior consultation with the committee. The requesting of standstill agreements by the liquidators was endorsed by the committee.



The standstill agreements relate to any withdrawals made from RAM in the previous six years. This is the period in which legal claims can be brought without being ruled out under the Limitation Act. The liquidators have sought to enter into these agreements now (or issue proceedings if such agreements can not be reached), rather than at an earlier time, due to now having the guidance from the High Court that any claim is likely to be, at least partially, successful. The result is that claims can not be brought to recover withdrawals over six years old, however, the liquidators felt it would not have been appropriate to incur what would likely have been a significant cost pursuing all potential claims without the guidance provided by the High Court. Further the “value of the older claims is likely to be much lower than more recent claims because of the greater availability of a change of position defence. The decision to defer issuing further claims and standstill agreements until this time, rather than at an earlier date, was that of the liquidator.

The Committee has asked the liquidators to stress to investors that such letters and standstill agreements have simply been sent to investors who have made material withdrawals that may become time barred in the next five months. That is, there has not been a full analysis undertaken of the merits of such proceedings.

3. Further Test Cases

Two further clawback cases were to be heard by the High Court in early September. The investors concerned applied to adjourn the hearing on the basis that the High Court should not be dealing with the “value” issue (that is, whether the value of the investor’s original contribution could be clawed back) given it would shortly be dealt with by the Court of Appeal. The High Court agreed and adjourned the hearing but on the basis it would be given priority as soon as the Court of Appeal decision is released.

4. Investors bringing their own claims

In the High Court’s decision on the first clawback claim, Justice McKenzie commented that investors may have their own remedies in equity to the extent funds can be followed or traced. This was not an issue that was argued or raised during the first clawback hearing.

Due to the way monies in RAM were intermingled, it is generally not possible to trace a particular deposit to a particular payment. Usually, any deposit received could have been applied to a variety of payments. Likewise any payment made could have come from a variety of deposits. Any investor seeking to bring their own claim may also need to prove knowledge of the recipient and deal with the issue of any value provided by that recipient.

Investors should also be aware if they wish to obtain copies of RAM’s records to assist them in such a claim, they would first need to obtain an order of the High Court pursuant to section 256(1)(a)(ii) of the Companies Act 1993 requiring the Liquidators to disclose that information. No such applications have been made to date in this matter.

The liquidators consider that legal action to recover funds from former investors is best undertaken by them on behalf of all creditors and for the benefit of all creditors. The liquidators do not intend to undertake any actions on behalf of individual investors. The liquidators’ approach was endorsed by the committee.

The above information has been updated to the liquidators’ website under the frequently asked questions section. <http://www.pwc.co.nz/ross-group/frequently-asked-questions/>

Any investors who are considering bringing their own claims should obtain independent legal advice and consider the above matters before doing so. The above comments on issues associated with such claims are necessarily general and subject to the restrictions and limitations set out at Appendix A.



5. Costs incurred to date

To 31 July 2015 the liquidators have spent circa 590 hours (\$183,205) dealing with matters in relation to clawback claims. This includes both general review of potential claimants and work completed in relation to the three cases currently before the Courts.

The liquidators' solicitors have spent circa 1,100 hours (\$300,000) dealing with clawback claims. This includes providing advice in relation to potential claimants and the three cases currently before the Courts.

Bankruptcy

David Ross was adjudicated bankrupt on 28 July 2015 on the petition of the BNZ. We have advised the Official Assignee of residual assets within the receivership and provided documentation which we believe will assist the Official Assignee to manage the bankrupt estate. It is likely that the FMA will seek to end the receivership shortly as a result of the bankruptcy.

Update on share realisations

We have not attached a summary of share realisations as the position is the same as that reported in the liquidators' most recent statutory report.

The shares that remain to be realised are those subject to remaining proprietary claims, or are located at overseas registries but no share certificates are held. The requirements to obtain replacement share certificates are generally very onerous and require the obtaining of bonds and provision of indemnities by the liquidators personally. We are currently obtaining advice on the risks associated with providing such indemnities before agreeing to do so. If the risks are too high there are unlikely to be any further share realisations of substance, other than shares subject to proprietary claims.

Proprietary claims

The liquidators are dealing with two major remaining proprietary claims. They are in discussions with one claimant's solicitor in efforts to resolve the claim.

The second claimant has made an application to the High Court for a declaration that the shares claimed are their property, and not available for the general body of investors. The value of the shares subject to the claim is significant. Accordingly the liquidators have had to incur significant time cost in opposing the investor's application as invalid. This matter is due to be heard by the Court in October 2015.

Recent Tax Decision

It has been reported in the media that a RAM investor has obtained a tax refund on more favourable terms than those provided in Inland Revenue's letter dated 13 November 2013. Due to taxpayer secrecy Inland Revenue has been unable to disclose any details of this decision, however, Inland Revenue considers the contents of the above letter to still be applicable to the majority of investors. Inland Revenue also confirmed that no investor is bound by the contents of the above letter and may seek to have prior year income tax returns reassessed on a different basis, however, the onus is on the investor to prove their position. Investors are recommended to seek independent advice before approaching Inland Revenue. Investors seeking reassessments should detail how the reduced tax payable has been calculated, include investor statements from RAM and details of any distributions received from RAM. A reassessment may not necessarily result in a larger refund once all of the investors' relevant circumstances are taken into account. The committee requested that the liquidators obtain any further information on the circumstances surrounding this decision, if possible.



Financial position

A summary of the receipts and payments, together with costs incurred but not paid, was presented to the meeting and discussed. As at 31 July 2015, the Liquidators had net funds on hand of \$2,644,729.11. A breakdown of the individual balances held for each Ross Group company is detailed below:

Bevis Marks Corporation Limited (In Liquidation)	\$	0.89
Dagger Nominees Limited (In Liquidation)	\$	1,085,313.17
McIntosh Asset Management Limited (In Liquidation)	\$	0.42
Mercury Asset Management Limited (In Liquidation)	\$	0.38
Ross Asset Management Limited (In Liquidation)	\$	1,559,413.53
Ross Investment Management Limited (In Liquidation)	\$	0.22
Ross Unit Trusts Management Limited (In Liquidation)	\$	0.15
United Asset Management Limited (In Liquidation)	\$	0.35
	\$	2,644,729.11

Detailed receipts and payments accounts to 31 July 2015 for each company are attached at Appendix B.

At 31 July 2015 a further \$84,037 of time costs and a further \$1,335 of disbursements had been incurred by the Liquidators but not been paid. A further \$24,100 of legal costs had also been incurred but had not yet been paid.

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

Dated 7 September 2015

A handwritten signature in blue ink, appearing to read 'John Fisk', with a long, sweeping horizontal stroke extending to the right.

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 dollar

Ross Group Companies (In Liquidation)**Summary of Companies' bank account balances at 31 July 2015**

Bevis Marks Corporation Limited (In Liquidation)	\$	0.89
Dagger Nominees Limited (In Liquidation)	\$	1,085,313.17
McIntosh Asset Management Limited (In Liquidation)	\$	0.42
Mercury Asset Management Limited (In Liquidation)	\$	0.38
Ross Asset Management Limited (In Liquidation)	\$	1,559,413.53
Ross Investment Management Limited (In Liquidation)	\$	0.22
Ross Unit Trusts Management Limited (In Liquidation)	\$	0.15
United Asset Management Limited (In Liquidation)	\$	0.35
	\$	2,644,729.11

Ross Group Companies (In Liquidation)
Summary of transactions at 31 July 2015

Bevis Marks Corporation Limited (In Liquidation)

Receipts

Share sales	86,033.47	
Dividends	12,079.18	
Transfer from Receivers' account	2,902.15	
Interest income	2,744.95	
GST on receipts	-	
Total receipts		103,759.75

Payments

Bank charges	90.78	
Brokerage fees	2,696.17	
Broker document charges	105.00	
Distribution to David Ross Receivership	88,072.51	
Liquidators' fees	8,165.80	
Liquidators' general expenses & disbursements	585.91	
Receivers' fees	1,485.52	
Receivers' general expenses & disbursements	222.83	
RWT	749.58	
GST on payments	1,584.76	
Total payments		103,758.86

Total cash on hand

\$ 0.89

Ross Group Companies (In Liquidation)
Summary of transactions at 31 July 2015

Dagger Nominees Limited (In Liquidation)

Receipts

Share sales	1,139,796.99	
Dividends	39,433.58	
Transfer from Receivers' account	4,922.65	
Interest income	45,856.94	
Funds on Hand	7,355.59	
Investor Management Fees	186.43	
GST on receipts	27.96	
Total receipts		1,237,580.14

Payments

Bank charges	522.93	
Brokerage Fees	13,954.06	
Broker document charges	2,248.64	
Liquidators' fees	18,085.29	
Liquidators' general expenses & disbursements	3,855.58	
Proprietary Claims	96,922.14	
RWT	13,161.45	
GST on payments	3,516.88	
Total payments		152,266.97

Total cash on hand	\$ 1,085,313.17
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Ross Group Companies (In Liquidation)
Summary of transactions at 31 July 2015

McIntosh Asset Management Limited (In Liquidation)

Receipts

Share sales	28,236.14	
Dividends	495.60	
Interest income	924.67	
GST on receipts	-	
Total receipts		29,656.41

Payments

Brokerage Fees	444.01	
Distribution to David Ross Receivership	22,926.44	
Liquidators' fees	4,919.35	
Liquidators' general expenses & disbursements	327.75	
RWT	251.38	
GST on payments	787.06	
Total payments		29,655.99

Total cash on hand	\$	0.42
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Ross Group Companies (In Liquidation)
Summary of transactions at 31 July 2015

Mercury Asset Management Limited (In Liquidation)

Receipts

Share sales	40,832.35	
Dividends	573.13	
Interest income	1,349.23	
Funds on Hand	1,574.15	
GST on receipts	-	
Total receipts		44,328.86

Payments

Bank charges	15.00	
Brokerage Fees	1,316.20	
Distribution to David Ross Receivership	36,258.37	
Liquidators' fees	5,210.78	
Liquidators' general expenses & disbursements	329.40	
RWT	367.70	
GST on payments	831.03	
Total payments		44,328.48

Total cash on hand	\$ 0.38
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Ross Group Companies (In Liquidation)
Summary of transactions at 31 July 2015

Ross Asset Management Limited (In Liquidation)

Receipts

Share sales	2,160,905.84	
Dividends	23,182.61	
Funds on Hand	31,947.25	
Transfer from Receivers' account	40,378.06	
Interest income	57,432.59	
Investor management fees	26,376.27	
RAM office furniture sales	9,475.21	
Sale of Tama Road	85,000.00	
Sale of Marine Drive	828,000.00	
Rental Income	6,404.52	
Reparations from David Ross Receivership	887,261.48	
Security for costs	5,891.25	
GST on receipts	49,278.29	
Total Receipts		4,211,533.37

Payments

Advertising	4,127.72	
Bank charges	774.61	
Brokerage Fees	41,196.56	
Broker document charges	1,587.26	
Commission	26,850.48	
Council Rates	1,466.25	
Document storage	13,514.49	
Duress Payments	10,095.39	
Electricity	1,191.56	
Employee Preferential Claim	19,574.83	
Freight	1,815.00	
Insurance	3,956.04	
IT Support	9,092.38	
Landlord make good costs	505.65	
Legal Fees	920,804.79	
Liquidation Committee expenses	191.70	
Liquidators' fees	701,811.11	
Liquidators' general expenses & disbursements	56,545.02	
Mail Collection	320.00	
PAYE	11,142.61	
Property Management Costs	530.41	
Property Maintenance	923.95	
Petitioning creditor costs	1,302.80	
Proprietary claims	292,307.50	
Receivers' Fees	172,185.53	
Receivers' general expenses & disbursements	12,098.48	
Office Rental	25,146.87	
RWT	16,261.08	
Security	313.61	
Telephone	770.13	
Wages	11,104.29	
GST on payments	292,611.74	
Total payments		2,652,119.84

Total cash on hand

\$ 1,559,413.53

Ross Group Companies (In Liquidation)
Summary of transactions at 31 July 2015

Ross Investment Management Limited (In Liquidation)

Receipts

Share sales	7,923.35	
Interest income	188.14	
GST on receipts	-	
Total receipts		8,111.49

Payments

Brokerage Fees	115.71	
Distribution to David Ross Receivership	4,979.91	
Liquidators' Fees	2,369.35	
Liquidators' general expenses & disbursements	207.45	
RWT	52.33	
GST on payments	386.52	
Total payments		8,111.27

Total cash on hand	\$	0.22
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Ross Group Companies (In Liquidation)
Summary of transactions at 31 July 2015

Ross Unit Trusts Management Limited (In Liquidation)

Receipts

Share sales	8,308.30	
Interest income	206.72	
GST on receipts	-	
Total receipts		8,515.02

Payments

Bank Charges	34.00	
Brokerage Fees	255.09	
Distribution to David Ross Receivership	6,180.75	
Liquidators' Fees	1,624.84	
Liquidators' general expenses & disbursements	166.50	
RWT	57.53	
GST on payments	196.16	
Total payments		8,514.87

Total cash on hand	\$ 0.15
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Ross Group Companies (In Liquidation)
Summary of transactions at 31 July 2015

United Asset Management Limited (In Liquidation)

Receipts

Share sales	132,725.13	
Transfer from Receivers' account	881.45	
Funds on Hand	17,574.66	
Interest income	4,371.74	
GST on receipts	-	
Total receipts		155,552.98

Payments

Bank charges	34.20	
Brokerage fees	2,629.81	
Broker Document Charges	54.00	
Distribution to David Ross Receivership	114,024.77	
Distribution to Unsecured Creditors	27,615.70	
Liquidators fees	8,133.55	
Liquidators' general expenses & disbursements	569.71	
RWT	1,185.40	
GST on payments	1,305.49	
Total payments		155,552.63

Total cash on hand	\$	0.35
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