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***Receivers' Report on the State of Affairs of  
OPI Pacific Finance Limited (In Receivership and In Liquidation)***

Company Number: 977908





## IMPORTANT NOTE

- This report has been prepared in accordance with and for the purpose of Section 24 of the Receiverships Act 1993, for the sole purpose of reporting on the state of affairs with respect to the property in receivership and the conduct of the receivership for the six month period 15 March 2018 to 14 September 2018.
- All information contained in this report is provided in accordance with Sections 26 and 27 of the Receiverships Act 1993.
- This report is subject to the restrictions set out at Appendix A. In particular, in preparing this report we have relied upon and not independently verified or audited information or explanations provided to us.

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## 1. Introduction

Colin McCloy and Maurice Noone were appointed receivers of OPI Pacific Finance Limited (In Receivership and In Liquidation) (“PAC” or the “Company”) by Perpetual Trust Limited (“Perpetual”) on 15 September 2009. The Company had been subject to a moratorium arrangement that was approved by creditors on 19 May 2008. The receivership ended that moratorium arrangement.

We were appointed under the terms of a security agreement giving the secured party a security interest over all of the assets and undertakings of PAC. The property in receivership comprises all of the assets, property and undertakings of PAC.

On 3 November 2011 Aaron Walsh and Andrew McKay of Corporate Finance Limited were appointed liquidators of PAC by the shareholders of PAC, OPI Pacific Limited (In Liquidation) (“OPL”). Justin Bosley replaced Aaron Walsh as liquidator on 6 July 2012. Andrew McKay is also the liquidator of OPL and other related New Zealand companies, along with his colleague John Cregten. Placing PAC into liquidation does not affect the operation of the receivership or the rights of secured debenture holders.

This report provides an update of the receivership, the potential of returns for PAC investors and the receivers’ investigations into the financial affairs of PAC in the period prior to receivership.

## 2. Events following appointment

As you are aware following our appointment as receivers we attended the offices of PAC to secure the books and records and we determined the most appropriate method of realisation of the assets. Our actions have included:

- Securing key assets;
- Contacting all borrowers and guarantors regarding the recovery of loans;
- Developing asset realisation strategies where applicable;
- Investigating potential claims in respect of the loan book and insurance policies;
- Providing updates and communicating with investors and Perpetual;
- Investigating the affairs of PAC;
- Crystallising PAC’s security in respect of its loan to OPI Pacific Investment Pty Limited (“PIC”); and
- Attending various meetings held by the liquidators of Octaviar Limited (Receivers and Managers appointed) (In Liquidation) (“Octaviar”) and Octaviar Administration Pty Limited (In Liquidation) (“OCVA”).

At the commencement of the receivership of PAC, Colin McCloy and Maurice Noone were appointed as joint and several receivers. However, Mr Noone subsequently resigned as receiver of PAC on 8 May 2014. John Fisk of PricewaterhouseCoopers was appointed receiver of PAC on 8 May 2014.

We have also written to investors on 26 November 2009, 4 May 2010, 23 July 2010, 22 December 2010, 8 June 2011, 18 February 2013, 17 December 2013, 23 December 2014, 9 October 2015, 20 December 2017 and 12 April 2018.

### **3. Particulars of assets and proposal for disposal of property in receivership**

#### *Loan assets*

As discussed in our previous reports the recorded loan assets of PAC and PIC have been realised by the receivers. No further material loan related recoveries are expected.

#### *Unsecured claims against Octaviar and OCVA*

As previously reported, an unsecured claim of c.AUD372m was lodged and formally admitted in the liquidation of Octaviar, the ultimate parent entity of PAC's related parties. In November 2017 the liquidators of Octaviar announced an interim dividend process whereby PAC was expected to receive associated distributions in two tranches.

The first tranche (NZ\$2.9m) was received in January 2018. The second tranche (NZ\$1.0m) was received in late March 2018.

Further recoveries are anticipated from PAC's claims in the liquidations of OCVA and Octaviar once the liquidators complete their administration. The timing and extent of these is unknown at present as distributions are dependent on the outcome of recovery actions and other creditor claim assessments being undertaken by the liquidators.

We note that, in addition to the claims submitted by PAC, both Octaviar and OCVA have debts outstanding to other creditors, and the assets in these companies appear to be insufficient to meet all liabilities in full.

### **4. Particulars of debts and liabilities outstanding and requiring to be satisfied from the property in receivership**

#### *Secured debenture holders*

At the date of the receivership, PAC's records indicated it owed NZ\$198.4m to secured debenture holders and NZ\$57.5m to unsecured note holders, predominately located in New Zealand and Australia.

During the receivership to 14 September 2018, interim distributions totalling \$27.9m had been made to secured debenture investors as follows:

- NZ\$4.35m on 22 December 2010;
- NZ\$4.05m on 18 February 2013
- NZ\$12.50m on 23 December 2014
- NZ\$3.10m on 9 October 2015; and
- NZ\$3.9m in April 2018.

Based on balances owing at the start of the Company's moratorium, this brings the total amount repaid to approximately 32.9 cents in the dollar.

In addition, we continue to arrange redistribution to investors with unclaimed monies from the interim distributions as and when they are located or make contact with our offices.

Due to the reliance on the outcome of the OCVA and Octaviar liquidations, it is not possible to estimate the final return to secured debenture holders from the receivership of PAC. As noted, we expect further recoveries from Octaviar and OCVA, albeit we are unable to confirm the timing and extent of these at present.

### *Preferential and other unsecured creditors*

We are not aware of any preferential claims.

Given the estimated returns to secured investors, we have regretfully advised that there are unlikely to be any amounts available for payment to unsecured creditors.

## **5. Receipts and payments**

The table below sets out the receipts and payments for the receivership of PAC to 14 September 2018.

| <b>OPI Pacific Finance Limited (In Receivership and In Liquidation)</b> |                   |
|---|-------------------|
| <b>Receipts and payments (including GST)</b>                            |                   |
| <b>For the Period from 15 September 2009 to 14 September 2018</b>       | <b>NZ\$</b>       |
| <b>Receipts</b>   |                   |
| Pre-Receivership  | 2,522,167         |
| Trust Account   | 1,726,922         |
| GST refund  | 813,346           |
| Recoveries  | 27,603,263        |
| Reimbursement of costs  | 182,934           |
| Interest received   | 264,979           |
| Other   | 5,800,757         |
| <b>Total Receipts</b>   | <b>38,914,367</b> |
| <b>Payments</b>   |                   |
| Legal fees  | 3,147,124         |
| Trustee fees  | 724,359           |
| Receivers fees and disbursements  | 2,950,265         |
| Taxation Fees   | 1,666             |
| Computershare registry fees   | 583,648           |
| Other professional & consulting fees                                    | 418,710           |
| Reef Cove Loan  | 582,611           |
| Bank fees   | 6,043             |
| Interest expense  | 49                |
| Insurance   | 10,529            |
| Resident withholding tax  | 19,648            |
| Other expenses  | 2,576,892         |
| Foreign currency movements  | 60,199            |
| <b>Total Payments</b>   | <b>11,081,744</b> |
| <b>Net funds prior to distributions</b>                                 | <b>27,832,623</b> |
| Distributions to secured debenture holders                              | 27,703,288        |
| <b>Net funds</b>  | <b>129,334</b>    |

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## 6. *Other matters*

We carried out an initial investigation into the activities of PAC, its directors and third parties and reported our findings to the relevant Government Authorities.

We also assisted the Financial Markets Authority (“FMA”) with its investigation into the affairs of PAC and directors, and provided assistance with other related cases that the FMA is investigating.

In November 2013 the FMA laid charges against four directors of PAC. All four directors entered guilty pleas on various dates August/September 2015 for charges in relation to the issuance of a prospectus containing untrue statements. They were sentenced to community service and ordered to pay reparations to PAC of A\$100k each. All of these amounts have been received.

Should stakeholders have any queries arising from this report, please contact us via our website, telephone, facsimile, or private bag address, as follows:

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John Fisk  
Receiver

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# Appendix A

## **Restrictions**

- All information contained in this report is provided in accordance with Sections 26 and 27 of the Receiverships Act 1993.
- 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 Company. 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 Company 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.