



24 February 2025

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

**ACN 135 024 412**

**(Brite Advisors)**

**Updated Court Orders in relation to pension withdrawal protocol**

I refer to our previous circulars to Corporate Trustees and Beneficiaries and adopt the defined terms contained in those circulars.

As foreshadowed in previous correspondence, the Receivers sought orders from the Court to amend the current pension withdrawal cap to include certain bespoke assets (up to 30% of the value of the relevant asset/s). At the hearing on 19 February 2025, the Court made the orders sought. Please refer to orders 2 and 3 of the enclosed orders of Justice O'Sullivan dated 19 February 2025.

**1 Pension Withdrawal Amendment – Orders made on 19 February 2025**

As a result, the cap on permitted withdrawals is increased to be the aggregate of:

- 50% of the value of the relevant Beneficiary's cash holdings and model portfolio assets; and
- 30% of the value of the Beneficiary's "Pension Entitlement Bespoke Assets" recorded in the 13 December 2023 Data.

It is important to note that not all bespoke assets are eligible to be included in this calculation. The term "Pension Entitlement Bespoke Assets" is defined in the Court orders to mean either:

- Bespoke assets held on the IB Platform where there is no variance between the 13 December 2023 Data and the actual holdings of Brite Advisors; or
- Bespoke assets held on the IB Platform where there is a variance between the 13 December 2023 Data and the actual holdings of Brite Advisors, but (i) those assets are designated as held by a single Beneficiary in the 13 December 2023 Data, and (ii) the actual holding of Brite Advisors is no less than 60% of the holding recorded in the 13 December 2023 Data.

We appreciate that the wording of the Court order is complex. It is intended to ensure that bespoke assets can be included in the withdrawal cap calculation, so long as they do not prejudice the position of other Beneficiaries.

If you have any queries as to whether certain bespoke assets are "Pension Entitlement Bespoke Assets" please contact us.

**2 Ongoing withdrawal process**

Please continue to submit pension withdrawal requests in accordance with the current process and importantly via corporate trustees (where applicable). In view of recent enquiries from Beneficiaries, the Receivers confirm the following:



- As has been the case to date, PCLS payments and/or "new" requests from Beneficiaries becoming of pension age and/or commencing retirement will be considered by the Receivers in accordance with existing withdrawal parameters.
- The change in the withdrawal protocol does not mean that all Beneficiaries are entitled to withdraw (i) 50% of the value of their cash holdings and model portfolio generally, and/or (ii) 30% of the value of their bespoke asset holdings generally. The updated Court Orders are to support Beneficiaries who are reliant on receiving ongoing regular pension withdrawals to fund living costs to continue to do so, as was approved by the Court on 21 December 2023.

In the event there is some genuine hardship circumstances relevant to any Beneficiary's situation, the Court Orders allow for some (albeit limited) scope for the Receivers to consider irregular withdrawal requests (outside of the above Court parameters). For the Receivers to consider this however, specific circumstances and documentary evidence need to be disclosed regarding the requirement for withdrawal funds requested under hardship circumstances.

### 3      **Further updates**

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/brite-advisors-pty-ltd-frequently-asked-questions/>. This page will be continually updated as new information that is relevant to Beneficiaries and Corporate 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](mailto:briteadvisors@mcgrathnicol.com).

Yours faithfully

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

A handwritten signature in black ink, appearing to read 'Linda Smith'.

Linda Smith

*Receiver and Liquidator*

Encl. Orders of the Federal Court of Australia dated 19 February 2025



Federal Court of Australia

District Registry: Western Australia Registry

Division: General

No: WAD13/2024

**AUSTRALIAN SECURITIES & INVESTMENTS COMMISSION** and others named in the schedule  
Plaintiff

**BRITE ADVISORS PTY LTD ACN 135 024 412 (RECEIVERS AND MANAGERS APPOINTED) (IN LIQUIDATION)**  
Defendant

## ORDER

**JUDGE:** Justice O'Sullivan

**DATE OF ORDER:** 19 February 2025

**WHERE MADE:** Perth

### For the purposes of this order:

“Eligible Beneficiaries” means all Beneficiaries who (a) have completed the Identity Proofing process, and (b) have completed the Entitlement Verification process.

“Eligible Bespoke Assets” means any asset identified in a schedule of assets to be published by the Receivers, which shall include (a) bespoke assets held on the IB Platform where there is no variance between the 13 December 2023 Data and the actual holdings of Brite Advisors, and (b) bespoke assets held on the IB Platform where there is a variance between the 13 December 2023 Data and the actual holdings of Brite Advisors, but those assets are held by a single Beneficiary according to the 13 December 2023 Data. The Receivers may in their discretion exclude any assets from the schedule of assets to be published.

“Entitlement Verification process” means the entitlement verification process contemplated by Order 10 of the Orders made on 2 September 2024 in this matter.

“Identity Proofing process” means the Identity Proofing process contemplated by Order 8 of the Orders made on 2 September 2024 in this matter.

“Mapped Beneficiary” means any Beneficiary which falls into one of the following categories:

- a. The Beneficiary has expressly consented to the disclosure of their information to a Corporate Trustee; or
- b. The Beneficiary has not consented to the disclosure of their information to a particular Corporate Trustee, but by reconciling the records of a Corporate Trustee with those of Brite Advisors, the Receivers have formed the view that they have identified the Corporate Trustee that acts as trustee for that Beneficiary.

“Pension Entitlement Bespoke Assets” means either:



- a. Bespoke assets held on the IB Platform where there is no variance between the 13 December 2023 Data and the actual holdings of Brite Advisors; or
- b. Bespoke assets held on the IB Platform where there is a variance between the 13 December 2023 Data and the actual holdings of Brite Advisors, but (i) those assets are designated as held by a single Beneficiary in the 13 December 2023 Data, and (ii) the actual holding of Brite Advisors is no less than 60% of the holding recorded in the 13 December 2023 Data.

## **THE COURT ORDERS THAT:**

### **Permitted Bespoke Trading Instructions**

1. The Receivers would be acting properly and are justified, for the purposes of exercising powers under Order 8 of the Orders made on 6 February 2024 in this matter, in dealing with Eligible Bespoke Assets as follows:
  - a. The Receivers may offer Eligible Beneficiaries whose verified entitlements as stated in their Valuation Notices include Eligible Bespoke Assets with an option to give instructions to sell those holdings;
  - b. The Receivers may determine, at their absolute discretion, the time at which to provide this option and the period during which such instructions may be given;
  - c. If instructions are received from those Eligible Beneficiaries (such instructions to be given through their Corporate Trustee where applicable), the Receivers may (but not must) instruct the Interim Fund Manager to sell that holding in a manner and over a period of time considered to be appropriate on advice from the Interim Fund Manager;
  - d. The Receivers are to deposit the cash proceeds of that sale in a bank account or term deposit, without converting the denominated currency and comingled only with the proceeds of other such sales, with an Australian Authorised Deposit-Taking Institution; and
  - e. The Receivers are to hold the funds until such time as that Eligible Beneficiary's rights to those funds can be finally determined and a distribution can be made.

### **Pension Withdrawal Amendment**

2. Order 4(b) of the Orders made on 21 December 2023 in WAD262/2023, as varied by Order 11 of the Orders made on 2 September 2024 in WAD13/2024, be varied by:
  - a. Deleting the words "50% of the value of the Beneficiary's cash holdings and model portfolio assets recorded in the transactional data set obtained by the Receivers showing the value of each Beneficiaries' investments they ought to have had as at 13 December 2023, and referred to in the Receivers' Fourth Report dated 9 August 2024 as the 13 December 2023 Data"; and
  - b. Replacing those words with "the aggregate of (i) 50% of the value of the Beneficiary's cash holdings and model portfolio assets, and (ii) 30% of the value of the Beneficiary's Pension Entitlement Bespoke Assets (as defined in



the Orders made on [19] February 2025 in WAD 13/2024), recorded in the transactional data set obtained by the Receivers showing the value of each Beneficiaries' investments they ought to have had as at 13 December 2023, and referred to in the Receivers' Fourth Report dated 9 August 2024 as the 13 December 2023 Data".

3. Order 9(b) of the Orders made on 6 February 2024 in WAD13/2024, as varied by Order 11 of the Orders made on 2 September 2024, be varied by:
  - a. Deleting the words "50% of the value of the Beneficiary's cash holdings and model portfolio assets recorded in the transactional data set obtained by the Receivers showing the value of each Beneficiaries' investments they ought to have had as at 13 December 2023, and referred to in the Receivers' Fourth Report dated 9 August 2024 as the 13 December 2023 Data"; and
  - b. Replacing those words with "the aggregate of (i) 50% of the value of the Beneficiary's cash holdings and model portfolio assets, and (ii) 30% of the value of the Beneficiary's Pension Entitlement Bespoke Assets (as defined in the Orders made on [19] February 2025 in WAD 13/2024), recorded in the transactional data set obtained by the Receivers showing the value of each Beneficiaries' investments they ought to have had as at 13 December 2023, and referred to in the Receivers' Fourth Report dated 9 August 2024 as the 13 December 2023 Data".

### **Bishops Clients Entitlements**

4. The Receivers would be acting properly and are justified, in treating:
  - a. the administrators appointed to Corinthian Pension Trustees Limited (CPTL) as the representative of the group of unknown Beneficiaries whose entitlements are recorded in the 13 December 2023 Data with the account reference "411040-re Bishop Clients" (Bishops Clients);
  - b. the deposit of funds onto the IB Platform which took place on 24 October 2022 for the Bishops Clients as an investment to which the Bishops Clients are entitled; and
  - c. the administrators appointed to CPTL as having all authority which the Bishops Clients would have to make decisions and communicate with the Receivers regarding the Bishops Clients' entitlement, until further order of the Court.
5. Any party with sufficient interest has liberty to apply for the variation of Order 4.

### **Opt-out Beneficiary Entitlements**

6. In circumstances where:
  - a. a Beneficiary has failed to complete the Identity Proofing process or has, prior to the Entitlement Verification process, asked that the Receivers cease contacting them or otherwise indicated that they do not wish to further participate in the Receivership; and
  - b. the Beneficiary's entitlement according to the 13 December 2023 Data would be US\$2,000 or less;



- c. the Receivers would be acting properly and are justified in:
- d. ceasing to attempt to communicate with those Beneficiaries;
- e. calculating that Beneficiary's entitlement in accordance with the Orders made on 2 September 2024 in WAD 13/2024 and treating that as their verified entitlement; and
- f. once final distribution orders are made, using that Beneficiary's verified entitlement in calculating the amount to be distributed in respect of that Beneficiary.

### **Deceased Estate Beneficiaries**

7. In circumstances where:
  - a. a Beneficiary has failed to complete the Identity Proofing process and the Receivers have been informed that the Beneficiary is now deceased; and
  - b. the Beneficiary's entitlement according to the 13 December 2023 Data would be US\$10,000 or less;
  - c. the Receivers would be acting properly and are justified in:
  - d. ceasing to attempt to take further steps to establish the authority and identity of the executor of the Beneficiary's estate or the person who is otherwise authorised to deal with the Receivers in respect of the Beneficiary's entitlement;
  - e. calculating that Beneficiary's entitlement in accordance with the Orders made on 2 September 2024 in WAD 13/2024 and treating that as their verified entitlement; and
  - f. once final distribution orders are made, using that Beneficiary's verified entitlement in calculating the amount to be distributed in respect of that Beneficiary.

### **Corporate Trustee Disclosure**

8. The Receivers would be acting properly and are justified in disclosing relevant information about each Mapped Beneficiary to their identified Corporate Trustee, including but not limited to information which is likely to be "personal information" as defined by the *Privacy Act 1988* (Cth) (Personal Information).
9. For the purposes of clause 6.2(b) of Schedule 1 to the *Privacy Act 1988* (Cth), being the Australian Privacy Principles, order 8 above has the effect of an order authorising the use or disclosure of the Personal Information.

### **Trading Orders**

10. Order 9 of the orders made on 6 February 2024 (and as amended by order 1 of the orders made on 10 January 2025) be further amended by deleting the words "28 March 2025" and replacing them with "30 April 2025".
11. Order 10 of the orders made on 6 February 2024 (and as amended by order 2 of the orders made on 10 January 2025) be further amended by deleting the words "28 March 2025" and replacing them with "30 April 2025".



## Publication Orders

12. The Receivers be authorised to publish on the creditor website established by the Receivers, with such redactions as permitted by the Court:

- a. the sixteenth affidavit of Linda Methven Smith affirmed on 11 February 2025 (excluding its annexures) filed in these proceedings; and
- b. the seventeenth affidavit of Linda Methven Smith affirmed on 18 February 2025 (excluding its annexures) filed in these proceedings.

Date orders authenticated: 20 February 2025

*Sia Lagos*  
Registrar

Note: Entry of orders is dealt with in Rule 39.32 of the *Federal Court Rules 2011*.



## Schedule

No: WAD13/2024

# Federal Court of Australia

## District Registry: Western Australia Registry

## Division: General

## Interested Person

LINDA METHVEN SMITH AND ROBERT KIRMAN IN  
THEIR CAPACITY AS RECEIVERS AND MANAGERS OF  
BRITE ADVISORS ACN 135 024 412 (RECEIVERS AND  
MANAGERS APPOINTED) (IN LIQUIDATION)

## Interested Person

ADRIAN CHARLES HYDE AND JOANNE SANDRA WILD  
IN THEIR CAPACITIES AS JOINT ADMINISTRATORS OF  
RELAY ADMINISTRATION LIMITED, CORINTHIAN  
PENSION TRUSTEES LIMITED AND PANTHEON  
TRUSTEES LIMITED (ALL IN ADMINISTRATION)