

18 June 2024

## To whom it may concern

Dear Sir / Madam

**Direct FX Trading Pty Ltd  
(In Liquidation)  
ACN 120 189 424  
(Direct FX or the Company)**

## Application for Court Directions regarding distribution of Client Money

### 1. Introduction

Vaughan Strawbridge and I were appointed to act as liquidators of Direct FX on 11 October 2018 following orders of the Supreme Court of New South Wales that Direct FX be wound up in insolvency under section 459A of the Corporations Act 2001 (Cth). On 7 May 2021, Vaughan Strawbridge retired as a liquidator of the Company and accordingly, I remain as the sole Liquidator of the Company.

On 5 June 2024, I applied to the New South Wales Supreme Court (**Court**) in Proceeding No. 2020/152668 (In the Matter of Direct FX Trading Pty Ltd (in Liquidation)) for directions in relation to the distribution of cash held in the liquidation on behalf of clients of Core Liquidity Markets Pty Ltd (**CLM**).

This notice is intended to provide information to the affected clients of CLM concerning my application to the court for directions. There is no requirement for clients or creditors to respond to this notice. Client or creditor participation in this process is optional.

### 2. Court application

My application consists of an Interlocutory Process and my supporting affidavit, both of which were filed on 5 June 2024. Copies of these documents are available on our website at: <http://www.deloitte.com/au/directfx>

As set out in the Interlocutory Process, I am seeking directions and orders from the Court with respect to the following matters:

- Whether the Liquidator and Direct FX are justified in treating the claims of clients of CLM who have a credit balance of less than AU\$100 as having no right to participate in the distribution of funds held on behalf of those clients in the liquidation;
- Whether the Liquidator and Direct FX are justified in distributing funds held on behalf of clients of CLM who have a credit balance of equal to or greater than AU\$100 on a pro rata basis; and
- That the expenses associated with this application including the expenses associated with completion of the pro rata distribution to the clients of CLM, may be deducted from the funds held on behalf of those clients of CLM in the liquidation.

Further information regarding each of the abovementioned matters are detailed in the Interlocutory Process, my supporting affidavit and the balance of this letter.

### 3. Reason for directions sought in the application

In the following sections of this letter, I provide further information regarding the background and impact of the directions sought as set out above.

#### 3.1 How much money is involved?

As at the date of my appointment, the Company held the following monies on behalf of clients of CLM:

Functional Currency of Client Monies	Number of Clients	Total Client Monies in Functional Currency	Total Client Monies in AUD
USD	2,040	18,043.17	25,513.39
GBP	70	768.87	1,437.42
AUD	88	2,219.66	2,219.66
EUR	455	8,585.24	14,035.13
<b>Total</b>	<b>2,653</b>	<b>29,616.94</b>	<b>43,205.60</b>

Please be advised that the value of client monies in AUD was determined based on the Reserve Bank of Australia foreign exchange rates as at the date of my appointment. Those rates are detailed below:

Foreign Currency	RBA exchange rate for foreign currency to AUD as at 11 October 2018
USD	1.4140
GBP	1.8695
EUR	1.6348

As detailed above, the directions that are currently sought relate solely to the amount of \$43,205.60 (plus interest) which is held on behalf of 2,653 individual clients of CLM.

#### 3.2 Why are directions required?

Directions are being sought in this matter as the costs associated with arranging a distribution to 2,653 individual clients of CLM would far exceed the total amount of funds that are held for those clients.

#### 3.3 What is the impact of the application on clients of CLM?

If the Court provides orders consistent with my application, this will have the following impact on clients of CLM:

- Any client of CLM who had a credit balance of less than AU\$100 as at the date of my appointment will not receive any return in the distribution of client monies held in the liquidation. In this regard, 2,579 of the 2,653 clients of CLM will not receive any return in the distribution the client monies held in the liquidation as their claims are less than AU\$100.
- The expenses associated with this application including both the legal costs of the court application and the expenses associated with completion of the pro rata distribution to the clients of CLM will be deducted from the funds held on behalf of those clients of CLM in the liquidation.
- Any client of CLM who had a credit balance of equal to or greater than AU\$100 as at the date of my appointment will be eligible for a return in the distribution of client monies held in the liquidation. 74 of the 2,653 clients of CLM will be eligible for a distribution, being the CLM clients with claims of at least AU\$100. After anticipated costs of the distribution process (including legal costs), the available funds will be distributed among the 74 CLM clients on a pro rata basis (i.e. the return to the 74 clients will likely be less than 100 cents in the dollar on their claims).

## 4. Participation in the Proceedings

### 4.1 When is the Liquidator's application listed for final hearing?

My application for directions is listed for final hearing on 23 August 2024 at 9.15am in the Supreme Court of New South Wales.

### 4.2 Can clients or creditors participate in the proceedings or oppose the directions sought by the Liquidator?

Yes, clients or creditors are entitled to participate in the proceedings or oppose the direction sought. Whilst this is the case, neither clients nor creditors of Direct FX are required to participate in the proceedings.

Non-participation in the proceedings will not affect your status as a client or creditor of Direct FX however, I advise that if you do not participate, orders may be made in your absence which may adversely impact upon your interests.

### 4.3 What do you need to do if you wish to participate or oppose the directions sought by the Liquidator?

If you wish to be heard or become a party to the proceedings, you should:

- File a Notice of Intention to Appear to seek leave to appear in accordance with rule 2.13 of the Supreme Court (Corporations) Rules 1999 (**Rules**) and serve that notice on the Liquidator's solicitors at "c/- K&L Gates, Level 31, 1 O'Connell Street, Sydney NSW 2000, for the attention of Alex Smith" and otherwise comply, if appropriate, with rule 2.13 of the Rules. If you intend to seek leave to appear please notify K&L Gates (by e-mail to [alex.smith@klgates.com](mailto:alex.smith@klgates.com)) by no later than 1 August 2024; and
- Appear before the Court at the hearing on 23 August 2024 at Law Courts Building, Queens Square, Sydney.

I recommend that you obtain legal advice if you are considering being heard or becoming a party to the proceedings. You may be required to prepare evidence and / or submissions in support of your position.

The time and court details for the proceedings will be specified in the Court List which should be available the day before the court date at the following link:

[http://www.lawlink.nsw.gov.au/courtlists/nswsc\\_lists.nsf/Web+Version+Courtlist](http://www.lawlink.nsw.gov.au/courtlists/nswsc_lists.nsf/Web+Version+Courtlist)

## 5. Further communications and queries

I intend to communicate the outcome of the court application to all relevant parties via email and our dedicated website at <http://www.deloitte.com/au/directfx>.

Should you have any queries please do not hesitate to contact Alexander Shields of this office by email at [DirectFX@deloitte.com.au](mailto:DirectFX@deloitte.com.au) or by telephone on +61 2 9322 7769.

Yours faithfully



**Jason Tracy**  
Liquidator