

## CIRCULAR TO NOTEHOLDERS AND CREDITORS

23 August 2010

Dear Sir / Madam,

### **BABCOCK & BROWN LIMITED (IN LIQUIDATION) (“BBL”) ACN 108 614 955 (“the Company”)**

David Lombe and Simon Cathro were appointed Joint Administrators of the above named Company on 13 March 2009 pursuant to Section 436A of the *Corporations Act 2001*. At the second meeting of BBL creditors, held on 24 August 2009, the creditors resolved that BBL be wound up and that we be appointed as Liquidators pursuant to Section 446A(1)(2) of the *Corporations Act 2001 (the Act)*.

As you are aware, an initial funding proposal was sent out to creditors and note holders on 12 August 2009. The proposal was well supported and approximately A\$270,000 was raised by the first closing on 15 September 2009. Based on these encouraging results, the Liquidators decided to extend the period for contributions by a month. The total amount contributed was A\$557,073.50.

The Liquidators had planned to hold the public examinations in November and December 2009, but these dates had to be pushed out due to delays in the receipt of email information requested under document production orders. The public examinations were rescheduled to commence in the Federal Court of Australia on 20 July 2010, with further examinations scheduled during the week of 2 August 2010.

#### **Public Examinations and potential causes of action**

A number of the potential issues were identified during the course of the Administrators investigations into the affairs of BBL and the reasons for its failure were reviewed in greater detail in preparation for the public examinations. A key issue identified for examination was BBL's declaration and payment of dividends over the period 2005 to 2008 (the dividends). Another area of focus was key events from December 2007 to August 2008.

BBL was represented at the public examinations by Blake Dawson who instructed Peter Wood and Chris Withers as Counsel for the examinations.

The following parties were examined during the course of the seven day examination period at the Federal Court of Australia which concluded on Wednesday 4 August 2010:

- Phillip Green (Former CEO and Managing Director)
- Mark O'Sullivan (Ernst & Young Partner and Auditor of BBL)
- Michael Larkin (Former CFO, CEO and Managing Director)
- Elizabeth Nosworthy (Former Non-executive Chairman)
- Michael Sharpe (Former Director and Chairman of the Audit and Risk Committee)
- Margaret Cole (Group General Counsel)

- Robert Thomas (Group Financial Controller and Deputy Chief Financial Officer)

The Liquidators have been very satisfied with the outcome of the examinations as well as the progress made during the course of the public examinations on various issues.

The Liquidators over the coming weeks will consider the information obtained through the public examinations in conjunction with our legal team before making any decisions on how to proceed with the potential legal claims that have been clearly identified.

This process is being funded by IMF (Australia) Limited ("IMF"). On 3 August 2010, the BBL Committee of Inspection resolved to authorise the Joint Liquidators of BBL to finalise and conclude a litigation funding agreement with IMF. This agreement was finalised between IMF, BBL and the Joint Liquidators on 11 August 2010.

#### **Update on US Trust Litigation**

The Liquidators continue to prosecute their claim to have the cash proceeds of an employee share fund established by the Babcock & Brown Group for the benefit of its non-Australian based employees, distributed to BBL. The Liquidators understand that there is approximately AU\$9m held in the fund. A competing claim is made on the fund by BBIPL.

Informal attempts to settle the dispute have proven unsuccessful. The Californian litigation is presently entering the discovery phase, and it is not expected that the proceedings will be resolved prior to the end of 2010.

#### **Closure of BBL note register**


The Liquidators have resolved to close the Australian and New Zealand note registers effective on 30 September 2010 as the costs to maintain the registers is an unnecessary drain on the Liquidators' funds. Noteholders who wish to transfer their holdings should send their formal request with the attached transfer form and administrative charge of A\$55.00 (inc. GST) payable to Babcock & Brown Limited (In Liquidation) to the Liquidators by not later than **5.00pm AEST Friday, 10 September 2010**. No transfer requests received after this date will be processed.

For further information please contact **Billy Wong** of this office.

Ph: +61 (0) 2 9322 3375  
Fax: +61 (0) 2 9322 7261  
Email: [billwong@deloitte.com.au](mailto:billwong@deloitte.com.au)

Yours faithfully

  
**D J F Lombe**  
Joint and Several Liquidators

  
**S J Cathro**  
Joint and Several Liquidators

**BABCOCK & BROWN LIMITED (IN LIQUIDATION) (“BBL”)  
ACN 108 614 955 (“the Company”)**

**Responses to Frequently Asked Questions from Note holders in relation to Circular of 23  
August 2010**

- 1. Do I need to take any action in response to the closure of the BBL Note Registers?**  
Only if you wish to transfer your notes. Noteholders who are **not** planning to transfer their interest in the Notes **need not take any action.**
  
- 2. Will the closure of the BBL Note Registers affect my ownership of my BBL Notes?**  
No your ownership of the BBL Notes will **not** be affected by the closure of the BBL Note Registers. The Trustee remains a creditor of BBL and any distribution to Noteholders will be paid through the Trustee.
  
- 3. If I wish to transfer my Notes what should I do?**  
You must complete the attached transfer form and mail it together with a cheque for A\$55.00 to the following address:

Attn: Billy Wong  
Babcock & Brown Limited (In Liquidation)  
C/- Deloitte  
PO Box N250  
Grosvenor Place, 225 George Street  
Sydney NSW 1219

**PLEASE NOTE:**

- **Cheques must be made payable to “Babcock & Brown Limited (In Liquidation)”**
- **Cheques and completed transfer forms must be received by the Liquidators on or before 10 September 2010.**



Please return this form to:  
 Link Market Services Limited  
 Locked Bag A14  
 Sydney South NSW 1235  
 Telephone: 1300 303 991  
 (02) 8280 7111  
 Facsimile: (02) 9287 0303  
 Email: registrars@linkmarketservices.com.au  
 Website: www.linkmarketservices.com.au

**STANDARD TRANSFER FORM**

**A SELLER DETAILS (Please use CAPITAL LETTERS)**

Full name of Company, Corporation or Trust in which the securities are held  
 \_\_\_\_\_

Type of Security (eg fully paid, partly paid, stapled security, etc) \_\_\_\_\_ Number of securities to be sold \_\_\_\_\_

Value of the transfer or sale \$ \_\_\_\_\_ Seller Securityholder Reference Number \_\_\_\_\_

Seller – Title \_\_\_\_\_ Given Name(s) or Company Name \_\_\_\_\_ Last Name \_\_\_\_\_

Seller(s) day time phone number \_\_\_\_\_

**Verification Procedures:** For security purposes, the registration details of the Seller and the authorisation to transfer will be subject to verification. This verification process may include contacting the Seller. Where verification cannot be carried out to the satisfaction of the Registrar, the transfer may be rejected and returned with a request to provide additional information.

**B BUYER DETAILS (Please use CAPITAL LETTERS)**

Title \_\_\_\_\_ Given Name(s) or Company Name \_\_\_\_\_ Last Name \_\_\_\_\_

Account Designation (if desired, eg <John Smith A/C>) \_\_\_\_\_

PO Box/RMB/Locked Bag/Care of (c/-)/Property name/Building name (if applicable) \_\_\_\_\_

Unit Number/Level \_\_\_\_\_ Street Number \_\_\_\_\_ Street Name \_\_\_\_\_

Suburb/Town \_\_\_\_\_ State \_\_\_\_\_ Post Code \_\_\_\_\_

Country (if not Australia) \_\_\_\_\_ Buyer Securityholder Reference Number (if applicable) \_\_\_\_\_

**C SIGN HERE**

The Seller(s) whose details are written above, transfers the securities shown above to the Buyer(s) and states to the Buyer(s), the Issuer of the securities and the Issuer's share registrar that they are the owner(s) of the securities and are entitled to transfer them to the Buyer(s).

**All Seller(s) must sign**

Securityholder 1 (Individual)/Executor \_\_\_\_\_ Securityholder 2 (Individual)/Executor \_\_\_\_\_ Securityholder 3 (Individual)/Executor \_\_\_\_\_

Sole Director and Sole Company Secretary/ Director (delete one) \_\_\_\_\_ Director/Company Secretary (delete one) \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

**All Buyer(s) must sign**

Securityholder 1 (Individual)/Executor \_\_\_\_\_ Securityholder 2 (Individual)/Executor \_\_\_\_\_ Securityholder 3 (Individual)/Executor \_\_\_\_\_

Sole Director and Sole Company Secretary/ Director (delete one) \_\_\_\_\_ Director/Company Secretary (delete one) \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

# How to complete the Standard Transfer Form

(when transferring securities in a listed or unlisted company or trust)

## A. Seller Details

### Full Name of Company, Corporation or Trust in which securities are held

This is the actual NAME of the Share Company, Corporation or Trust in which the securities being transferred/sold are held.

### Type of Security

This is either, Fully Paid Ordinary Shares, or Options, or Unsecured Convertible Notes, or Units, or Partly Paid Shares, etc...

**Note:** A separate standard transfer form must be completed for each different class of security and each different registered holding.

### Seller's Securityholder Reference Number (SRN)

The SRN can be found on issuer sponsored holding statements, dividend statements or certificates and starts with the letter "I".

The transfer cannot be processed without the seller's SRN.

### Number of Securities to be sold

The number of securities being transferred (numbers only required)

### Consideration (Value of the transfer or sale)

The price paid by the buyer to the seller for the securities on the date of transfer/sale, or market value.

### Full registered name(s) of Seller(s)

Enter the given and last names of all securityholder(s) or company/corporation name shown on securityholder documents.

**Note: If the seller has a "CHESS HIN", (CHESS HINs usually begin with an X or 0) then please contact the sponsoring broker, as the transfer is unable to be processed by us.**

## B. Buyer Details

### Full name(s) of Buyer(s)

Enter the given and last names of the individual(s)/Trustee(s) or Company/Corporation acquiring the securities through this transfer. There is a maximum of three joint holders. Securities cannot be registered in an unincorporated trading name/business or in the name of a trust, a superannuation fund, a minor, or an estate or deceased person's name. If transferring into an existing holding you must write the name (and address) details of the existing holding **exactly** as they currently appear on the register.

### Buyer's Securityholder Reference Number (SRN)

If the buyer is an existing **issuer sponsored** holder of securities in the company, their SRN may be entered here.

**Note:** If the seller has a "CHESS HIN", (CHESS HINs usually begin with an X or 0) then please contact the sponsoring broker.

### Full postal address of Buyer(s)

Insert full address including the postcode. Only one address may be recorded, irrespective of the number of buyers.

## C. Sign Here

### Seller(s) and Buyer(s) Signatures and the Dates MUST be signed, and circle capacity under signatures

- a) Individuals            The securityholder must sign in the appropriate boxes.
- b) Joint holdings        Where holdings are in two or three names, all of the securityholders must sign in the appropriate boxes
- c) Power of attorney    To sign as power of attorney (POA), you must have already lodged the Power Of Attorney with the registry or alternatively attach a certified photocopy of the Power of Attorney to this form.
- d) Executors            When the holding is in the name of an estate, all executor(s)/administrator(s) are required to sign. When executors and beneficiaries are the same people they will need to sign as seller and buyer. Probate requirements must also be complied with.
- e) Companies            Two Directors OR a Director and Secretary OR Sole Director and Sole Company Secretary. Please ensure you sign in the appropriate boxes and circle your capacity.

**Note:** Copies of documents forwarded must be **certified as a correct copy** by a person who in the state or territory of certification has the power to witness a statutory declaration. Any form or document that does not meet the company or trust's requirements will be returned without processing.

### Important Note for transfers of unlisted securities – Stamp Duty

For securities that are **listed** on the Australian stock exchange – stamp duty is **NOT** payable (unless the date signed is **before** 1 July 2001).

For **unlisted** securities – transfer forms for unlisted securities must be submitted to the **Revenue Office** in the State or Territory the share company is incorporated, for assessment and payment of stamp duty, **before** sending to Link Market Services Limited.

**Privacy Clause:** Link Market Services Limited advises that Chapter 2C of the *Corporations Act 2001* requires information about you as a securityholder (including your name, address and details of the securities you hold) to be included in the public register of the entity in which you hold securities. Information is collected to administer your securityholding and if some or all of the information is not collected then it might not be possible to administer your securityholding. Your personal information may be disclosed to the entity in which you hold securities. You can obtain access to your personal information by contacting us at the address or telephone number shown on this form. Our privacy policy is available on our website ([www.linkmarketservices.com.au](http://www.linkmarketservices.com.au)).