

ANNUAL REPORT TO CREDITORS AND NOTEHOLDERS

16 November 2017

Dear Sir/Madam,

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

I refer to my appointment as Liquidator of BBL on 24 August 2009 and provide an update on the Liquidation **pursuant to Section 508(1)(b)(ii) of the Corporations Act 2001 (the Act)**.

I confirm that I will not be convening a meeting of creditors pursuant to Section 508(1)(b)(i) of the Act, and instead, have prepared this report in accordance with Section 508(3) of the Act¹, to update creditors on the progress of the liquidation and to describe our acts and dealings and the general conduct of the winding up for the period 24 August 2016 to 23 August 2017 (**the Period**). This report should be read in conjunction with our report dated 31 October 2016.

A copy of this report has been lodged with the Australian Securities and Investments Commission pursuant to Section 508(4) of the Act.

In this Report, "**Subordinated 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.

For your information, a timeline of the key events during the liquidation to date is attached as **Appendix A**.

1. LIQUIDATOR'S ACTS AND DEALINGS FOR THE PERIOD

i. Delay to the declaration and payment of dividend to unsecured creditors

As advised in my previous annual report dated 31 October 2016, four sets of legal proceedings were commenced in the Federal Court of Australia under section 1321 of the Act, by BBL shareholders in response to my decision to reject each of the Applicants' (shareholders) proofs of debt (**POD**) forms lodged in the liquidation.

The claims were submitted by a company called Babcock and Brown Recoveries² (**BBR**) (a company not related to BBL in any way), represented by Thomas Booler & Co Lawyers, totalling approximately \$145.66 million on behalf of 1,028 shareholders claiming to be unsecured creditors of BBL.

Below is a summary of the proceedings heard to date:-

¹ Pursuant to Section 1603 of Part 10.25 – Transitional provisions relating to the Insolvency Practise Schedule (Corporations)

² Babcock & Brown Recoveries is a registered business name owned by Bookarelli Pty Ltd

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Proceeding number	Hearing date	POD forms	POD value (\$'m)	Number of Applicants	Claim value (est.)	Reference
NSD 2070/2012	Jul-14	61	12.95	61	7.80	"Grant Taylor" Proceedings
NSD 2525/2013	Oct-16	79	14.09	17	1.16	"Masters Proceedings"
NSD 947/2014	Oct-16	735	116.18	123	5.82	"Broome Proceedings"
NSD 501/2015	Oct-16	153	2.44	152	1.48	"Wilhelm Proceedings"
		1028	\$145.66m	353	\$16.25m	

During the respective hearings, the Applicants' claims were reduced (from \$145.66m to \$16.25m), due to the lack of substantive information provided by BBR on behalf of the Applicants' in their Proof of Debt (POD) claim forms.

In regards to the Grant Taylor proceedings, the Liquidator successfully defended all arguments raised by the shareholder Applicants in the first hearing; however the Applicants subsequently filed an appeal in the Full Federal Court of Australia and judgement was handed down on 21 April 2016, with the Full Federal Court unanimously dismissing the Applicants' appeal and ordering the Applicants to pay BBL's costs. Further, the Applicants filed an application for special leave to appeal to the High Court, and on 12 October 2016, the High Court dismissed the Applicants' application for special leave awarding BBL costs. In this instance, we have instructed our lawyers to review recovery of these costs.

The remaining Broome, Masters and Wilhelm proceedings were heard before the Federal Court of Australia between 10 October 2016 and 13 October 2016 and judgement is currently reserved. Judgement in these proceedings is expected in late November of 2017. **We will post a further update to creditors on our website when we receive the judgement of the Broome, Masters and Wilhelm proceedings.**

Unfortunately, as the three legal proceedings remain unresolved, I remain unable to comment on the value of any surplus funds that will be available for distribution to Subordinated Noteholders. I am required to finalise the above legal proceedings prior to quantifying what funds might be available for distribution to Subordinated Noteholders.

As previously advised, pursuant to Regulation 5.6.65 of the *Corporations Regulations 2001*, I am required to re-advertise my intention to declare a dividend to ordinary unsecured creditors not more than two months before the intended date of payment. Once all legal proceedings are resolved, I will be in a position to provide a further update on our website providing guidance as to the timing and quantum of the first dividend payment to unsecured creditors and Subordinated Noteholders.

All future updates in relation to the proceedings and subsequent dividend process will be made available on our website at www.deloitte.com/au/babcockandbrown. All statutory notices will continue to be issued in accordance with the Act.

ii. Tax Declaration to Noteholders

As any future dividends to noteholders are contingent upon the outcome of the litigation described above, I am unable to issue a notice declaring that BBL subordinated notes have no value. I 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 outcome of the current court proceedings and the distribution of net recovery proceeds to unsecured creditors.

2. ONLINE UPDATES

Please note that previous reports and circulars, as well as additional updates to creditors may be found on our website at the following address: www.deloitte.com/au/babcockandbrown

I suggest that all creditors and Subordinated Noteholders visit the website in order to remain updated on the progress of the Liquidation.

3. RECEIPTS AND PAYMENTS

A summary of BBL's receipts and payments for the period 24 August 2016 to 23 August 2017 are attached as **Annexure B**.

A summary of the Voluntary Administrators' and Liquidators' remuneration is provided and attached as **Annexure C**.

4. ESTIMATED TIMEFRAME FOR COMPLETION OF LIQUIDATION

An indicative timeline for payment of the dividend to creditors is outlined below. Please note that the timetable is only our current estimate and our estimates are dependent on the resolution of the legal proceedings described above.

Nov 2017 – Dec 2017	Resolution and receipt of judgement regarding the Masters, Broome and Wilhelm proceedings described above
January 2018	Liquidator to advertise notice of intention to declare dividend to unsecured creditors (on the basis that BBL is successful in the Broome, Masters and Wilhelm proceedings and assuming there is no appeal by any party) Collate, record and adjudicate any further Formal Proof of Debts received
February to March 2018	Declaration and payment of dividend to unsecured creditors Post an update on our website regarding the outcome of the above process If sufficient funds for a distribution to Subordinated Noteholders, Liquidator to advertise notice of intention to declare dividend to Subordinated Noteholders
June 2018	Declaration and payment of dividend to Subordinated Noteholders

Please note the above is an estimate and the Liquidator will endeavour to complete the various steps as soon as possible after the resolution of the shareholder proceedings.

Should you have any queries regarding the contents of this report, please contact Jack McGrath of my office on +61 2 8260 4867 or email at bandbltd@deloitte.com.au.

Yours faithfully,



D J F Lombe
Liquidator

Encl.

Annexure A

BBL Liquidation timeline of the key events

Period	Event
Mar-09	Appointed Voluntary Administrator on 13 March 2009
Aug-09	Liquidator seeks funding from creditors to fund investigations into BBL's affairs to pursue identified causes of actions to recover funds for the benefit of BBL's creditors
Aug-09	Second meeting of creditors held and Liquidators appointed 24 August 2009
Nov-09	Liquidator successful in raising c\$560k funding from creditors to pursue further detailed investigations into BBL's affairs
Jul-10	Liquidator conducts public examinations of former executives of BBL and BBL's auditor
Sep-11	Successful recoveries in relation to actions against the former directors and auditor (actions were possible due to funds received from 'contributing creditors')
Feb-12	Liquidator's Section 564 Court Application successful in seeking priority distribution to Contributing Creditors to be paid 10x their contribution
Jun-12	Liquidator advertises Intention to Declare Dividend to Unsecured Creditors on 26 June 2012 (with proposed dividend date 24 August 2012)
Aug-12	Liquidator issues Notice to Creditors that there will be delay in dividend declaration due to an extension provided to claimants to prove their claims (including complex shareholder claims received to date)
Nov-12	Liquidator issues Notice of Rejection of Claim to BBR Shareholder claims
Dec-12	Andrew Grant Taylor Proceedings commenced in Federal Court on 11 December 2012 following rejection of BBR Shareholder PODs
May-13	Sale campaign commenced on 24 May 2013 for sale of BBIPL shares and Subordinated loan agreement
Aug-13	Sale process completed on 28 August 2013
Dec-13	Michael Masters proceedings commenced in the Federal Court on 13 December 2013
Feb-14	Court orders for parties to mediate with Mediation held on 25 & 26 February 2014 but no resolution met
Jul-14	Grant Taylor proceedings heard before Federal Court over 5 days in July 2014
Sep-14	Bruce Broome proceedings commenced in the Federal Court on 19 September 2014
Mar-15	Federal Court issues favourable judgement in Grant Taylor proceedings on 4 March 2015
May-15	Sarah Wilhelm proceedings commenced in Federal Court on 5 May 2015
Aug-15	Grant Taylor Appeal hearing heard on 24 and 25 August before Full Federal Court
Apr-16	Full Federal Court unanimously dismissed shareholder Applicants' appeal. Applicants filed an application for special leave to appeal in the High Court
Oct-16	Broome, Masters and Wilhelm proceedings joined and hearing in the Federal Court held 10 to 13 October 2016
Oct-16	High Court dismisses the Applicants' application for special leave to appeal on 12 October 2016
Jun-17	Review and prepare application to recover Grant-Taylor hearing/s costs from Applicants
TBC	Federal Court's judgement on the Broom, Masters and Willhelm proceedings expected

Annexure B

Babcock & Brown Limited (In Liquidation)	
Summary of Receipts and Payments for the period 24 August 2016 to 23 August 2017	
Opening Cash at Bank	24,104,897.98
Receipts	
Miscellaneous Income	650.00
Interest	575,107.57
Total Receipts	575,757.57
Payments	
Legal Fees	(484,103.82)
Legal Disbursements (including Counsel Fees)	(552,161.75)
Liquidator's Remuneration	(112,547.00)
Liquidator's Expenses	(5,569.01)
Storage Costs	(1,567.02)
Stationery and Printing	(21,327.19)
Total Payments	(1,177,275.79)
Net Receipts / (Payments)	(601,518.22)
Net GST Receipts / (Payments)	31,290.37
Closing Cash at Bank as at 23 August 2017	23,534,670.13

Annexure C

A summary of remuneration of Voluntary Administrators and Liquidators, paid as at 24 August 2017, is provided below. Appropriate information outlining the nature of the remuneration sought was provided to the Committee of Inspection on each occasion when approval was sought.

Voluntary Administration: 13 March 2009 to 23 August 2009			
Liquidation: 24 August 2009 to 31 January 2017			
Period		Total Fees (excl GST) (\$)	Fee approval received / Date of resolution
13-Mar-09	to 22-May-09	858,700.50	09-Jun-09
23-May-09	to 31-Jul-09	595,604.00	07-Aug-09
01-Aug-09	to 23-Aug-09	300,000.00	07-Aug-09
Voluntary Administrator		1,754,304.50	
24-Aug-09	to 16-Apr-10	658,542.00	21-May-10
17-Apr-10	to 19-Nov-10	614,083.00	15-Dec-10
20-Nov-10	to 19-Feb-11	112,461.00	28-Feb-11
20-Feb-11	to 31-May-11	60,779.00	29-Aug-11
01-Jun-11	to 25-Nov-11	211,564.50	20-Dec-11
26-Nov-11	to 17-Feb-12	97,347.50	20-Dec-11
17-Feb-11	to 30-Apr-12	97,194.50	20-Dec-11
01-May-12	to 31-Aug-12	325,966.50	27-Sep-12
21-Aug-12	to 30-Apr-12	21,112.00	27-Sep-12
01-Sep-12	to 30-Nov-12	158,540.00	27-Sep-12
01-Dec-12	to 31-Jan-13	58,843.00	28-Feb-13
01-Feb-13	to 31-Mar-13	70,574.50	28-Feb-13
01-Apr-13	to 30-Apr-13	28,968.50	28-Feb-13
01-May-13	to 30-Jun-13	61,355.50	22-Jul-13
01-Jul-13	to 31-Jul-13	44,104.00	22-Jul-13
01-Aug-13	to 19-Sep-13	51,867.50	22-Jul-13
20-Sep-13	to 31-Oct-13	17,566.00	10-Dec-13
01-Nov-13	to 30-Nov-13	28,091.00	10-Dec-13
01-Dec-13	to 31-Jan-14	52,434.00	10-Dec-13
01-Dec-13	to 31-Jan-14	458.00	02-Apr-14
01-Feb-14	to 28-Feb-14	80,855.50	02-Apr-14
01-Mar-14	to 31-Mar-14	23,260.00	02-Apr-14
01-Apr-14	to 30-Apr-14	72,995.00	02-Apr-14
01-Apr-14	to 30-Apr-14	16,116.50	28-Jul-14
01-May-14	to 30-Jun-14	49,532.50	28-Jul-14
01-Jul-14	to 31-Aug-14	109,565.00	28-Jul-14
01-Jul-14	to 31-Aug-14	8,498.00	29-Oct-14
01-Sep-14	to 30-Sep-14	40,693.00	29-Oct-14
01-Oct-14	to 30-Nov-14	72,054.00	29-Oct-14
01-Dec-14	to 31-Dec-14	27,148.50	18-Dec-15
01-Jan-15	to 31-Jan-15	15,033.00	18-Dec-15
01-Feb-15	to 28-Feb-15	37,148.00	18-Dec-15
01-Mar-15	to 20-Mar-15	25,261.00	01-Apr-15
21-Mar-15	to 30-Jun-15	78,193.50	01-Apr-15
01-Jul-15	to 11-Sep-15	39,635.00	30-Sep-15
12-Sep-15	to 31-Dec-15	69,750.00	30-Sep-15
21-Nov-15	to 31-Dec-15	403.50	17-Feb-16
01-Jan-16	to 31-Jan-16	75,179.00	17-Feb-16
01-Feb-16	to 30-Apr-16	104,555.00	17-Feb-16
01-Feb-16	to 08-Apr-16	4,160.50	02-Jun-16
09-Apr-16	to 13-May-16	14,732.50	02-Jun-16
14-May-16	to 31-Jul-16	69,965.00	02-Jun-16
14-May-16	to 31-Jul-16	1,167.00	09-Nov-16
01-Aug-16	to 21-Oct-16	75,714.50	09-Nov-16
22-Oct-16	to 16-Dec-16	32,043.00	09-Nov-16
17-Dec-16	to 31-Jan-17	3,622.50	09-Nov-16
Liquidator		3,919,133.00	