



McGrathNicol

4 August 2025

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Brite Advisors Pty Ltd (Receivers and Managers Appointed) (In Liquidation)
ACN 135 024 412
(Brite Advisors)

Update – Distribution Methodology Hearing and Surrender Rebate and Interest Disputes Hearing

I refer to our previous circulars to Corporate Trustees and Beneficiaries and adopt the defined terms contained in those circulars including our circulars dated 8 May 2025 and 23 May 2025.

1 Receivers' evidence and written submissions in respect of Distribution Methodology Application

The orders made on 20 May 2025 required, amongst other things, that by 23 July 2025 the Receivers file and serve any affidavit evidence and written submissions which they wish to rely on at the Distribution Methodology Application Hearing.

We confirm that on 23 July 2025 the Receivers filed the following materials with the Court and served ASIC and the Interested Parties:

- Twenty-Second Affidavit of Linda Smith affirmed 23 July 2025;
- Receivers' minute of proposed orders dated 23 July 2025;
- Receivers' outline of submissions dated 23 July 2025; and
- Receivers' supplementary report to the Court dated 23 July 2025.

Copies of the above materials have also been provided to all Corporate Trustees.

On 29 July 2025, the Court approved publication of the Twenty-Second Affidavit of Linda Smith affirmed 23 July 2025 and the Receivers' supplementary report to the Court dated 23 July 2025 (excluding annexures). Copies of those materials can be accessed <https://www.mcgrathnicol.com/creditors/brite-advisors-pty-ltd/>.

2 Summary of next key dates in relation the Distribution Methodology Application Hearing

The Distribution Methodology Application Hearing is listed for **Monday, 15 September 2025 at 9am AWST / 10.30 am ACST**.

The Receivers emphasise that it is critical that the Court is fully informed and Interested Parties are afforded the opportunity to be heard, prior to the Court making orders to facilitate the distribution of the Client AuM to the appropriate Trustees/Beneficiaries. Further, the Receivers anticipate that the Court will reserve its decision following the Distribution Methodology Application Hearing. That is, the Court will take some time to deliver judgment and make distribution orders.



Once the distribution orders are made by the Court, a number of other important steps need to take place before the Receivers will be able to make any interim distribution payments. These include, but are not limited to, obtaining Court orders as to the quantum of the Retained Fund, working through a number of taxation matters with specialist tax advisors and relevant government bodies, and the process of liquidating the Deficient Mixed Fund and funds transfer.

Date	Event / Deadline
20 August 2025	Interested Parties (being those parties who have been appointed as such by the Court) must file and serve affidavit evidence and submissions which they wish to rely on at the Distribution Methodology Application Hearing.
3 September 2025	Receivers may file any submissions in reply to the submissions filed by the Interested Parties.
10 September 2025	Receivers must file and serve a joint list of authorities and legislation relied on by the Receivers and the Interested Parties.
15 September 2025 at 9am AWST / 10.30 am ACST	Distribution Methodology Application Hearing. The Federal Court of Australia will livestream the hearing via their YouTube channel.
20 August 2025	Interested Parties (being those parties who have been appointed as such by the Court) must file and serve affidavit evidence and submissions which they wish to rely on at the Distribution Methodology Application Hearing.
3 September 2025	Receivers may file any submissions in reply to the submissions filed by the Interested Parties.

The Distribution Methodology Application Hearing will be live streamed on the Federal Court of Australia's YouTube channel, which can be accessed here: [Federal Court of Australia - YouTube](#).

3 Deceased Estates and Asset Preservation Orders

I refer to the circulars to Corporate Trustees and Beneficiaries dated 24 February 2025 and 26 February 2025 and confirm that on 25 July 2025, the Receivers filed the following materials with the Court:

- Twenty-third Affidavit of Linda Smith affirmed 25 July 2025; and
- Receivers' minute of proposed orders dated 25 July 2025.

This application sought orders that:

- the Receivers are justified in taking certain steps to verify the entitlements of deceased Beneficiaries; and
- the asset preservation orders be amended for the purposes of facilitating a change of Corporate Trustee where a Beneficiary wishes to do so.

On 29 July 2025, his Honour made the orders sought by the Receivers. A copy of those orders can be accessed <https://www.mcgrathnicol.com/creditors/brite-advisors-pty-ltd/>.



3.1 *Verification of entitlements for deceased beneficiaries*

The above orders confirm that the Receivers would be acting properly and are justified in issuing valuation notices for the Deceased Beneficiaries to the relevant Corporate Trustees to undertake the entitlement verification process for that Deceased Beneficiary's Estate. The Receivers are in the process of writing to the relevant Corporate Trustees and Deceased Beneficiary's representatives to provide further information.

3.2 *Amendment of asset preservation orders – to facilitate a change in Corporate Trustee*

The Receivers make clear that any change in Corporate Trustee is to be led by, and is a matter for, the Beneficiary. The orders simply make clear that the asset preservation orders in place do not prevent a Beneficiary from changing their Corporate Trustee. How such a change takes place is a matter between the Beneficiary and their Corporate Trustee.

The Receivers cannot provide advice of any kind to Beneficiaries regarding, or otherwise assist with, a change of Corporate Trustee, including in relation to any tax consequences which may arise as a result of that change, and recommend that Beneficiaries seek their own independent advice.

In circumstances where a change of Corporate Trustee has taken place, the Receivers ask that the enclosed Trustee Payment Instruction Form be completed and submitted to the Receivers via the following email address briteadvisors@mcgrathnicol.com. The Receivers will then make payment of any pension withdrawal or distribution payment amounts on the basis of that completed Trustee Payment Instruction Form.

4 **Surrender Rebates and Interest Dispute Hearing**

The following section of this update is relevant to Beneficiaries who have, or have had, a Surrender Rebate Dispute or Interest Dispute with respect to their Valuation Notice.

We refer to our previous circular to Corporate Trustees and Beneficiaries dated 28 May 2025 (28 May Update), and adopt the definitions used in that update.

In accordance with the orders dated 7 May 2025, the Receivers filed and served the following materials which they intend to rely on in respect of the treatment of Surrender Rebate and Interest Disputes:

the Receivers' Outline of Submissions dated 1 August 2025; and

the Receivers' Supplementary report as to surrender rebates and interest dated 1 August 2025.

The Receivers have served the above documents on ASIC, the Interested Parties and all Beneficiaries with an active Surrender Rebate or Interest Dispute and have sought publication orders. The Receivers will provide a further update in this regard in due course.

Any Beneficiary with a Surrender Rebate or Interest Dispute who wishes to oppose the Receivers' proposed treatment of Surrender Rebates and Interest, **may do so by taking one of the following options:**

- **Option 1:** Apply to the Court by **8 August 2025** under r 2.13(1) of the *Federal Court (Corporations) Rules 2000* (Cth) for leave to be heard at the Surrender Rebate and Interest Disputes Hearing.

OR

- **Option 2:** Submit evidence or submissions to the Receivers by **29 August 2025**, which the Receivers will file with the Court by 5 September 2025.

Further information as to the steps that may be taken pursuant to either of the above options, including the relevant deadlines, is set out in the 28 May Update. A copy of the 28 May Update is available <https://www.mcgrathnicol.com/creditors/brite-advisors-pty-ltd/>.



5 Ongoing updates

The Receivers will continue to keep Corporate Trustees and Beneficiaries apprised of the conduct of the receivership and issue further updates when there are material developments. Correspondence issued to Trustees and Beneficiaries can be downloaded from our website at the following link - <https://www.mcgrathnicol.com/creditors/brite-advisors-pty-ltd>.

If you have any queries, please refer to the Frequently Asked Questions page on our website, which can be accessed here: <https://www.mcgrathnicol.com/creditors/brite-advisors-pty-ltd>. This page will be continually updated as new information that is relevant to Beneficiaries and Trustees becomes available. If you have any queries which are not addressed in the Frequently Asked Questions, please contact the Receivers at briteadvisors@mcgrathnicol.com.

Yours faithfully

Brite Advisors Pty Ltd (Receivers and Managers Appointed) (In Liquidation)

A handwritten signature in cursive script that reads "Linda Smith".

Linda Smith

Receiver and Liquidator

Enclosure:

Trustee Payment Instruction Form

Trustee Payment Instruction

Definitions

Beneficiary means XX of [beneficiary address].

[Current Trustee] means XX of [Current Trustee Address].

Brite Advisors means Brite Advisors Pty Ltd (Receivers and Managers Appointed) (In Liquidation) ACN 135 024 412.

Court means the Federal Court of Australia.

[Incoming Trustee] means XX of [Incoming Trustee Address].

Distribution Payment means any payment that the Receivers have approved to be paid in respect of the Beneficiary in accordance with the Proposed Distribution Orders.

Pension Withdrawal Orders means the orders made by the Court in the Proceedings on 21 December 2023, as varied or amended by subsequent orders of the Court from time to time, directing that the Receivers are justified in making Pension Withdrawal Payments in accordance with those orders.

Pension Withdrawal Payment means any payment that the Receivers have approved to be paid in respect of the Beneficiary in accordance with the Pension Withdrawal Orders.

Pension Withdrawal Request means a request made by or on behalf of the Beneficiary in accordance with the Pension Withdrawal Orders.

Proceedings means proceedings WAD 262 of 2023 and WAD 13 of 2024 in the Court.

Proposed Distribution Orders means the proposed distribution orders filed with the Courts on 25 March 2025 in the Proceedings, as varied or amended by subsequent submissions to the Court from time to time by the Receivers. To be heard at the Distribution Methodology Application Hearing on 15 and 16 September 2025 or any adjournment thereof.

Receivers means Linda Methven Smith and Robert Michael Kirman in their capacity as joint and several court-appointed receivers and managers of the Trust Assets.

Rules means the trust deed and rules of the Scheme dated [insert].

Scheme means the XX [Pension Plan/Retirement Scheme]

Trust Assets means the property, assets and undertakings held by Brite Advisors on trust for another to which the Receivers have been appointed by the Court, jointly and severally, receivers and managers.

Notice

1. Each of the Beneficiary, [Current Trustee] and [Incoming Trustee] hereby:
 - (a) direct the Receivers to pay any Pension Withdrawal Payment or Distribution Payment payable to [Current Trustee] on behalf of the Beneficiary by the Receivers in accordance with the either (i) Pension Withdrawal Orders or (ii) Proposed Distribution Orders to [Incoming Trustee] to following account:

[Incoming Trustee to provide details]
Name of Bank
Account Details
Email:
Telephone:
 - (b) authorise [Incoming Trustee] to submit any Pension Withdrawal Request to the Receivers on behalf of the Beneficiary and otherwise deal with the Receivers on behalf of the Beneficiary in relation to Pension Withdrawal Requests and Pension Withdrawal Payments.
2. [Incoming Trustee] hereby agrees to accept any such Pension Withdrawal Payment and/or Distribution Payments in its capacity as the asset trustee of the Schemes and to hold and deal with any Pension Withdrawal Payment and/or Distribution Payment it receives in accordance with the Rules.
3. Each of the Beneficiary, [Current Trustee] and [Incoming Trustee] acknowledge and agree that the Receivers shall have no liability, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any indirect and/or consequential loss (including any liability for tax) arising as a result of the payment of any Pension Withdrawal Payment and/or Distribution Payment to [Incoming Trustee], as directed by this Payment Instruction.

Dated [insert date]

BENEFICIARY

XX

[Current Trustee]

Signature :

Name :

Role :

[Incoming Trustee]

Signature:

Name :

Role :