

ANNUAL REPORT TO CREDITORS AND NOTEHOLDERS

26 October 2011

Dear Sir/Madam

Babcock & Brown Limited (In Liquidation) ("BBL")
ACN 108 614 955

Report pursuant to Section 508(1)(b)(ii) of the Corporations Act 2001 ("the Act")

I refer to my appointment as Liquidator of BBL on 24 August 2009.

In accordance with Section 508(3) of the Act, I have prepared a report on the progress of the liquidation, setting out our acts and dealings and the general conduct of the winding up for the period 24 August 2010 to 23 August 2011 ("the Period"). This report is set out below and should be read in conjunction with our report dated 17 November 2010.

In this Report, "Noteholders" means registered holders of subordinated notes issued by BBL pursuant to prospectuses issued in Australia dated 9 November 2005 (supplementary prospectus dated 21 November 2005), 9 May 2006, 12 October 2006 and investment statements issued in New Zealand dated 9 May 2006, 12 October 2006.

1. Liquidators' Acts and Dealings for the Period

Settlement of Recovery Action in Australia

As previously advised in our report dated 17 November 2010, the Liquidators undertook public examinations of several former directors and officers of BBL and the former auditor over seven days in July and August 2010. The public examinations were partially funded by contributing creditors and Noteholders and were successful in identifying at least one potential cause of action.

Subsequent to the public examinations and with litigation funding provided by IMF (Australia) Limited ("IMF"), the Liquidators focused on developing BBL's case against its former directors and auditor in relation to the unlawful payment of dividends in respect of the 2005-2007 financial years and other matters.

On 12 December 2010, the Liquidators extended an invitation to the relevant parties to attend a formal mediation of BBL's claims. Subsequent to this invitation, detailed position papers outlining BBL's causes of action were provided to the proposed participants in the mediation.

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A pre-mediation conference was held on 21 June 2011 to discuss the proposed agenda for the mediation and for the parties to meet the proposed mediator, a former Federal Court and NSW Court of Appeal Judge, Mr Roger Gyles QC. On 1 July 2011, the Liquidators entered into a mediation agreement which set out the terms and conditions for the mediation. This agreement was ratified by the Committee of Inspection of BBL on 11 July 2011.

As advised in our circular dated 18 July 2011, a mediation of BBL's claims ("Mediation") was scheduled for 1 and 2 August 2011. The Joint Liquidators of BBL attended the Mediation, which involved the former directors and auditor of BBL (the "Participants"). The Mediation extended to four consecutive days and the parties to the Mediation participated in subsequent discussions regarding documentation of the terms of a proposed settlement.

A conditional settlement proposal was reached between the Participants and the Liquidator on the basis that there was no admission of liability by the Participants in relation to the claims made by BBL (and noting that those claims were settled by the Participants solely to avoid the cost and inconvenience of litigation). The settlement is in respect of all causes of action available to BBL presently and in the future against the Participants.

The conditional settlement was subject to approval by the Committee of Inspection, which was granted at the Committee of Inspection meeting on 29 August 2011. The settlement was formally executed on 19 September 2011 and the amount of the settlement proceeds is confidential.

Settlement of "US Trust" Proceedings

As discussed in our previous report dated 17 November 2010, these proceedings related to the potential recovery of funds held by the Babcock & Brown Executive Achievement Trust (the "Trust"). As a result of several failed attempts to settle the matter with Babcock & Brown International Pty Limited ("BBIPL") in Australia, a mediation between BBL and BBIPL was ordered by a San Francisco court in California and held on 17 February 2011. David Lombe attended the mediation in San Francisco. The mediation was undertaken by a retired US Supreme Court Judge and ultimately resulted in a settlement whereby BBL will receive A\$4.0m. These proceedings were also funded by IMF (separately to the Liquidators' recovery actions discussed above).

On 9 May 2011, BBL received funds totalling A\$3.779m with the remaining A\$220,000 to be held in escrow by the trustee of the Trust for a nine month period pending any claims against the Trust. The Liquidator anticipates receipt of the escrowed funds by the end of the current calendar year.

The proceeds received to date were applied as follows (with the approval of the Committee of Inspection, where required):

1. Payment to IMF pursuant to the litigation funding agreement between BBL and IMF in relation to the US Trust proceedings.
2. Settlement of the outstanding voluntary administrators' remuneration (c.A\$1.0m excluding GST).
3. Settlement of a portion of the outstanding liquidators' remuneration (c. A\$339k excluding GST).
4. Settlement of a portion of outstanding legal costs (c.\$227k excluding GST).
5. Balance held to continue administration of ongoing legal claims and the potential recovery actions in Australia.

After the receipt of the US settlement proceeds (A\$3.779m), the payment of the above and other costs for the Period, the closing cash at bank on 23 August 2011 is A\$661,207.48. Please refer to Annexure B for BBL's summary of receipts and payments.

2. Resignation of Mr Simon John Cathro as Liquidator of BBL

On 8 August 2011, Mr Simon Cathro resigned as a Partner of Deloitte. Effective on 9 August 2011, Mr Cathro resigned as a Joint Liquidator of BBL. Mr David Lombe is now the sole liquidator of BBL.

3. Investigations – Report to ASIC

As previously advised, the Liquidators submitted to the Australian Securities and Investments Commission (“ASIC”) a report pursuant to Section 533 of the Act on 17 November 2009. Subsequent to ASIC’s request, a supplementary report pursuant to Section 533(2) of the Act was submitted to ASIC on 12 October 2010.

In addition, we have continued to comply with our other statutory obligations set out under the Act including lodgement of six monthly statements of receipts and payments for BBL. Whilst the Section 533 report and Section 533(2) supplementary report are confidential, creditors or other interested parties can obtain our six monthly account of receipts and payments by application to ASIC.

4. Court Application for Priority Distribution to Contributing Creditors

As you are aware, we successfully raised c. \$557k from contributing Noteholders and creditors (“Contributories”) to partially fund the Liquidator’s public examinations and investigations. As part of the funding proposal, in the event of a recovery the Liquidator undertook to make an application to the Court for an order that entitles Contributories to obtain a higher return out of recoveries over and above those creditors who elected not to participate in the funding proposal. Given the successful recoveries, it is the intention of the Liquidator to make an application to the Court for such an order, prior to making any distribution to creditors. The Liquidator intends to seek orders that the reimbursement of the Contributories’ contributions (and any premium) be paid in priority to the claims of other unsecured creditors of BBL. However, we note that the potential quantum of any premium distribution (and the question of priority of these payments) is at the discretion of the Court.

Please note that Contributories are **NOT** required to submit a Formal Proof of Debt in respect of the value of their contribution made. The Liquidator already has a record of these amounts.

5. Return to Creditors

Based on the current level of recoveries from the successful settlement of both the US Trust Proceeding and the Liquidator’s recovery actions in Australia and after taking into account the costs of the Voluntary Administration / Liquidation, there are sufficient funds to pay a dividend to creditors of BBL.

The quantum of the dividend is subject to finalisation of the following:

- Resolution of any claims from former employees which may be payable ahead of the claims of subordinated creditors such as the Noteholders;
- Court application by the Liquidator, seeking a premium distribution to Contributories as outlined above;
- The receipt of formal Proofs of Debt to ascertain the full extent of creditor claims against BBL.

Prior to the payment of dividends, the Liquidator will also seek to obtain a binding GST ruling from the Commissioner of Taxation to confirm that the receipt of the settlement proceeds by the Liquidator is not subject to GST.

6. Tax Declaration to Noteholders

The Liquidator will be in a position to issue a tax declaration in relation to the subordinated notes pursuant to the Income Tax Assessment Act after the distribution of net recovery proceeds to creditors.

7. Noteholders are NOT required to submit a Formal Proof of Debt

Noteholders are NOT required to submit a Formal Proof of Debt form in order to be admitted to rank for dividend in respect of the value of the notes held by them.

Please note that the trustee of the notes (The Trust Company) will submit a Formal Proof of Debt on behalf of all Noteholders. The Liquidator will distribute to Noteholders any dividend paid by BBL in respect of the notes.

Please notify this office in writing or by email to bandbltd@deloitte.com.au of any changes to your contact details and quoting your registered holding name.

8. Request for Formal Proof of Debt to be Submitted by all creditors other than Noteholders

The Liquidator requires that creditors (excluding Noteholders) submit a Formal Proof of Debt form (copy attached as Annexure A) together with supporting documentation if relevant to enable creditor claims to be adjudicated and admitted to rank for any dividend.

All creditors (excluding Noteholders) are required to submit a Formal Proof of Debt form by 30 November 2011 in order to be eligible to participate in the dividend.

Please note that creditors (excluding Noteholders) who have previously submitted an informal proof of debt are still required to submit a Formal Proof of Debt form. Please contact this office if you have any questions regarding any claim that you have submitted to date.

Please provide the following supporting documents in relation to any creditor claim:

- Signed Formal Proof of Debt form;
- Supporting documentation if relevant (e.g. statements, invoices etc);
- Any other relevant documentation in relation to your claim.

Please return all documentation to:

By Mail: The Liquidator
Babcock & Brown Limited (In Liquidation)
C/- Deloitte
PO Box N250, Grosvenor Place
Sydney NSW 1220
Australia

By Email: bandbltd@deloitte.com.au

9. Receipts and Payments

A summary of BBL's receipts and payments for the period 24 August 2010 to 23 August 2011 is attached as Annexure B. A summary of the Voluntary Administrators' and Liquidators' remuneration is attached as Annexure C.

10. Estimated Timeframe for Completion of Liquidation

An indicative timeline for payment of the dividend to creditors is outlined below.

October – November 2011	Liquidator call for Formal Proofs of Debt to be lodged Court application for priority distribution to Contributories
December 2011	Obtain GST ruling from Commissioner of Taxation in relation to the settlement proceeds Collate and record Formal Proofs of Debt Liquidator commence adjudication of Formal Proof of debt received
January 2012	Liquidator to advertise notice of intention to declare dividend and provide further update to creditors
March 2012	Declaration and payment of dividend to creditors

Before the liquidation can be terminated, the Liquidator must resolve the issue of BBL's shareholding in, and subordinated intercompany loan to BBIPL. It is the Liquidator's intention to consult with BBL's Committee of Inspection as to the appropriate course of action for this outstanding matter. It may be that the Liquidation continues for some time due to this issue.

Should you have any queries regarding the contents of this report, you may contact **Billy Wong** of this office on 61 2 9322 3375.

Yours faithfully,



D J F Lombe
Liquidator

FORM 534
CORPORATIONS ACT 2001

Subregulation 5.6.48(3)

NOTICE INVITING FORMAL PROOF OF DEBT OR CLAIM

BABCOCK & BROWN LIMITED
(IN LIQUIDATION)
ACN 108 614 955

TAKE NOTICE that creditors of the company, who have a debt or a claim, are required on or before 30 November 2011 to prove their debts or claims and to establish any title they may have to priority by delivering or sending through the post to me at my address, a Formal Proof of Debt or Claim in accordance with Form 535 containing their respective debts or claims. If they do not they will be excluded from:

- (a) the benefit of any distribution made before their debts or claims are proved or their priority is established; and
- (b) from objecting to the distribution.

A Formal Proof of Debt form is attached to allow you to make your claim.

Please refer to Section 7 of the Annual Report to Creditors and Noteholders dated 26 October 2011 and take note that registered Noteholders are NOT required to submit a Formal Proof of Debt form in respect of any claim against the company for the value of their notes.

DATED this 26th day of October 2011


D J F Lombe
Liquidator

Deloitte Touche Tohmatsu
Grosvenor Place
225 George Street
SYDNEY NSW 2000

FORMAL PROOF OF DEBT OR CLAIM (GENERAL FORM)

ACN 108 614 955

To the Liquidator of Babcock & Brown Limited (In Liquidation)

1. This is to state that the company was, on 24 August 2009 ⁽¹⁾ and still is, justly and truly indebted to⁽²⁾
.....
..... for
..... dollars and cents.

Particulars of the debt are:

Date	Consideration ⁽³⁾	Amount \$	GST included \$	Remarks ⁽⁴⁾

2. To my knowledge or belief the creditor has not, nor has any person by the creditor's order, had or received any manner of satisfaction or security for the sum or any part of it except for the following:⁽⁵⁾
3. ^{(6)*} I am employed by the creditor and authorised in writing by the creditor to make this statement. I know that the debt was incurred for the consideration stated and that the debt, to the best of my knowledge and belief, still remains unpaid and unsatisfied.
3. ^{(6)*} I am the creditor's agent authorised in writing to make this statement in writing. I know that the debt was incurred and for the consideration stated and that the debt, to the best of my knowledge and belief, still remains unpaid and unsatisfied.

DATED this day of 2011

Signature of Signatory

NAME IN BLOCK LETTERS

Occupation.....

Address.....

Phone.....

Email.....

See Directions overleaf for the completion of this form

OFFICE USE ONLY

POD No:		ADMIT - Ordinary	\$
Date Received:	/ /	ADMIT - Preferential	\$
Entered into IPS/Computer:		Reject	\$
Amount per RATA	\$	H/Over for Consideration	\$
PREP BY/AUTHORISED		TOTAL PROOF	\$
DATE AUTHORISED	/ /		

Directions

- * Strike out whichever is inapplicable.
- (1) Insert date of Court Order in winding up by the Court, or date of resolution to wind up, if a voluntary winding up.
 - (2) Insert full name and address (including ABN) of the creditor and, if applicable, the creditor's partners. If prepared by an employee or agent of the creditor, also insert a description of the occupation of the creditor.
 - (3) Under "Consideration" state how the debt arose, for example "goods sold and delivered to the company between the dates of", "moneys advanced in respect of the Bill of Exchange".
 - (4) Under "Remarks" include details of vouchers substantiating payment.
 - (5) Insert particulars of all securities held. Where the securities are on the property of the company, assess the value of those securities. If any bills or other negotiable securities are held, specify them in a schedule in the following form:

Date	Drawer	Acceptor	Amount	Date Due
	\$	¢		

-
- (6) If proof is made by the creditor personally, strike the two (2) paragraphs numbered 3.
-

Annexures

- A. If space provided for a particular purpose in a form is insufficient to contain all the required information in relation to a particular item, the information must be set out in an annexure.
- B. An annexure to a form must:
 - (a) have an identifying mark;
 - (b) and be endorsed with the words:

"This is the annexure of (insert number of pages) pages marked (insert an identifying mark) referred to in the (insert description of form) signed by me/us and dated (insert date of signing); and
 - (c) be signed by each person signing the form to which the document is annexed.
- C. The pages in an annexure must be numbered consecutively.
- D. If a form has a document annexed the following particulars of the annexure must be written on the form:
 - (a) the identifying mark; and
 - (b) the number of pages.
- E. A reference to an annexure includes a document that is with a form.

Annexure B

Babcock & Brown Limited (In Liquidation)

Summary of Receipts and Payments 24 August 2010 to 23 August 2011

Opening Cash at Bank	168,446.02
Receipts during the period	
Settlement Proceeds - US Trust	3,779,988.00
Interest	8,763.46
Note Transfer Costs (Recovered from Noteholders)	3,840.91
Total	3,792,592.37
Payments during the period	
IMF (Australia) Fees	1,555,474.50
Legal - Solicitor Fees	230,861.93
Legal - Solicitor Disbursements	16,471.12
Legal - Counsel Fees	59,675.00
Legal - Mediator Fees	12,000.00
Administrators' Remuneration	1,024,304.50
Liquidators' Remuneration	339,331.86
Bank Charges	119.00
Deloitte Forensic - Data loading and hosting	35,425.34
Email Backup Escrow Storage Costs	1,155.20
Link Market Services - Register Maintenance	10,309.00
Stationery and Printing	25,039.55
Refund of Note Transfer Costs	250.00
Total	3,310,417.00
Net Receipts / (Payments)	482,175.37
Net GST Receipts / (Payments)	10,586.09
Closing Cash at Bank	661,207.48

Annexure C

A summary of remuneration of Voluntary Administrators and Liquidators is provided below. Appropriate information outlining the nature of the remuneration sought was provided to the Committee of Inspection on each occasion.

Voluntary Administrators' Remuneration 13 March 2009 to 24 August 2009	Note	Fees Approved by Committee	Fees Paid	Fees Outstanding
Committee approval 9 June 2009		858,700.50	858,700.50	-
Committee approval 7 August 2009		895,604.00	895,604.00	-
Total	(1)	1,754,304.50	1,754,304.50	-

Liquidators' Remuneration Post 24 August 2009	Note	Fees Approved by Committee	Fees Paid	Fees Outstanding
Committee Approval - 21 May 2010	(2)	658,542.00	566,604.59	91,937.41
Committee Approval - 15 December 2010		614,083.00	-	614,083.00
Committee Approval - 28 February 2011		112,461.00	-	112,461.00
Committee Approval - 29 August 2011		60,779.00	-	60,779.00
Total	(3)	1,445,865.00	566,604.59	879,260.41

(1) \$500,000 was paid during the Voluntary Administration period, with the balance paid during the Liquidation period.

(2) An amount of \$227,272.73 was paid by the litigation funder, IMF (Australia) Limited

(3) The outstanding fee balance of \$879,260.41 as at 23 August 2011 was subsequently paid after the end of the period and is therefore not reflected in the Receipts & Payments for the Period shown in Annexure B.