

NOTICE OF FILING

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File Title: AUSTRALIAN SECURITIES & INVESTMENTS COMMISSION v BRITE
ADVISORS PTY LTD ACN 135 024 412 (RECEIVERS AND MANAGERS
APPOINTED) (IN LIQUIDATION)
Registry: WESTERN AUSTRALIA REGISTRY - FEDERAL COURT OF AUSTRALIA



A handwritten signature in blue ink that reads "Sia Lagos".

Registrar

Important Information

This Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

The date of the filing of the document is determined pursuant to the Court's Rules.



Form 59
Rule 29.02(1)

Affidavit

No. WAD 13 of 2024

Federal Court of Australia
District Registry: Western Australia
Division: General

Australian Securities and Investments Commission

Applicant

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

Defendant

Affidavit of: **Linda Methven Smith**

Address: McGrathNicol, Level 19, 2 The Esplanade, Perth 6000

Occupation: Partner, McGrathNicol, Chartered Accountant and Registered Liquidator

Date: 19 October 2024

TWELFTH AFFIDAVIT OF LINDA METHVEN SMITH

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Filed on behalf of (name & role of party) Linda and Rob Kirman, as joint and several court-appointed receivers and managers

Prepared by (name of person/lawyer) C A L Boothman

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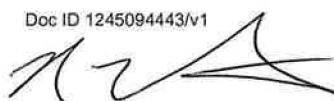
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I, Linda Methven Smith, of care of Level 19, 2 The Esplanade, Perth, in the State of Western Australia, Chartered Accountant and Registered Liquidator, affirm:

1. I am a Chartered Accountant, Registered Liquidator and Partner of McGrathNicol.
2. On 13 December 2023 this Honourable Court ordered (in WAD262/2023) that Mr Robert Kirman (**Mr Kirman**) and I be appointed as joint and several receivers and managers of all the 'Property' of Brite Advisors Pty Ltd ACN 135 024 412 (**Brite Advisors**), the defendant in these proceedings.
3. On 6 February 2024, this Honourable Court ordered, in these proceedings, that Mr Kirman and I be appointed:
 - (a) receivers and managers of all the 'Trust Assets', being all property, assets and undertakings held by Brite Advisors on trust for another (**Receivers**); and
 - (b) joint and several liquidators of Brite Advisors (**Liquidators**).
4. I am authorised by Mr Kirman to swear this affidavit on behalf of he and I as the Receivers. A reference to "we" in this affidavit is a reference to Mr Kirman and me in our capacity as Receivers.




5. The facts deposed to in this affidavit are from my own knowledge, except where I have indicated otherwise, in which case the facts deposed to are from information provided to me from the sources I have identified, and which information I believe to be true.
6. I also crave leave to rely on the previous affidavits I have affirmed which have been filed in both WAD262/2023 and these proceedings (together, my **Previous Affidavits**).
7. In this affidavit, defined terms have the meaning ascribed to them in my Previous Affidavits unless I state otherwise.

Introduction and purpose of this affidavit

8. This affidavit is made in support of the minute of proposed orders filed by the Receivers on or around the date of this affidavit.
9. In this affidavit, I depose to:
 - (a) the data verification process undertaken, the resultant discrepancies which have been identified and which require adjustment, at paragraphs 10 and 33 below;
 - (b) issues impacting the entitlements of Beneficiaries who have at any time held Minerva Notes at paragraphs 34 to 52 below;
 - (c) the basis for the Receivers' request for a short extension to the date for filing of the Explanatory Memorandum with this Honourable Court, at paragraphs 53 to 57 below;
 - (d) the circumstances which may require the Receivers to revise a Beneficiaries' Valuation Notice after it has been agreed, at paragraph 58 to 59 below;
 - (e) an update relating to Bespoke asset holdings in the Client AuM at paragraphs 61 to 78 below; and
 - (f) the status of the Pre-appointment foreign currency accounts and the Receivers' proposal to transfer certain balances to an alternate Australian Authorised Deposit-Taking Institution to allow the Receivers to earn an increased return on Trust Assets at paragraphs 79 to 83 below.

Data verification process and identified discrepancies

10. In section 3.4 of the Receivers' Fourth Report, the Receivers proposed a number of steps to verify Beneficiaries' entitlements which they expected to be substantially

complete within the calendar year. As part of that process, steps have been taken to confirm the accuracy of certain data in Brite Advisors' systems (**Data Verification Process**), namely the reconstructed data recording the money and investments held by each Beneficiary as at 13 December 2023 (**13 December 2023 Data**). The purpose of the Data Verification Process was to identify any material errors in the 13 December 2023 Data so as to ensure, as best as possible, the integrity of the data.

11. The Data Verification Process involved review and verification of the 13 December 2023 Data by i-Convergence and the staff of the Receivers, on my instructions. As foreshadowed at [3.4.20] of the Receivers' Fourth Report, a number of verification steps have been undertaken, which has included:
 - (a) a verification of Brite Advisors' bank account transaction listings (as extracted from Brite Advisors' accounting system) against Beneficiary deposit and withdrawal information in the 13 December 2023 Data;
 - (b) analysis of dividend payments from securities recorded in the 13 December 2023 Data. This is further detailed at paragraphs 16 to 23;
 - (c) analysis of deductions for withholding tax recorded in the 13 December 2023 Data. This is further detailed at paragraphs 24 to 28;
 - (d) analysis of the Minerva Notes and the coupons associated with them. This is further detailed at paragraphs 34 to 52;
 - (e) analysis of coupon payments from securities recorded in the 13 December 2023 Data;
 - (f) analysis of withdrawals processed just before and just after the Asset Preservation Orders (which were paid with ASIC's consent) to ensure they are accurately reflected in the 13 December 2023 Data;
 - (g) analysis into the surrender rebate charges and surrender rebate loan balances in the 13 December 2023 Data;
 - (h) analysis into corporate actions which have occurred on securities in the 13 December 2023 Data;
 - (i) an investigation into the transaction fees incorrectly charged on Brite US Beneficiaries;

- (j) analysis of transfers in and out between financial accounts for Beneficiaries to ensure proper accounting has occurred; and
- (k) general investigations, including a review for duplicated entities in the 13 December 2023 Data and investigating transactions and balances which appear out of the ordinary.

12. As a result of the Data Verification Process, the Receivers have identified a number of errors, as result of Brite Advisors' historic conduct in the recording of money and investments held by each Beneficiary, which impacts the valuation of Beneficiaries' entitlements (**Data Discrepancies**).

13. The Receivers have determined to adjust Beneficiaries' entitlements prior to issuing Valuation Notices to Beneficiaries in order to rectify the Data Discrepancies, and intend to process those adjustments in the 13 December 2023 Data. Adjustments made in the 13 December 2023 Data by the Receivers will be clearly identifiable by Beneficiaries.

14. In some instances, the Receivers' investigations in relation to the Data Discrepancies are ongoing, and the Receivers intend to withhold the issuance of a Valuation Notice to the impacted Beneficiaries, until the Data Discrepancies have been resolved. Beneficiaries in this category will be advised of this by the Receivers.

15. It is necessary for the Receivers to obtain the Court's direction as to the appropriate response for certain of the Data Discrepancies. The details of these Data Discrepancies are outlined below.

Dividend Data

16. The Receivers obtained Bloomberg data relating to all historical dividends declared and paid in respect of the securities purportedly held by Brite Advisors since Brite Advisors commenced trading (**Dividend Data**). The Receivers then conducted financial modelling in order to:

- (a) calculate the total dividends which should have been applied to Beneficiaries' accounts based on the total quantity of the securities which should have been held as at the relevant date and in accordance with the Dividend Data (**Calculated Dividends**); and
- (b) compare the Calculated Dividends to the total dividends credited to Beneficiaries' accounts recorded in the 13 December 2023 Data (**Reported Dividends**).

17. From the Receivers' analysis of the Calculated Dividends and Reported Dividends, the Receivers identified that the dividends which should have been earned on the securities recorded as being held by Beneficiaries since Brite Advisors commenced trading are materially misstated in that data (**Dividend Discrepancy**).

18. The Receivers have identified that the errors in the data which give rise to the Dividend Discrepancy appear to be due to a range of factors related to how Brite Advisors historically applied dividends to Beneficiaries' accounts, namely:

- (a) missing and / or incomplete application of dividends;
- (b) application of an incorrect dividend rate;
- (c) application of erroneous currency conversions when applying dividends;
- (d) applying dividend data without regard for corporate actions such as stock splits; and
- (e) general inconsistencies between different sources of historical dividend information.

19. The below table presents an analysis of the impact of the Dividend Discrepancy prepared by staff of the Receivers:

	Number of securities impacted	Number of Beneficiaries impacted	Net variance (USD)
Variance greater than US\$500 for any Beneficiary	68	1,824	833,408
Variance less than US\$500 for all Beneficiaries but greater than US\$100 for any Beneficiaries	87	941	14,547
Variance less than US\$100 for all Beneficiaries	286	616	4,219
Total	441	1,861	852,173

20. Using the Reported Dividends, the Receivers have prepared an amended version of the 13 December 2023 Data which corrects the dividends recorded and eliminates the variance identified above. A detailed, line-by-line review has been conducted for the Dividend Data relating to the 68 securities in the first row of the table above, being those

which account for 99% of the value of net variance resulting from the Dividend Discrepancy. This review did identify some further adjustments which were necessary.

21. Although the updated 13 December 2023 Data corrects the dividend data relating to all 863 impacted securities, the Receivers do not propose to undertake any further detailed, line-by-line review as described in the paragraph above. I estimate this exercise would take approximately two months and require one staff member from McGrathNicol working almost full time on this task to complete. Given the low value impact of the remaining discrepancies and the delay this would cause, the Receivers do not consider this to be a worthwhile task.
22. With respect to the Dividend Discrepancy in the 13 December 2023 Data, the Receivers seek orders to amend the 13 December 2023 Data to restate dividends credited to Beneficiaries' accounts in accordance with the Calculated Dividends.
23. Upon request, during the entitlement verification process the Receivers will make available to Beneficiaries a breakdown of the Calculated Dividends and corresponding adjustments for each security held by Beneficiaries.

Withholding tax

24. The Receivers have identified that withholding tax arising from transactions occurring in the accounts which Brite Advisors' held with IBAU has been inconsistently applied and reported to Beneficiaries (**Withholding Tax Discrepancies**). The Withholding Tax Discrepancies impact the establishment of any pre-appointment withholding tax liabilities that are required to be taken into account in determining the valuation of Beneficiaries' entitlements as well as taxation obligations of Brite Advisors during the period of Receivership.
25. The Receivers investigations to date have identified:
 - (a) 705 Beneficiaries have deductions from their entitlements in the 13 December 2023 Data totalling approximately USD(\$91.9k) during the period from November 2018 to November 2023;
 - (b) the Interactive Brokers statements available to the Liquidators include deductions for withholding tax during the period from November 2019 to 13 December 2023 totalling approximately USD(\$41.5k);

- (c) the Interactive Brokers statements include deductions during the period from 13 December 2023 to 31 August 2024 totalling approximately USD(\$356.8k);
- (d) Brite Advisors was granted qualified intermediary (QI) status for US Foreign Account Tax Compliance Act purposes and had not complied with its QI obligations prior to the appointment of the Receivers; and
- (e) Brite Advisors had engaged BDO US to prepare draft 'Form 1042' lodgements to the Internal Revenue Service seeking to rectify its non-compliance with QI obligations prior the Receivers appointment which included estimated outstanding withholding tax liabilities payable for the calendar years ending 31 December 2020, 31 December 2021 and 31 December 2022 totalling approximately USD\$1.0m.

26. The Receivers estimate that the Withholding Tax Discrepancy may result in an overstatement of Beneficiaries' entitlements in the 13 December 2023 Data.

27. The Receivers have sought specialist tax advice from Crowe Horwath in relation to the tax affairs of Brite Advisors and relevant considerations in the distribution of the Client AuM. Exhibited hereto behind "**Tab-1**" is a true and correct copy of a letter I asked Crowe Howarth to prepare which outlines matters on which they have been asked to advise and which are relevant to the Withholding Tax Discrepancies. As can be seen from the letter, Crowe Horwath has advised that identifying all relevant issues and advising on those issues will take some months.

28. To avoid this issue unnecessarily holding up the entitlement verification process, the Receivers propose to remove entries relating to withholding tax in order to facilitate proceeding with verifying Beneficiaries' entitlements, with those verified entitlements being subject to later adjustment by the Court in respect of withholding tax which should have been applied by the Brite Advisors once all necessary tax advice has been received.

Unlisted Securities valuations

29. There are a number of investments recorded as being held by Beneficiaries in the 13 December 2023 Data which were not listed on an exchange or otherwise traded in a liquid market (**Unlisted Securities**). The Receivers' investigations reveal that these Unlisted Securities were previously valued by Brite Advisors using cost price only.

30. As part of the entitlement verification process and pursuant to Order 9 of the orders dated 2 September 2024, the Receivers are required to assess the value of these investments as at 13 December 2023.
31. The Receivers have determined that they will require an expert to value those Unlisted Securities to ensure an appropriate value is ascribed to these investments in the entitlement verification process.
32. The Receivers seek orders that they are justified in valuing the Unlisted Securities at a price determined as fair value by someone who the Receivers consider has appropriate expertise and credentials in the valuation of financial securities.
33. In that regard the Receivers are proposing to engage KPMG for this task, who the Receivers consider have appropriate qualifications to assist.

Issues relating to Minerva Notes

Matters impacting the valuation of Minerva Notes

34. Between September 2017 and October 2018, Brite Advisors invested funds from both Corporate Trustee deposits and Interactive Brokers deposits totalling GBP8.9m in debt securities issued by Minerva (**Minerva Notes**). The circumstances surrounding Brite Advisors' investment in the Minerva Notes and the on-selling of those notes is detailed in the Receivers' Fourth Report at [5.6.52] – [5.6.71] and Appendix A4.
35. The Minerva Notes have not paid any coupon payments since around August 2021, when Brite Advisors received the coupon payment relating to the half year ending December 2020. The Receivers have obtained Minerva's financial statements as at December 2022 which records that Minerva had a net asset position of only €2.1m in December 2022 (and €2.7m in December 2021). Exhibited hereto "**Tab-2**" is a true and correct copy of Minerva's December 2022 financial statement.
36. Based on the financial statements referred at paragraph 35 above, it appears unlikely that Minerva will have the financial capacity to meet the outstanding principal repayment and outstanding coupon repayments. The Receivers do not yet have visibility as to value and recoverability of the Minerva Notes, however, are aware that Minerva was issued with a notice of event of default from its Security Corporate Trustee on 25 August 2023. The Receivers have engaged Linklaters in the UK to assist in the recoverability of the Minerva Notes.

37. The funds paid from Corporate Trustees and Interactive Brokers referred to in paragraph 34 above totalled at least GBP4.6m and GBP3.4m, respectively. Based on the Receivers' analysis to date we have been unable to conclusively attribute these funds to purchases by specific Beneficiaries.
38. Notwithstanding, the 13 December 2023 Datndicates the following:
 - (a) 52 Beneficiaries, who contributed funds to Brite Advisors via a number of different Trustees, invested in Minerva Notes during the period from September 2017 to August 2019 totalling approximately GBP7.2m; and
 - (b) 57 Beneficiaries, who contributed funds to Brite Advisors via ForthPlus Pensions, invested in Minerva Notes during from February 2019 to May 2019 totalling approximately GBP1.1m.
39. The findings outlined at paragraph 38 are summarised in the table below, being that:
 - (a) Brite Advisors purchased Minerva Notes for a total cost of GBP8.9m between September 2017 and October 2018 (columns 2 to 5);
 - (b) Beneficiaries invested in Minerva Notes for a total of GBP8.3m between September 2017 and August 2019 (columns 6 to 8); and
 - (c) the Receivers' analysis to date has been unable to conclusively attribute Brite Advisors' purchase of the Minerva Notes to Beneficiaries in all instances (column 9).

It does appear that Brite Advisors purchased more Minerva Notes than was allocated to Beneficiaries in the first instance (up to around August 2018), after which Brite Advisors stopped purchasing more Minerva Notes but continued to allocate those already owned by Brite Advisors to Beneficiaries.

Minerva Notes - Source of funds (GBP)

Period	Source of funds for Minerva Note purchase			Notes bought in 13 Dec-23 Data				Value	Variance
	Trustees	Interactive Brokers	Unknown	Total	# of Beneficiaires	# of ForthPlus Beneficiaires			
Sep-17	-	-	968,746	968,746	2	-	664,000	(304,746)	
Oct-17	-	-	-	-	-	-	-	-	-
Nov-17	1,000,000	-	-	1,000,000	3	-	709,000	(291,000)	
Dec-17	500,000	-	-	500,000	3	-	497,930	(2,070)	
Jan-18	500,000	-	-	500,000	1	-	75,000	(425,000)	
Feb-18	1,400,000	200,000	-	1,600,000	10	-	1,346,993	(253,007)	
Mar-18	200,000	200,000	-	400,000	3	-	326,702	(73,298)	
Apr-18	500,000	500,000	-	1,000,000	5	-	715,468	(284,532)	
May-18	500,000	-	-	500,000	2	-	199,600	(300,400)	
Jun-18	-	1,000,000	-	1,000,000	12	-	1,110,151	110,151	
Jul-18	-	-	-	-	2	-	261,378	261,378	
Aug-18	-	1,000,000	-	1,000,000	3	-	50,155	(949,845)	
Sep-18	-	-	-	-	8	-	374,307	374,307	
Oct-18	-	500,000	-	500,000	3	-	109,885	(390,115)	
Nov-18	-	-	-	-	3	-	81,826	81,826	
Dec-18	-	-	-	-	-	-	-	-	
Jan-19	-	-	-	-	3	-	226,630	226,630	
Feb-19	-	-	-	-	1	13	331,086	331,086	
Mar-19	-	-	-	-	1	18	504,985	504,985	
Apr-19	-	-	-	-	-	26	310,809	310,809	
May-19	-	-	-	-	-	1	11,138	11,138	
Jun-19	-	-	-	-	1	-	28,140	28,140	
Jul-19	-	-	-	-	1	-	12,867	12,867	
Aug-19	-	-	-	-	1	-	375,092	375,092	
Total	4,600,000	3,400,000	968,746	8,968,746	52	57	8,323,143	(645,603)	

40. Between February 2018 and January 2020, around 4 Beneficiaries in effect voluntarily sold their interest in the Minerva Notes back to Brite Advisors. The consideration credited to these Beneficiaries' accounts was equal to the amount those Beneficiaries had initially paid to Brite Advisors to obtain their interests in the Minerva Notes.
41. In February 2020, around 68 Beneficiaries in effect, systematically had their interest in the Minerva Notes sold back to Brite Advisors. The consideration credited to these Beneficiaries' accounts was equal to the amount those Beneficiaries had initially paid to Brite Advisors to obtain their interests in the Minerva Notes.
42. As at 13 December 2023, 37 Beneficiaries, with total investments of GBP0.5m remained invested in the Minerva Notes. All 37 of these Beneficiaries have the same trustee,

ForthPlus Pensions and typically purchased their Minerva Notes later in time than those who have divested their Minerva Notes.

43. The Receivers' investigations have established that Brite Advisors appears to have had an undisclosed conflict of interest relating to the Minerva Notes as set out at section A4.5 of the Fourth Report.
44. The Receivers consider that the most appropriate way to value the Minerva Notes still held by the ForthPlus Pensions Beneficiaries is as per the amount those Beneficiaries had initially paid to Brite Advisors to obtain their interest in the Minerva Notes, as was afforded to the Beneficiaries who already divested the Minerva Notes. The Receivers' view on the valuation of the Minerva Notes is a separate matter to the ultimate distribution methodology for the Minerva Notes.
45. Exhibited hereto behind "**Tab-3**" is a true and correct copy of a bundle of correspondence which relates to the Receivers' investigations into the Minerva Notes which were set out at section A4 of the Fourth Report.

Errors identified in the recording of coupon payments

46. Brite Advisors' Xero Records show that circa GBP1.5m in coupon payments relating to the Minerva Notes were received by Brite Advisors between December 2017 and August 2021.
47. Coupon payments were generally paid at or around the due date save for December 2020 which was paid in August 2021.
48. Following payment of the December 2020 coupon payment (in August 2021), no further coupon payments were received by Brite Advisors.
49. The Receivers' investigations reveal that Brite Advisors appears to have incorrectly allocated coupon payments actually received from the Minerva Notes to Beneficiaries in accordance with their entitlements. Below is a table I caused to be prepared which sets out the actual cash amounts received by Brite Advisors for each coupon payment and the amounts which should have been recorded as being paid to Beneficiaries based on the number of Minerva Notes held by Beneficiaries at the relevant time according to the 13 December 2023 Data:

Minerva Coupons						
Coupon payment date	Minerva Notes held by Brite Advisors (units)	Coupon received by Brite Advisors (GBP)	Minerva Notes held by beneficiaires (units)	Coupons in 13 December 2023 data (GBP)	Coupons calculated by Receivers (GBP)	Variance (GBP)
Dec-17	2,481,000	14,544	1,866,000	22,259	3,090	19,169
Jun-18	7,376,000	218,770	5,551,983	151,328	99,629	51,699
Dec-18	8,850,000	258,957	6,155,293	175,851	168,226	7,625
Jun-19	8,850,000	252,711	7,288,793	193,744	193,237	506
Dec-19	8,850,000	252,117	7,422,293	213,310	215,733	(2,423)
Jun-20	8,850,000	252,222	652,400	(0)	79,869	(79,869)
Dec-20	8,850,000	223,882	644,800	(0)	16,405	(16,405)
Jun-21	8,850,000	-	642,000	(0)	-	(0)
Dec-23	8,850,000	-	430,000	-	-	-
Total	-	1,473,202	-	756,492	776,188	(19,696)

50. Our analysis at paragraph 46 concludes that there is a variance as between the coupon payments in the 13 December 2023 Data and the coupon payments which should have been applied to Beneficiaries' accounts.

51. The impact of incorrectly applying the coupon payments to Beneficiaries' accounts results in:

- (a) a total overstatement of GBP35,144 across 20 Beneficiaries with the maximum overstatement being GBP7,896 and the minimum overstatement GBP28; and
- (b) a total understatement of GBP54,840 across 89 Beneficiaries with the maximum understatement is GBP4,895 and the minimum overstatement GBP17.

52. The Receivers consider that the most appropriate way to address this discrepancy is to apply an adjustment in the 13 December 2023 Data so that the coupon payments applied to Beneficiaries' accounts reflect a share of the actual cash that Brite Advisors received in proportion to each Beneficiaries' interest in the Minerva Notes. This will result in:

- (a) 20 Beneficiaries having a reduction in their portfolio valuation; and
- (b) 89 Beneficiaries having an increase in their portfolio valuation.

Impact of Data Discrepancies on the preparation of the Explanatory Memorandum

53. Until the Valuation Notices are issued, and the Beneficiaries and Corporate Trustees have an opportunity to confirm or dispute their entitlements, the Receivers are unable to finalise and file their proposed Explanatory Memorandum. This is because the information obtained during this process may have a significant influence on the

approach proposed for the final distribution and in relation to which the Receivers will be seeking feedback.

54. By way of update to the Court, the Receivers have made substantial progress in verifying the identity of Beneficiaries. Below is a table I have caused my staff to prepare which sets out the status of this process:

Status of Identity Proofing	
Status	No. of beneficiaries
Approved	1,792
Declined	57
Not started	236
Total	2,085

55. In respect of the 'Declined' submissions, those Beneficiaries have had their submissions declined for reasons including low quality images and expired identification documents. My staff have written to each of the relevant Beneficiaries and requested that they recomplete the ID proofing process and provided guidance as to how to prevent a further declined submission.

56. In respect of the Beneficiaries who are yet to complete the Identity Proofing process, my staff have written to each of the Beneficiaries requesting that they complete the process as soon as possible.

57. Separate to the above, I have sought international legal advice regarding several Beneficiary deceased estates to confirm whether the deceased estate documentation provided to date is sufficient for us to be comfortable in dealing with the empowered person(s) (or their appointed legal representative) in relation to the management and distribution of the deceased estates' assets or if further documentation is required, what specific documents need to be requested from the relevant estate.

Circumstances where a revision to Valuation Notice may become necessary

58. The Receivers anticipate that further issues may be identified with the 13 December 2023 Data during the entitlement verification process. In particular, a dispute raised by one Beneficiary could uncover an issue that impacts other Beneficiaries.

59. If such circumstances arise, the Receivers propose that where:

(a) a Valuation Notice has already been confirmed by a Beneficiary;

- (b) information is obtained by the Receivers which indicates there was an error in the Valuation Notice; and
- (c) that error resulted in the Valuation Notice understating the proper value of the entitlement,

that the Receivers would be justified in adjusting that value upwards, providing notice to that Beneficiary of the revised Valuation Notice and treating that revised Valuation Notice as accepted. If this approach is not followed, there is a potential for a significant amount of administration involved in seeking to re-confirm Valuation Notices with adjustments that are clearly in the interests of the Beneficiary concerned.

60. Where the circumstances described at paragraph 59(a) and 59(b) exist, but where that error resulted in the Valuation Notice overstating the proper value of the entitlement, the Receivers propose that they have the discretion to issue a revised Valuation Notice to the Beneficiary which will then be subject to the process set out in orders 10(b) to 10(e) of the orders made by this Honourable Court on 2 September 2024. The Receivers intend to exercise the proposed discretion where they are satisfied that the overstatement is material, having regard to the cost to the receivership of engaging in the entitlement valuation process again in light of the overstatement.

Bespoke assets

Treatment of bespoke assets to date

61. The approach that the Receivers have taken to date in respect of bespoke assets has been to exclude the bespoke assets from the rebalance of the model portfolio assets undertaken by the interim fund manager, BML Funds Management Pty Ltd (**BML**), and refuse to action dealing instructions received by any Beneficiary, Corporate Trustee or other person. This has been in accordance with directions from the court, namely the order made in this matter on 27 March 2024.

62. The reasons for taking this approach are set out in paragraph [17] – [18] of my affidavit affirmed on 26 March 2024 (**Sixth Smith Affidavit**).

Status of bespoke assets

63. I have caused BML to conduct a review of the bespoke assets' risk levels (**Bespoke Asset Review**) and further investigations into the bespoke assets to be undertaken by staff of the Receivers in light of:

- (a) his Honour's queries and comments during the most recent hearing in this matter on 2 September 2024 as to how the risk posed by the bespoke investments was being managed; and
- (b) Beneficiaries' ongoing requests that I have received for the Receivers to take certain actions with respect to the bespoke assets.

64. Exhibited hereto behind "**Tab-4**" is a true and correct copy of the Bespoke Asset Review.

65. In aggregate, BML's view is that the bespoke assets are not high risk and do not impose excessive risks on the overall portfolio of assets. Notwithstanding, BML does recognise there is slightly higher risk in the bespoke assets when compared with the model portfolio.

66. The higher risk reflects the historic preferences of the bespoke investors and to the extent that those specific bespoke investors' risk appetite may have changed, BML equally recognise there would be a small risk differential with bespoke investments.

Bespoke assets capable of identification

67. I have caused further investigations to be undertaken into the bespoke assets in order to identify bespoke assets:

- (a) without variance (where there are both single and multiple Beneficiary investors); and
- (b) with variance, but with only single beneficiary investors,

on the basis that it is possible that these bespoke assets could be de-risked on instruction from a Beneficiary without potentially having any material negative impact on any other Beneficiaries' rights.

68. Based on those investigations I have concluded that, on the basis of the 13 December 2023 Data:

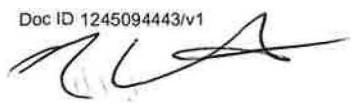
- (a) there is approximately \$52.1 million USD (valued as at 13 December 2023) in bespoke only assets (bespoke assets that are not mixed with the model portfolio) without variance held by single and multiple Beneficiaries; and

- (b) there is approximately \$9.7 million USD (valued as at 13 December 2023) in bespoke only assets (bespoke assets that are not mixed with model portfolio) with variance but held by single Beneficiaries.

(Eligible Bespoke Assets)

Future risk mitigation of bespoke assets

- 69. Noting the matters above, after completion of the entitlement valuation process, the Receivers intend to seek further orders from this Honourable Court to enable them to offer Beneficiaries who hold Eligible Bespoke Assets the option to instruct the Receivers to sell these assets (**Bespoke Trading Application**) and for the Receivers to act on those instructions. The Receivers do not propose to seek orders to permit the sell down of bespoke assets other than Eligible Bespoke Assets in light of the potential prejudice this could cause to other Beneficiaries.
- 70. In addition to the complexities set out at paragraph 29(b) of the Eleventh Smith Affidavit in dealing with bespoke assets, the further investigations indicate that the following considerations will be relevant to the Bespoke Trading Application including, but not limited to:
 - (a) the commerciality to take steps to de-risk bespoke assets in circumstances where the bespoke assets, in aggregate, are not high risk and there will be costs associated with steps to de-risk (such as transaction costs and professional fees);
 - (b) the tradability of bespoke assets will require a framework to address any scenario where steps to de-risk bespoke assets may result in detriment to other Beneficiaries, particularly where there are multiple Beneficiaries invested in a single bespoke asset, or where those bespoke assets are comprised of structured notes which have not yet matured;
 - (c) the entitlement verification process being completed prior to considering any orders the subject of the Bespoke Trading Application on the basis that bringing the Bespoke Trading Application any earlier (and prior to Beneficiaries' asset positions being verified) may risk inadvertently taking steps to de-risk a bespoke asset which is incorrectly allocated or the subject of another Beneficiaries' claim; and




(d) the segregation of bespoke asset proceeds in a separate IBAU account until specific tracing and distribution methodologies have been determined.

71. Based on the above and in my professional view, the Receivers are justified in maintaining the status quo in respect of the bespoke assets until such time as the entitlement verification process has been completed to ensure a concluded view can be formed as to the ability to de-risk any bespoke assets.

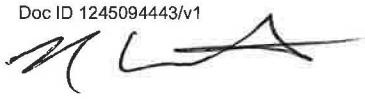
Immediate risk mitigation of bespoke assets

72. I refer to the correspondence contained at Tab 159 of the Eighth Smith Affidavit from [REDACTED] on behalf of [REDACTED] (a Beneficiary, [REDACTED]) in relation to the treatment of [REDACTED] single bespoke investment with Brite Advisors.

73. Exhibited hereto behind:

- (a) "**Tab-5**" is a true and correct copy of a letter dated 13 June 2024 from [REDACTED] to the Receivers in relation to [REDACTED] bespoke investment with Brite Advisors;
- (b) "**Tab-6**" is a true and correct copy of a letter dated 2 July 2024 from HWLE to [REDACTED] in relation to [REDACTED] bespoke investment with Brite Advisors;
- (c) "**Tab-7**" are true and correct copies of email correspondence dated 17 October 2024 and 18 October 2024 from Begbies Traynor, in their capacity as Receivers for Corinthian Pension Trustees Limited, being [REDACTED] Corporate Trustee, in relation to [REDACTED] bespoke investment with Brite Advisors; and
- (d) "**Tab-8**" is a true and correct copy of an email dated 18 October 2024 from me to Begbies Traynor.

74. The Receivers' investigations reveal that 5,068,359 shares in hVIVO PLC, a security listed on the London Stock Exchange, are assets which are attributed to [REDACTED] in the 13 December 2023 Data as result of his bespoke investment in these shares. [REDACTED] [REDACTED] is not the sole Beneficiary who is recorded as holding an investment in the hVIVO PLC shares but there appears to be no shortfall in the total number of shares held (although a shortfall could conceivably be identified as a result of the entitlement verification process).



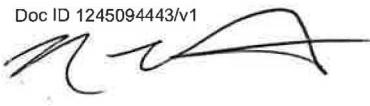
75. As detailed in the correspondence contained at Tab-5 to Tab-8, [REDACTED] proposes that the hVIVO PLC shares be transferred *in specie* to [REDACTED] in exchange for an immediate cash contribution to the Receivers, in the same pro rata percentage as the proposed reduction to be incurred by the other Beneficiaries.

76. The Receivers note the following complexities with the HVIVO PLC shares and [REDACTED] proposal:

- (a) the HVIVO PLC shares are held in an IBAU omnibus account in the name of Brite Advisors, not in the name of [REDACTED]. That account holds comingled investments which were all the subject of IBAU's purported security rights attached to the margin loan. Even if the Receivers could satisfy themselves that there was no variance between the quantity of HVIVO PLC shares held and the quantities Beneficiaries were led to believe were held, the Receivers are concerned that [REDACTED] investment may be subject to a pooling order on the basis that it forms part of a mixed fund;
- (b) the IBAU accounts in which the HVIVO PLC shares are held are subject to Asset Preservation Orders. The Receivers do not have authority to effect the proposed *in specie* transfer, in absence of an order from this Court; and
- (c) until such time as the entitlement verification process is completed the Receivers are not in a position to consider any proposal whereby the HVIVO shares are transferred *in specie* to [REDACTED] because the Receivers must ensure all Beneficiaries have had an opportunity to consider and respond to their Valuation Notices in case there is an asset shortfall and resulting disputed ownership.

77. The Receivers propose to obtain the orders contemplated at order 8 of the minute of proposed orders the subject of this application, that the Receivers may (but not must) deal with [REDACTED] bespoke investment in the hVIVO PLC shares by selling the shareholding over a period considered to be appropriate on advice from the Interim Fund Manager and depositing the cash proceeds of that sale in a bank account or term deposit, without converting the denominated currency and not comingling with any other Trust Assets. Those funds are to be held until such time as [REDACTED] rights to those funds can be finally determined and a distribution can be made.

78. Exhibited hereto behind "**Tab-9**" is a true and correct copy of a Bloomberg screenshot showing the comparative returns of hVIVO PLC between 13 December 2023 and 17



October 2024. As can be seen from this extract, over this period, the share price has appreciated 31.28%.

Pre-appointment foreign currency accounts

79. Prior to the Receivers' appointment, Brite Advisors maintained a number of Westpac client accounts which held balances in foreign currency (**Pre-appointment FX Accounts**). A summary of those Pre-appointment FX Accounts are contained in the table below:

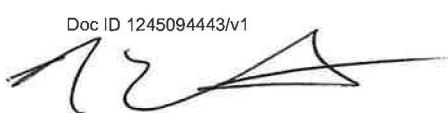
Summary of Westpac Pre-appointment Client Accounts		
Account	Currency	Balance in demonininated currency
Westpac Client Account - 034 770 - 001 769	CHF	26
Westpac Client Account - 034 762 - 003 019	ZAR	500
Westpac Client Account - 034 705 - 036 500	EUR	124,402
Westpac Client Account - 034 702 - 136 274	USD	5,399,960
Westpac Client Account - 034 703 - 011 086	GBP	1,376,930
Westpac Client Account - 034 748 - 032 163	NZD	499
Westpac Operationg Account - 034 770 - 001 857	CHF	138
Westpac Operationg Account - 034 762 - 002 649	ZAR	3,981
Westpac Operationg Account - 034 705 - 040 737	EUR	-
Westpac Operationg Account - 034 702 - 241 939	USD	-
Westpac Operationg Account - 034 703 - 025 840	GBP	-

80. The Pre-appointment FX Accounts form part of the Client AuM.

81. The Pre-appointment FX Accounts are not currently earning interest. The Receivers have made enquiries with Australian banks in relation to available options to earn interest on these funds in their nominated currencies.

82. Westpac Banking Corporation have informed the Receivers that they will provide a 2% per annum interest rate to all of the Pre-appointment FX Accounts in the relevant currencies from 4 October 2024. Therefore, from that date the GBP, USD and EUR Pre-appointment Accounts are earning 2% per annum with Westpac.

83. Based on the enquiries made by the Receivers, I believe that transferring the GBP and USD balances to the Commonwealth Bank of Australia and placing these funds in a rolling three-month foreign currency term deposit account will result in a better outcome for Beneficiaries on the basis that:

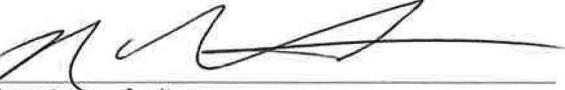



- (a) a rate of 4.56% per annum and 4.31% per annum has been quoted to apply to the GBP and USD balances respectively; and
- (b) the Receivers do not anticipate needing to access these funds on less than three months' notice.

Affirmed by the deponent
at Perth
in Western Australia
on 19 October 2024
Before me:

) 

Signature of deponent


Signature of witness

Ronan David Boothman
Australian Legal Practitioner who
has held a practice certificate for at least 2 years
and who holds a current practice certificate

Annexure Certificate

No. WAD 13 of 2024

Federal Court of Australia

District Registry: Western Australia

Division: General

Australian Securities and Investments Commission

Applicant

And

Brite Advisors Pty Ltd (ACN 135 024 412)**ANNEXURE LMS-72**

This is the exhibit marked "LMS-72" referred to in the affidavit of Linda Methven Smith affirmed before me on 19 October 2024.

Signature of witness



Name of witness

Ronan David Boothman

Address of witness

Brookfield Place Tower 2
Level 6, 123 St Georges Tce
Perth WA 6000

Capacity of witness

Solicitor

Filed on behalf of (name & role of party)

Linda Smith and Rob Kirman, as joint and several court-appointed
receivers and managers of the property of the defendant

Prepared by (name of person/lawyer)

C A L Boothman

Law firm (if applicable)

HWL Ebsworth Lawyers

Tel (08) 6559 6526

Tel (08) 6559 6526

Email cboothman@hwle.com.au

Address for service
(include state and postcode)

Level 20, 240 St Georges Terrace, Perth WA 6000

[Version 3 form approved 02/05/2019]



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www.crowe.com.au

16 October 2024

BY EMAIL | ismith@mcgrathnicol.com; rkirman@mcgrathnicol.com

Ms Linda Smith & Mr Rob Kirman
 Partners
 McGrathNicol
 Level 19
 2 The Esplanade
 PERTH WA 6000

Dear Linda and Rob

TAX ADVICE | BRITE ADVISORS PTY LTD (RECEIVERS & MANAGERS APPOINTED) (IN LIQUIDATION) ("BRITE")

We refer to our recent discussions with you regarding taxation outcomes for Brite and the Receivers & Managers, including withholding tax obligations, arising from transactions occurring in the Brite Interactive Brokers Australia Pty Ltd (IBA) bank accounts.

We write to provide you with an update in respect of work undertaken to date, and further work required to establish the company's Australian and foreign taxation obligations both pre-appointment and post-appointment.

We note that resolution of these matters is critical not only to establishing taxation obligations of Brite during the period of Receivership, but also to establish any pre-appointment withholding tax liabilities that are required to be taken into account in determining the valuation of individual client portfolios as at 13 December 2023.

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Australian income tax and reporting obligations

Matters requiring further investigation include:

- For income and gains derived from assets held by Brite in its capacity as trustee on behalf of Brite clients, determining the appropriate Australian taxation treatment of these items, including whether Brite has any liability to tax in its capacity as trustee on the income and gains. This will need to be determined for periods pre-appointment of the Receivers and post-appointment of the Receivers for the following reasons:
 - Pre-appointment tax liabilities may reduce the value of beneficiary portfolio balances at 13 December 2023, and the ATO may also be an unsecured creditor of the trust; and
 - Post-appointment tax liabilities must be paid prior to distribution of any proceeds from realisation of assets and receipt of post-appointment income.
- Determination of whether foreign income derived by Brite in its capacity as trustee is eligible for concessional tax treatment under the Investment Manager Regime in Division 842-I of the *Income Tax Assessment Act 1997* (ITAA 1997), or whether income derived by Brite in its capacity as trustee is subject to tax under the general trust income provisions of Division 6 of the *Income Tax Assessment Act 1936* (ITAA 1936).
- Where Brite clients are presently entitled to income of the trust, determination of whether non-resident clients are 'superannuation funds for foreign residents' as defined in section 118-520 of the ITAA 1997, and whether interest and dividend income distributed by Brite would be exempt income for these non-resident clients in their country of tax residence, meaning Brite would not be required to withhold and remit tax to the ATO pursuant to the withholding tax exemption available in section 128(3)(jb) of the ITAA 1936.
- The capacity in which Brite has entered into the Margin Loan facility with Interactive Brokers Australia Pty Ltd, and the extent to which interest charged on this loan is available as a deduction against income of Brite in its capacity as trustee.

Foreign withholding tax and reporting obligations

We understand that the vast majority of beneficiaries (residing across multiple jurisdictions) have invested via Corporate Trustees located in a number of offshore locations including Malta, Gibraltar, Guernsey, Isle of Man, Hong Kong and United Kingdom (UK).

Matters that require further investigation, and also require the Receivers to obtain formal advice from tax and legal advisers in foreign jurisdictions, and potentially undertake engagement with competent taxation authorities in the foreign jurisdictions include the following:

United States FATCA compliance

- You have provided us with documentation indicating that prior to your appointment, Brite previously applied to the IRS, and was granted 'qualified intermediary' (QI) status for US Foreign Account Tax Compliance Act (FATCA) purposes.



- Brite did not comply with its QI obligations prior to the appointment of the Receivers. The Receivers have located correspondence between Brite representatives and BDO US where it appears Brite sought to rectify its non-compliance with QI obligations prior to your appointment.
- This correspondence indicates that Brite had a withholding tax obligation of approximately US\$1 million to remit to the IRS in its capacity as QI for US resident Brite Clients for the years ended 31 December 2020 to 31 December 2022.
- BDO US had drafted forms to allow Brite to make this disclosure, but it appears these forms were not lodged, and the withholding tax liability was not remitted prior to the appointment of the Receivers.
- Brite's pre-appointment, and by extension, the Receivers' post-appointment obligations under the Foreign Account Tax Compliance Act (FATCA) in respect of clients of Brite who are US residents.
- As of June 2024, IBA have commenced withholding 30% tax from income received on Brite's behalf in respect of Brite's US sourced investments. Whether this withholding is appropriate, and whether it alleviates Brite's obligations to withhold and remit tax is still to be determined.
- Further work is required to determine:
 - The impact of Brite's non-compliance with its QI obligations prior to the appointment of the Receivers, and whether any liability due to the Internal Revenue Service (IRS) is required to be deducted from client portfolio values at 13 December 2023;
 - Brite's ongoing requirement to comply with QI obligations post-appointment, and the impact on the Trust Assets available for distribution should Brite be required to remit withholding taxes to the IRS; and
 - Whether tax withheld by IB from June 2024 alleviates Brite's requirement to withhold and remit taxes to the IRS under the US FATCA provisions.

Other taxation matters

On behalf of the Receivers we are continuing to seek advice on the high-level taxation outcomes of distributions being made to Brite Clients in the various jurisdictions where Brite clients and Corporate Trustees are located, including, but not limited to:

- Withholding taxes payable on distributions made through Corporate Trustees in various foreign jurisdiction (if any);
- Categorisation of distributions being made to Brite Clients (i.e. are distributions a return of capital, or compensation for loss); and
- Determining the ultimate global taxation of distributions received by non-resident Brite clients in order to advise Brite clients of their indicate net distribution outcomes under various distribution scenarios.



Conclusion

We understand that your investigations of company records to date have not uncovered any formal Australian or foreign taxation advice sought or received by Brite in respect of its Australian fund management operations, apart from the correspondence with BDO US in respect of US FATCA provisions, which we note was not ultimately lodged with the IRS.

The fact that Brite has clients in various foreign jurisdictions provides added complexity to the taxation matters, as both Australian and foreign tax advice must be obtained. Whilst we will continue to work towards resolution of these matters, these matters are likely to take a number of months to appropriately investigate and resolve.

Furthermore, the above matters are the current 'known' taxation matters to be resolved, and further matters may arise for consideration as you continue your investigations of the company.

As noted above, we consider that resolution of these matters is critical not only to establishing taxation obligations of Brite during the period of Receivership in order to determine the pool of funds available for distribution, but also to establish any pre-appointment withholding tax liabilities that are required to be taken into account in determining the valuation of individual client portfolios as at 13 December 2023.

We thank you for the opportunity to assist you in this matter and trust that you will contact us if you have any queries.

Yours sincerely
Findex (Aust) Pty Ltd
 trading as **Crowe Australasia**

COREY BEAT
 Partner

DISCLAIMER

The above comments and have been made specifically in response to your request for this advice on behalf McGrathNicol (the Client). Accordingly, neither Crowe (the firm) or any member or employee of the firm undertakes any responsibility in any way whatsoever to any person or company other than the Client for any errors or omissions in this paper, however caused.

The above advice has been prepared on the basis of taxation law as at 16 October 2024. We have not been engaged by the Client to update the contents of this paper to reflect legislative or judicial amendment to law occurring after that date. Therefore the firm can accept no responsibility for any outcomes that differ to the above arising from a change to the legislation. For this reason, it is strongly recommended that no party proceed with any of the transactions contemplated in this paper without first seeking professional advice in light of the then current legislation and practices.

Bespoke Asset Review

18 October 2024

Summary

In aggregate, the bespoke assets are not high risk and do not impose excessive risks on the overall portfolio of assets.

Because the general asset pool is well diversified and a suitable risk level for general investors, no single bespoke asset represents a volatility threat to the total pool.

Introduction

All the assets held by Brite Advisors on Interactive Brokers have been allocated into three pools: model portfolio allocations, bespoke assets, and cash. Brite Advisors clients could choose to invest in one of 49 model portfolios offered by Brite Advisors, or they could direct their funds into specific assets of their choice. The latter are referred to as bespoke assets.

Clients made their bespoke directions prior to December 2023.

The purpose of this report is to provide an overview of the bespoke assets' risk levels and whether those assets are suitable for the client base.

All values are in US dollars, and correct at the close of trading 17 October 2024

What should be held?

There are 394 beneficiaries with 2,037 bespoke allocations in 691 assets reported in AutoRek, the system that represents what clients should hold.

We can identify all 691 assets. 67 assets are OTC¹ traded: not on Interactive Brokers or any exchange, mainly the structured notes. A further 12 are delisted, liquidated, or acquired, meaning they no longer trade, and are either worthless, or would have been exchanged for cash.

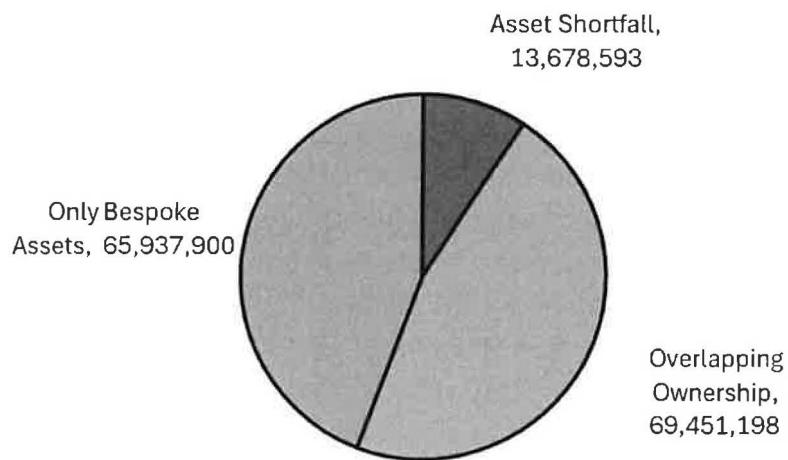
The value of the 612 remaining assets, which would normally be expected to be present in the Interactive Brokers accounts, is US\$149.07 million as of 17 October 2024. If all assets from AutoRek were present and accounted for, this is the value of bespoke assets we would expect to see on Interactive Brokers.

In the Brite Advisors' accounts on Interactive Brokers, there are \$135.39 million in assets that correspond to the bespoke holdings, covering 511 assets. Some of these assets are held in both bespoke holdings and model allocations, and there is a shortage in the total,

¹ OTC: Over The Counter assets are traded privately between two parties, as opposed to exchange traded, where the trade occurs on a regulated and observed basis. OTC asset prices are not generally public information, and they are not traded through Interactive Brokers.

so ownership or allocation between model portfolios and bespoke holdings is not clear, and we cannot necessarily attribute them to bespoke holdings. In the Interactive Brokers accounts there is therefore no more than \$135.39 million of the \$149.07 million, which is a \$13.68 million shortfall, or 9.2% of the assets as of 17 October 2024.

Roughly half of the \$135.39 million in Interactive Broker assets attributed to bespoke investors is in assets only held by bespoke investors (\$65.9 million) vs those in assets also held in model portfolios (\$69.5 million).



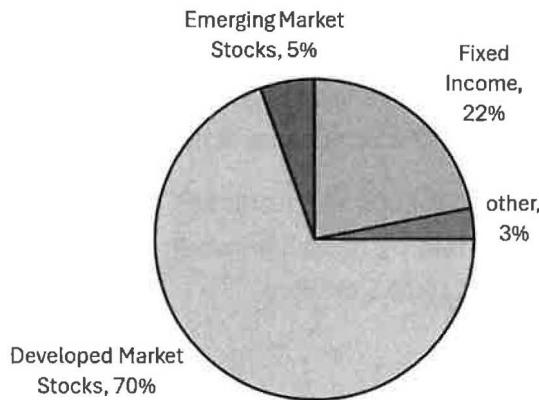
Total assets held in Brite Advisors' Interactive Brokers accounts are \$711.56 million as of 17 October 2024. Bespoke assets are therefore 19.03% and bespoke only assets (i.e. with no overlap with model portfolios) are 9.27% of total assets.

Cash

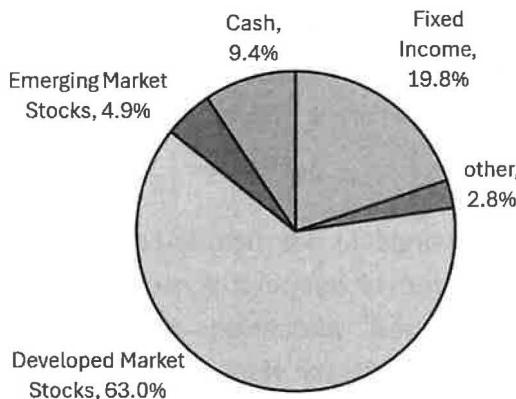
These bespoke security holdings do not include cash holdings. Cash holdings are not specifically allocated as model or bespoke. A model portfolio investor may also hold cash, but no bespoke securities. Allocations of cash were client-directed, which is similar to the bespoke securities, which were client-directed, but it is not appropriate to net the two asset classes together. Bespoke investors are entitled to a portion of the overall cash, but given the total asset shortfall, the exact amount is unclear.

The cash level in Interactive Brokers accounts is 9.38% of total assets. For the purposes of risk analysis, we could assume a 9.38% cash allocation across all investors, which would take total bespoke assets to \$148.1 million. A higher cash level reduces the risk faced by investors.

How risky are these assets?



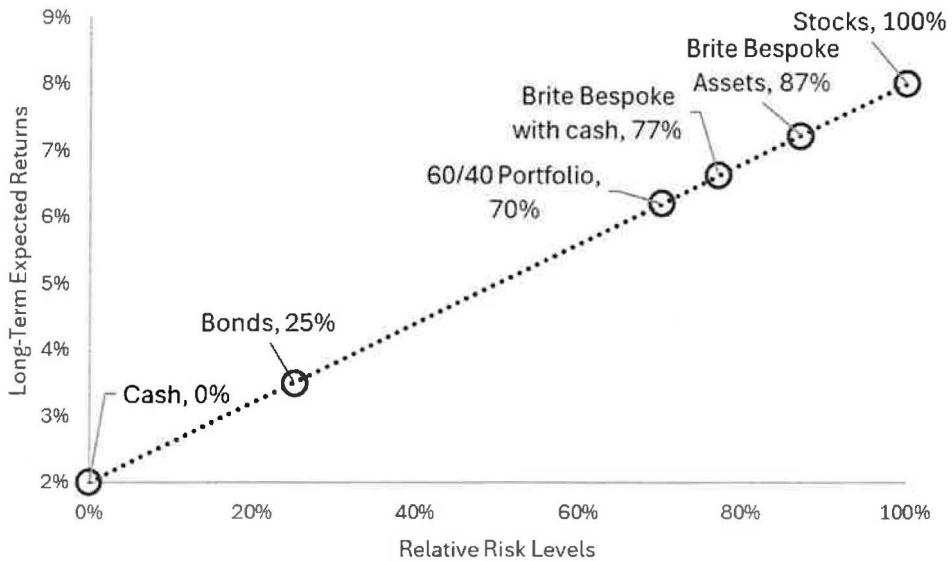
The \$135.4 million in Interactive Broker assets attributed to bespoke investors, excluding cash, is roughly split 75% to stocks and 25% to bonds, as shown in the pie chart above. A balanced portfolio is generally considered to be 60% stocks and 40% bonds. The bespoke assets are therefore considered higher risk than a normal balanced portfolio. This is not surprising, as bespoke investors are more likely to be more sophisticated investors, which generally makes them more tolerant of risk. There is a low emerging markets component (a higher risk asset class), which results in a lower risk profile than if there was a more significant emerging markets component. Other assets include Gold ETFs, along with silver, natural gas and other commodities, and a large holding in a 60/40 ETF.



If we include 9.38% cash in the analysis, the portfolio's risk level and expected returns is materially lower, being closer to the standard 60/40 portfolio, but still higher risk.

Risk can be represented on a securities market line which maps relative risk levels to expected returns. This can be a useful way to visualise the risk that investors are exposed to. 100% is the average risk for stocks, or the risk level (and as a result, the expected return) of investing in a simple S&P500 ETF. This is not maximum risk at all, but average risk for stocks. 0% risk would be an all-cash portfolio. Under this representation, the measured Brite Bespoke Portfolio risk is 87% when weighting the risk of each individual

security by its value. When we include cash, the Brite Bespoke Portfolio risk is 77%. This compares to a standard 60/40 portfolio at 70%, which we consider a well-balanced portfolio for pension investors. The risk is higher, with reason, but not excessive in my view.



In my view, the risk of the portfolio is higher in the bespoke assets compared to model assets. This reflects the historic preferences of the bespoke investors. Although some investors' risk appetite may have changed, there is only a small risk differential when compared with the model portfolio in aggregate.

Are there any really risk assets in there?

There are 511 assets in the bespoke holdings on Interactive Brokers. There are \$1,032,182 in assets I consider very high risk, or 0.76% of total bespoke assets. This is not a large systematic risk for the assets as a whole, as a maximum drawdown of 0.76% on these assets would not meaningfully impact the total portfolio value. However, if an individual bespoke account has a high weighting in these assets, there could be high risk to that investor (although this would be in line with their previous investment directions).

The riskiest stocks include shares in Coinbase, a cryptocurrency trading platform, a Blockchain ETF, and a digital transformation ETF. These are typical higher risk investments, and by no mean un-investable or inappropriate assets to find in a bespoke account.

I do not view the total asset mix as containing an excessive exposure to high risk assets.

Would a stop-loss help to reduce risk?

A stop loss is an arrangement where holdings in an asset will automatically be sold if the price falls to a certain price. For example, Apple trades at \$232. If we enter into a stop-loss at \$200, when the share price falls to \$200 the holdings are automatically sold at the market price without consulting the clients.

If we unilaterally imposed stop-losses on the bespoke assets we would be forcing the bespoke investors to lock in a loss, without potential upside if the asset price rebounds. The sun also rises, and if Apple stock prices fell, there is a balanced probability of rebound. For example, Apple share prices fell from \$234.8 on 16 July 2024 to \$207.2 on 6 August, and back up to \$232 on 17 October 2024. The best strategy for investors is generally considered to stay invested through the cycles and benefit from long-term value generation.

Presumably the investor wants to be exposed to the risk of upside and downside in an asset, which is why they directed a bespoke order to hold it. It is not a reasonable assumption that they want to limit this exposure.

Stop-losses automatically sell at the market price without oversight from the Fund Manager or Trader, which may be a very poor price if the stock has suddenly fallen and liquidity dries up.

Stop-losses are not normal for brokerage accounts, and I cannot recommend them in any circumstance. Investors should not buy any assets where they think a stop-loss is necessary. In my opinion it would be unfair to impose stock-losses and lock-in any downside for investors without their consent.

Risk mapping

The fundamental tenet of investing is to match investor risk appetite with invested assets. Bespoke investors directed their investments, so as long as they were well-informed in their decisions we can be confident that at the time their risk appetite matched the assets. It is worth noting that investors take on higher risk because they want higher returns, and if we mandate any reduction in risk then we will be mandating lower returns for the investors as well.