



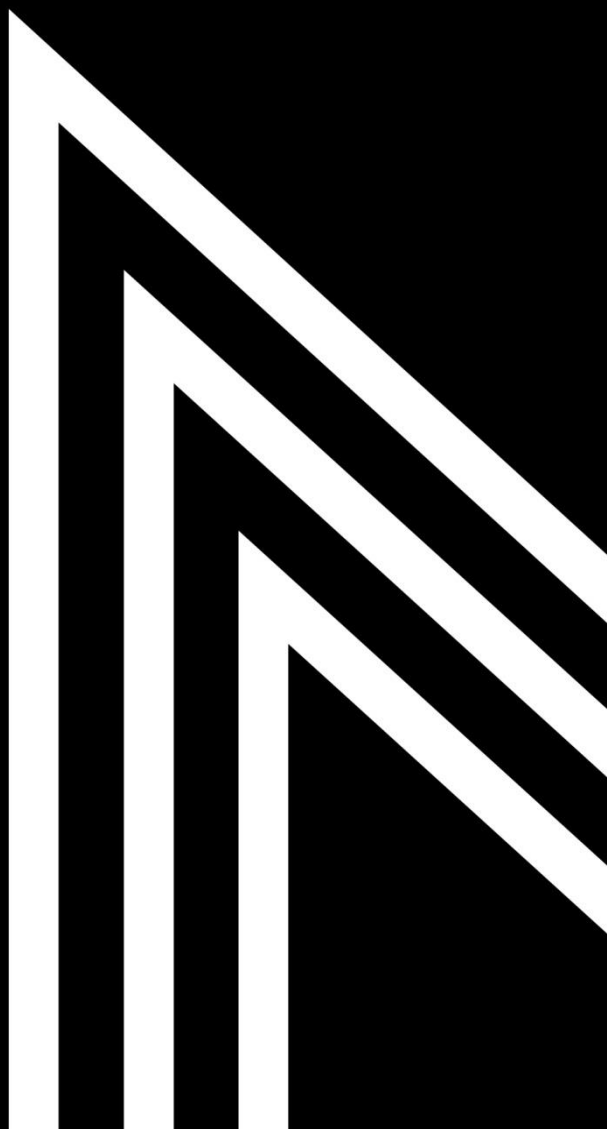
# **ASIC v Brite Advisors Pty Ltd WAD 13 of 2024**

**Receivers and Managers' Supplementary Report for the  
Federal Court of Australia**

4 December 2024



McGrathNicol



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## Glossary

| Term                            | Meaning   |
|---------------------------------|---|
| \$'000                          | Thousands of Australian Dollars   |
| 9 November Orders               | Court orders dated 9 November 2023 in Federal Court Proceedings WAD 262 of 2023 as varied by subsequent orders  |
| 13 December Orders              | Court orders dated 13 December 2023 in Federal Court Proceedings WAD 262 of 2023  |
| 13 December 2023 Data           | The updated Raw Data which reports the value of each Beneficiaries' investment that they ought to have had with Brite Advisors as at 13 December 2023 |
| 21 December Orders              | Court orders dated 21 December 2023 in Federal Court Proceedings WAD 262 of 2023  |
| 6 February Orders               | Court orders dated 6 February 2024 in Federal Court Proceedings WAD 262 of 2023 and WAD 13 of 2024  |
| 5 June Orders                   | Court orders dated 5 June 2024 in Federal Court Proceedings WAD 13 of 2024  |
| 21 August Orders                | Court orders dated 21 August 2024 in Federal Court Proceedings WAD 13 of 2024   |
| 2 September Orders              | Court orders dated 2 September 2024 in Federal Court Proceedings WAD 13 of 2024   |
| 29 October Orders               | Court orders dated 29 October 2024 in Federal Court Proceedings WAD 13 of 2024  |
| ACN                             | Australian Company Number   |
| Act                             | Corporations Act 2001 (Cth)   |
| Administrators                  | Pension scheme administrators, as defined by the Finance Act 2004 (UK), acting on behalf of the Beneficiaries   |
| Asset Preservation Orders       | Asset Preservation Orders made by the Federal Court of Australia on 25 October 2023   |
| AUD / AU\$ / \$                 | Australian Dollar   |
| AutoRek                         | AutoRek Process Integration Limited   |
| BAG                             | Brite Advisory Group Limited (HK) (Company number 2202650)  |
| Beneficiaries / Beneficiary     | Individuals whose superannuation and pension funds are under management by Brite Advisors   |
| Beneficiary / Salesforce Portal | The Salesforce Org online portal which will allow Beneficiaries to view the calculation of the value of their investments as at 13 December 2023      |
| BHKL                            | Brite Hong Kong Limited (formerly Genesis Investment Management Limited) (Hong Kong Company number 16332233)  |
| BHKL HSBC Accounts              | BHKL's multi-currency HSBC bank accounts for managing operating funds and client funds  |
| Brite Advisors                  | Brite Advisors Pty Ltd (AUS) (Company number 135 024 412)   |
| Brite Group                     | BHKL and its subsidiaries and related/associated entities including Brite Advisors  |
| Brite US                        | Brite Advisors USA, Inc. (USA) (Company number 98-0474981)  |
| c.                              | circa   |
| CEO                             | Chief Executive Officer   |
| Client AuM or Trust Assets      | Client assets under management by Brite Advisors, being all property, assets and undertakings held by Brite Advisors on trust for another             |
| Connaught West Limited / CWL    | Connaught West Limited (HK) (Company number 2361818)  |

| Term                                 | Meaning  |
|--------------------------------------|--|
| Corporate Trustees                   | Pension scheme administrators (in their capacity as the representatives appointed by trustees of pension schemes) purportedly acting on behalf of the Beneficiaries  |
| Court                                | Federal Court of Australia   |
| Court Orders                         | 9 November Orders, 13 December Orders, 21 December Orders, 6 February Orders and 5 June Orders, 21 August Orders, 2 September Orders, 29 October Orders  |
| Directors                            | The directors of Brite Advisors, being Keith Sedergreen, Dean Clarke and John Lymer  |
| Distribution Methodology Application | The application the Receivers will file with the Court, following a consultation period with Interested Parties, which will ask the Court to approve the Receivers' proposed method of distributing the Client AuM                       |
| EUR                                  | Euro   |
| Exit Fee                             | A fee charged by Brite to a Beneficiary upon exiting the Brite Platform within five years of investment  |
| Explanatory Memorandum               | A document that the Receivers will prepare and submit to the Court for approval which will explain the Receivers' proposed method of distributing the Client AuM and provide such other information that the Court considers appropriate |
| First Trustee Survey                 | First survey issued by the Receivers to Corporate Trustees dated 8 July 2024   |
| Fourth Report                        | The Receivers' Report to the Federal Court dated 9 August 2024   |
| FYXX                                 | Financial year ended 30 June 20XX  |
| GBG                                  | GBG Plc, the entity who the Receivers appointed to verify the identity of the Beneficiaries  |
| GBP                                  | Great British Pound  |
| GFS                                  | Global Fiduciary Solutions Limited (HK) (Company number 1753253)   |
| HK                                   | Hong Kong  |
| HSBC                                 | The Hongkong and Shanghai Banking Corporation Limited  |
| IB Accounts / IB Platform            | All identified accounts held by the Brite Group with IBA and IBHK  |
| IB Account Statements                | Statements for the IB Accounts   |
| IBA                                  | Interactive Brokers Australia Pty Ltd  |
| IBA Accounts                         | Identified accounts held by Brite Advisors with IBA  |
| IBA Master Account                   | Master accounts held on the IB Platform which each comprise three underlying sub-accounts  |
| IBA Master A                         | Accounts held by Brite Advisors with IBA within master account I5876295 including sub accounts I5876295, UL3311311 and UL3311312   |
| IBA Master B                         | Accounts held by Brite Advisors with IBA within master account I6075976 including sub accounts I6075976, UL6060948 and US6060949   |
| IBA Master C                         | Accounts held by Brite Advisors with IBA within master account I3214939 including sub accounts I3214939, U3214940 and U11423761  |
| IBA Master D                         | Accounts held by Brite Advisors with IBA within master account I12469256 including sub accounts I12469256, UL9224189 and US9224190   |
| IBHK                                 | Interactive Brokers Hong Kong Limited  |
| IBHK Accounts                        | Identified accounts held by BHKL with IBHK   |
| IBHK Master                          | Accounts held by BHKL with IBHK within master account I9876396 including sub accounts I9876396, UL9876936 and US9876937  |
| i-Convergence                        | i-Convergence Ltd  |

| Term                     | Meaning  |
|--------------------------|--|
| Interactive Brokers / IB | IBA, IBHK and affiliates   |
| Interested Parties       | The Corporate Trustees and the Beneficiaries, as well as any other person with a legal or equitable interest in the Client AuM                           |
| iPensions                | iPensions Group Limited (UK) (Company number 03683070)   |
| January Report           | The Receivers' Report to the Federal Court dated 24 January 2024   |
| Liquidators              | The Liquidators of Brite Advisors, being Linda Smith and Rob Kirman  |
| m                        | Millions   |
| March Report             | The Receivers' Report to the Federal Court dated 4 March 2024  |
| Minerva                  | Minerva Lending Plc  |
| Minerva Notes            | 10 Minerva Notes 6% June 2024 (Sedol: BYVKVX6) and one Minerva Note 6.00% Nov 2020 (Sedol: BF7P303)  |
| Moventum                 | Moventum S.C.A.  |
| Moventum Platform        | The online system which enables the Receivers to view the assets held by Moventum  |
| Mr Byrne                 | Martin Byrne, CEO of Brite US  |
| Mr Couch                 | Gordon Couch, Former Director of BAH, and formerly employed by BAG as Head of Compliance   |
| Mr Donnelly              | Mark Donnelly, CEO and Founder of the Brite Group  |
| Mr Flambard              | Adrian Flambard, financial advisor for certain Beneficiaries   |
| Mr Lymer                 | John Lymer, Director of Brite Advisors, Operations Manager, and Director of BAG until his resignation on 21 December 2023                                |
| obo                      | On behalf of   |
| October 2023 Position    | Historic AutoRek data which held a data set of all Beneficiary positions up to October 2023  |
| p.a.                     | Per annum  |
| Previous Reports         | Collectively, the December Report, January Report, March Report & August Report  |
| Proceedings              | Federal Court of Australia proceedings WAD 262 of 2023 and WAD 13 of 2024  |
| Property                 | The property of Brite Advisors as defined in the 13 December Orders  |
| PSG SIPP                 | PSG SIPP Limited (UK entity, Company number 07030395)  |
| Raw Data                 | The raw export of the October 2023 Position provided by i-Convergence  |
| Receivers                | The Receivers and Managers of the Trust Assets, being Linda Smith and Rob Kirman of McGrathNicol   |
| Report                   | This report dated 4 December 2024  |
| RoW                      | Rest of World (Brite Advisors' Beneficiaries excluding those located in the UK or the US)  |
| SalesForce               | SalesForce, Inc.   |
| SalesForce Org           | The 'org' held on SalesForce which Brite Advisors used to store client information and to report holdings and valuations to clients through a web portal |
| Sampled Beneficiaries    | A set of 66 Beneficiaries selected via the process explained at section 4.3 of the Fourth Report   |
| SEC                      | US Securities and Exchange Commission  |
| Second Trustee Survey    | Second survey issued by the Receivers to Corporate Trustees dated 16 October 2024  |
| SIPP                     | Self-invested personal pensions  |

| Term  | Meaning   |
|---|---|
| Starwell Consultancy                                | Starwell Consultancy Limited  |
| Structured Notes                                    | Debt security instrument  |
| Surrender Rebate                                    | A loan offered by Brite Advisors to allow Beneficiaries to discharge the surrender fee payable to their outgoing pension fund.                    |
| Surrender Rebate Fees                               | The repayments on the above-mentioned Surrender Rebate, generally in equal monthly instalments  |
| Trust Assets  | The property, assets and undertakings held by Brite Advisors on trust for another   |
| Twelfth Affidavit                                   | Twelfth affidavit of Linda Smith affirmed on 19 October 2024  |
| UK  | United Kingdom  |
| Upfront Transfer Fee                                | An upfront fee which was charged to some beneficiaries which had the effect of prepaying the Managed Portfolio Fees for a five-year period        |
| US / USA  | United States / United States of America  |
| USD\$'000   | Thousands of United States Dollars  |
| USD\$m  | Millions of United States Dollars   |
| USD / USD\$   | United States Dollar  |
| Westpac   | Westpac Banking Corporation   |
| Westpac Accounts                                    | Westpac Client Accounts and Westpac Operating Accounts  |
| Westpac Client Account(s) / Client Account(s)       | Brite Advisors multi-currency bank accounts for managing client funds   |
| Westpac Operating Account(s) / Operating Account(s) | Brite Advisors multi-currency bank accounts for managing operating funds  |
| Xero  | Xero Limited  |
| Xero Accounting Records                             | Brite Advisors' management accounts recorded in Xero and any reports extracted from the accounts, as defined in section 4.3 of the Fourth Report. |
| YTD24   | The period from 1 July 2023 to 13 December 2023   |

# 1 Introduction

## 1.1 Background

- 1.1.1 Linda Smith and Rob Kirman, Partners of McGrathNicol, were appointed to act as Receivers pursuant to orders of the Federal Court of Australia made on 13 December 2023 in the Proceedings. A copy of the 13 December Orders is enclosed at **Document 01**.
- 1.1.2 Since their appointment on 13 December 2023, the Receivers have taken steps to secure and preserve the Client AuM and determine Beneficiaries' entitlements. In parallel, the Receivers have continued investigations into the conduct of Brite Advisors prior to their appointment. With the Client AuM secured and processes in place to preserve the Client AuM and determine Beneficiaries' entitlements, the Receivers provide this Report to the Court in support of their application for orders establishing a framework and timeline for obtaining orders from the Court for the distribution of the Client AuM.
- 1.1.3 The purpose of this Supplementary Report is to supplement the analysis and findings of the Fourth Report in view of further investigations undertaken since issuing the Fourth Report. The Fourth Report and Supplementary Report outline the findings of the Receivers' investigations. It is intended that this will inform the Court (and those Interested Parties who may consider seeking to be heard) in considering both the Explanatory Memorandum and Distribution Methodology Application.
- 1.1.4 This Supplementary Report should be read in conjunction with the Fourth Report and there are certain sections which draw upon and should be considered in the context of the analysis presented in the Fourth Report. Those sections are noted in this Supplementary Report.

## 1.2 Books and records and limitation of Report

- 1.2.1 The books and records that the Receivers have had regard to in preparing this Report are set out in Appendix A to this Report and, where appropriate, specifically identified throughout the relevant sections.
- 1.2.2 The Receivers have issued several requests to the Directors to provide the complete books and records of Brite Advisors, the most recent request being on 24 April 2024. In addition, the Court made orders requiring the Directors to provide the Receivers with unfettered access to the books and records of Brite Advisors by the 21 December Orders. As the Receivers have previously reported, the Directors have not responded to the Receivers' information requests in a substantive way and have not adequately complied with the 21 December Orders.
- 1.2.3 In this Report, where the Receivers refer to their knowledge, information or belief as being based on having reviewed the books and records of Brite Advisors, they are referring to the information provided by the Directors and/or sourced from the client systems as set out in section 4.8 of the Fourth Report.
- 1.2.4 Limitations in respect of the books and records have been addressed in the Previous Reports.

## 1.3 Structure of Supplementary Report

- 1.3.1 The remainder of this Supplementary Report is structured as follows:
  - (a) Section 2 – Executive summary
  - (b) Section 3 – Supplementary findings – Brite US Advisory Fees
  - (c) Section 4 – Supplementary findings – Client AuM and Beneficiary entitlements
  - (d) Section 5 – Supplementary findings – Brite Advisors' misuse of Client AuM
  - (e) Section 6 – Corporate Trustees

## 1.4 Disclaimer

- 1.4.1 The information contained in this Report has been prepared on the basis of the documents listed in Appendix A. The documents used in support of our findings are identified throughout the Report.
- 1.4.2 We have not carried out an audit, nor have we verified any of the information provided to us, except where expressly stated. We have disclosed the source materials and/or assurances relied upon throughout this Report.

- 1.4.3 The information in this Report does not include all possible or relevant information in relation to the matter we have been instructed to investigate. In issuing this Report, we are not certifying that we have identified all relevant events and information. We have sought to identify all significant events from the information provided but provide no assurance that all such significant events and information have been identified.
- 1.4.4 For ease of review, the financial information is presented in United States dollars unless otherwise specified. The figures presented are sensitive to movements in foreign currency exchange rates and therefore may change subject to the source and timing of currency conversion.



## 2 Executive summary

### 2.1 Supplementary Report

2.1.1 The Supplementary Report is intended to act as an addendum to the Fourth Report. The purpose of this Supplementary Report is to supplement the analysis and findings of the Fourth Report in view of further investigations undertaken since issuing the Fourth Report.

2.1.2 The matters expanded on in the Supplementary Report are as follows:

- (a) Brite US Advisory Fees;
- (b) Client AuM and Beneficiary Entitlements;
- (c) Brite Advisors' misuse of Client AuM; and
- (d) Corporate Trustee feedback.

Key findings for each matter are summarised at the start of each section.

### 2.2 Updated indicative timetable

2.2.1 While the Receivers do not propose to seek approval from the Court to set a distribution timetable at the next hearing, the timetable is not an open-ended proposition. An updated indicative timetable is set out below:

| Indicative timetable in respect of the distribution of Trust Assets |   |  |                             |
|---|---|--|-----------------------------|
| No.   | Step  | Indicative/ <b>Completed</b><br>date   | Days after<br>previous step |
| 1.  | Receivers to file Framework Application   | <b>9 August 2024</b>                   |                             |
| 2.  | Framework Application Hearing   | <b>21 August 2024</b>                  | 12                          |
| 3.  | Receivers to file Explanatory Memorandum Application  | 4 December 2024                        | 105                         |
| 4.  | Explanatory Memorandum Application Hearing  | 13 December 2024                       | 9                           |
| 5.  | Explanatory Memorandum made available to Interested Parties and commencement of consultation period                                 | 16 December 2024                       | 3                           |
| 6.  | Consultation period ends  | 31 January 2025                        | 46                          |
| 7.  | Receivers to file Distribution Methodology Application  | 28 February 2025                       | 28                          |
| 8.  | Any Interested Parties seek leave to appear   | 14 March 2025                          | 14                          |
| 9.  | Interested Parties leave to appear hearing  | 21 March 2025                          | 7                           |
| 10.   | Any Interested Parties granted leave to appear to file submissions and evidence in relation to Distribution Methodology Application | 4 April 2025                           | 14                          |
| 11.   | Receivers' submissions in support of Distribution Methodology Application to be filed   | 18 April 2025                          | 14                          |
| 12.   | Distribution Methodology Application Hearing  | 25 April 2025                          | 7                           |
| 13.   | Court delivers judgment on Distribution Methodology Application   | Dependant on Court availability        |                             |
| 14.   | Receivers commence distribution of Client AuM in accordance with Court's judgment   | As soon as possible following judgment |                             |



- 2.2.2 The timetable will be impacted by uncertainties around Brite Advisors' tax position and any material disputes arising during the consultation period.
- 2.2.3 To the extent the timetable becomes dependant on taxation matters, the distribution timing may become reliant on the ATO's position.

### 3 Supplementary findings – Brite US Advisory Fees

#### Key findings

- Brite US CEO, Martin Byrne, previously advised the Receivers that Beneficiaries who had engaged Brite US as their financial advisor had not been charged Upfront Transfer Fees (typically, a 5-year advance of 1% advisory fees to Brite Advisors). The Receivers' review of agreements between Brite Advisors and Brite US clients indicated that Brite Advisors was not entitled to charge Upfront Transfer Fees to those Beneficiaries who had engaged Brite US as their financial advisor.
- Brite US made admissions in a response dated 31 July 2024 to the SEC complaint dated 1 November 2023 that *"since on or about August 1, 2019, the Company has received advances on advisory fees from and through BAG, and further admits that the Company has repaid portions of such advances to BAG as part of its participation on the Brite Platform."*
- No contractual arrangements between Brite Advisors and Brite US have been located (or provided to the Receivers by Brite US). The Receivers have not identified any Upfront Transfer Fee which has been recorded in the books and records of Brite Advisors against any client of Brite US.
- On 8 July 2024, the Receivers' legal representatives, HWL Ebsworth, provided Mr Byrne with a schedule of payments totaling USD\$16.2m paid from Brite Advisors to Brite US between 27 March 2019 and 15 September 2023. The Receivers requested an account from Brite US in respect of these payments, including demonstration as to entitlement to the funds of each transaction. Brite US has not provided the information requested.

#### 3.1 Overview

- 3.1.1 As outlined in section 4.3 of the Fourth Report, the Receivers undertook the exercise of reviewing certain documentation to (among other things) verify representations made by Brite US CEO, Mr Martin Byrne, regarding Beneficiaries who had engaged Brite US as their financial advisor not being charged Upfront Transfer Fees (typically, a 5 year advance of 1% advisory fees to Brite Advisors, refer section 4.3 of the Fourth Report).
- 3.1.2 The review was conducted on a sample basis and did not purport to be exhaustive. From the work undertaken, the review indicated that Brite Advisors was not entitled to charge Upfront Transfer Fees to those Beneficiaries who had engaged Brite US as their financial advisor, which was consistent with Mr Byrne's statement.
- 3.1.3 As set out in section 6.2 of the Fourth Report, the Receivers identified that during the period from 1 January 2021 to 13 December 2023, Brite US was paid USD\$9.8m which was accounted for as related party loans owed by Brite Advisory Group Ltd and Brite Advisory Holdings Ltd (BVI) (i.e. not recorded as fees paid to Brite US). The Receivers have not been provided with or located any contractual documentation between Brite US and Brite Advisors which governs these payments.
- 3.1.4 On 8 July 2024, the Receivers' legal representatives, HWL Ebsworth, provided Mr Byrne with a schedule of payments totalling USD\$16.2m paid from Brite Advisors to Brite US between 27 March 2019 and 15 September 2023 which were accounted for as related party loans as above. The Receivers requested an explanation from Brite US, including demonstration as to an entitlement to the funds of each transaction. Brite US has not provided the information requested.
- 3.1.5 The Receivers have more recently received information relating to a complaint brought against Brite US by the SEC whereby Brite US has admitted in its response that *"since on or about August 1, 2019, the Company has received advances on advisory fees from and through BAG, and further admits that the Company has repaid portions of such advances to BAG as part of its participation on the Brite Platform."* A copy of this response is enclosed at **Document 02**. From the Receivers' review of the contractual terms, there was no contractual basis for doing so. Despite this admission, the Receivers have not identified any contractual documentation with Brite US Beneficiaries including clauses relating to Upfront Transfer Fee or any record of Upfront Transfer Fees in the books and records of Brite Advisors against any client of Brite US (or any other Beneficiaries).

#### 3.2 Admissions from Brite US in response to SEC Complaint

- 3.2.1 Mr Byrne, the CEO of Brite US, has advised that Beneficiaries who had engaged Brite US as their financial advisor were not charged either Upfront Transfer Fees or Exit Fees. Mr Byrne advised that the omnibus disclosure provided to all Beneficiaries (i.e. the Statement of Acknowledgements exhibited to the Investment Advisory Agreement) *"expressly excludes Brite US clients from the 5% fee schedule"* (**Document 03**).

- 3.2.2 The Receivers outlined in section 4.3 of the Fourth Report, the Receivers undertook a detailed review of:
- (a) available contractual documentation between Brite Advisors and the Corporate Trustees; and
  - (b) terms issued by Brite Advisors to the Sampled Beneficiaries (the criteria used to establish the sample is explained further below).
- 3.2.3 That review was undertaken to identify what (i) withdrawals from Client AuM, and (ii) drawdowns on the margin loan facility were authorised by Beneficiaries, either directly or via their Corporate Trustee, with a view to ultimately identifying suspected unauthorised dealings with, or misuse of, Client AuM.
- 3.2.4 The review confirmed that Mr Byrne's representations regarding Upfront Transfer Fees and Exit Fees not being charged to Brite US Beneficiaries appeared to be consistent with the documentation reviewed.
- 3.2.5 Notwithstanding this, the Receivers note from Brite US's response to the SEC's complaint filed on 1 November 2023 against Brite US (Case No.: 23-cv-10212) that Brite US admits to receiving advances on advisory fees in its response to the SEC dated 31 July 2024 (**Document 02**). In paragraph 4 of the response, Brite US:
- "...denies the allegations in paragraph 4 of the Complaint, except admits that pursuant to the terms of the investment advisory agreement between the Company and its clients (hereinafter "Advisory Agreement"), the Company is entitled to receive investment advisory fees drawn directly from its advisory clients' accounts held by certain pension and retirement plan trustees outside the United States ("trustees"), further admits that advisory clients authorized the Company to deduct fees from their accounts, further admits that Brite Advisors Pty Ltd, an Australian limited company ("PTY"), collected the Company's investment advisory fees from advisory client accounts held by the trustees and disbursed the Company's collected fees to the Company, further admits that certain of the Company's investment advisory clients utilize an investment platform, the "Brite Platform," which is maintained by Brite Advisory Group, Ltd., a Hong Kong company ("BAG"), under a platform agreement dated as of August 1, 2019 between BAG and the Company, further admits that since on or about August 1, 2019, the Company has received advances on advisory fees from and through BAG, and further admits that the Company has repaid portions of such advances to BAG as part of its participation on the Brite Platform."*
- 3.2.6 The Receivers will endeavour to undertake further investigation into the above admission in the event that it becomes relevant to the proposed distribution methodology.

## 4 Supplementary findings - Client AuM and Beneficiary Entitlements

### Key findings

- As at 13 December 2023, Brite Advisors held USD\$653.7m in Client AuM. The Receivers' current estimate of the shortfall at 13 December 2023 is USD(\$97.6m) (or 13%), excluding the impact of potential taxation liabilities.
- As at 29 November 2024, the Receivers estimate Brite Advisors holds circa USD\$714.0m in Client AuM and has an estimated USD(\$11.2m) (or 1.5%) shortfall to Beneficiaries' claims as at 13 December 2023, excluding the impact of potential taxation liabilities and any feedback from the Valuation Notice process. **The Receivers stress that the quantum of the shortfall varies with time and may materially change due to a number of factors.** The primary reason for the decrease in the shortfall to date is the growth in assets held in the IBA Accounts.
- As at 29 November 2024, the Moventum Platform holds cash and securities valued at circa USD\$1.6m. The Receivers have been able to attribute the 16 structured notes to 12 specific Beneficiaries' holdings. There is no shortfall in the Structured Notes held on the GBP and USD accounts on the Moventum Platform.
- At the date of filing this Report, a total of 132 Beneficiaries totalling USD\$13.2m have not successfully completed the identity verification process with GBG, 1,296 Beneficiaries totalling USD\$519.8m have accepted their Valuation Notice and 84 Beneficiaries totalling USD\$32m have disputed their Valuation Notice. 181 Beneficiaries totalling USD\$82.1m have not received access to Salesforce yet as there are outstanding matters that must be resolved before the Receivers can calculate those Beneficiaries' entitlement.
- At the date of filing this Report, 231 Beneficiaries totalling USD\$67.6m with access to Salesforce had not accepted or disputed their Valuation Notice within the 21-day prescribed timeframe. As a result, the Receivers will proceed with the process on the basis that the entitlements for these Beneficiaries are as set out in their Valuation Notice.

### 4.1 Summary of shortfall (updated)

- 4.1.1 As at 13 December 2023, Brite Advisors held USD\$653.7m in Client AuM. The Receivers' current estimate of the shortfall at 13 December 2023 is USD(\$97.6m) (or 13%), excluding the impact of potential taxation liabilities.
- 4.1.2 The estimated shortfall has increased from the USD(\$96.3m) estimate provided in the Fourth Report, primarily as a result of changes to Beneficiary entitlements following the Receivers' verification of the 13 December 2023 Data. This shortfall excludes a provision for the potential outstanding tax liabilities which the Receivers are continuing to investigate. Changes in Beneficiary entitlements from the Fourth Report is set out at section 4.4.
- 4.1.3 As at 29 November 2024, the Receivers estimate Brite Advisors holds circa USD\$714.0m in Client AuM and has an estimated USD(\$11.2m) (or 1.5%) shortfall to Beneficiaries' claims as at 13 December 2023, excluding the impact of potential taxation liabilities.
- 4.1.4 The Receivers stress the quantum of the shortfall varies with time and may materially change due a number of factors including those set out in the section below.
- 4.1.5 The following section sets out the Receivers' current estimate of the shortfall at 13 December 2023 and 29 November 2024.

#### ***Estimated shortfall at 13 December 2023***

- 4.1.6 The Receivers' estimate of the total shortfall at 13 December 2023 is USD(\$97.6m) (or 13%), however, the Receivers' investigations into the quantum of the variance is ongoing as our understanding of the underlying information and situation of Brite Advisors develops. The Receivers stress that the quantum of the total shortfall may materially change due to a number of factors including, but not limited to the:
  - (a) ability of IBA to enforce a right of set off in respect of the margin loan (set out at section 4.6 of the Fourth Report);
  - (b) identification and recoverability of Client AuM held off the IB Platform;

- (c) the proceeds from any successful recovery actions made by the Receivers/Liquidators (set out at sections 5.4 and 5.5 of the Fourth Report);
- (d) the quantification and resolution of the potential tax liabilities identified with the ATO and IRS along with the identification of any other existing or potential liabilities with other tax authorities within the jurisdictions which Brite Advisors operated;
- (e) completion of verification work being undertaken by the Receivers to verify the individual Beneficiary positions reported in the 13 December 2023 Data (set out at section 3.4 of the Fourth Report); and
- (f) identification of any other Beneficiary claims and/or adjustments to their claims excluded from the 13 December 2023 Data.

4.1.7 The table below summarises the Receivers' estimate of the total shortfall between identified Client AuM and estimated Beneficiary entitlements as at 13 December 2023.

| Estimated shortfall in Client AuM and Beneficiary entitlements at 13 December 2023                           |               |             |               |
|--|---------------|-------------|---------------|
| USD\$m   | Fourth Report | This Report | Total         |
| <b>Client AuM held</b>   |               |             |               |
| IBA Accounts (including margin loan)   | 5.3           | n/a         | 645.0         |
| IBHK Accounts  | 5.3           | n/a         | 0.1           |
| Other Client AuM   | 5.4           | 4.2         | 8.6           |
| Potential tax liabilities  | n/a           | 4.3         | TBD           |
| Total Client AuM at 13 December 2023 (A)   |               |             | 653.7         |
| <b>Beneficiary entitlements</b>  |               |             |               |
| Beneficiary claims per 13 December 2023 Data (updated)   | 5.6           | 4.4         | 765.2         |
| Other Beneficiary entitlements   | 5.6           | 4.4         | (16.7)        |
| Total Beneficiary entitlements   |               |             | 748.5         |
| Connaught West Limited proof of debt   | n/a           | 4.1.8(h)    | 2.8           |
| Total Beneficiary entitlements (including other claims) (B)  |               |             | 751.3         |
| <b>Shortfall (A - B)</b>   |               |             | <b>(97.6)</b> |
| Shortfall (%)  |               |             | (13.0%)       |
| Source: Westpac Account Statements, IB Account Statements, Moventum Account Statement, 13 December 2023 Data |               |             |               |

4.1.8 Further details regarding the amounts represented in the table above is available in the respective sections of the Fourth Report and updated in this Report. The Receivers note the following regarding the shortfall analysis presented above:

- (a) **Basis of preparation** – The shortfall analysis presented above has been conducted on an aggregated basis and does not consider the impact of differing entitlements of Beneficiaries to certain Client AuM as set out in the Explanatory Memorandum.
- (b) **IBA Accounts (including margin loan)** – Client AuM held in the IBA Accounts is included net of the current margin loan position totalling USD(\$19.9m). The Receivers continue to engage with IBA regarding its entitlement to enforce any right of set off in respect of the margin loan facility against Client AuM (set out at section 3.3 of the Fourth Report). **Subject to the outcome of these investigations, this may decrease the quantum of the shortfall.**
- (c) **IBHK Accounts** – Whilst the Receivers have secured the recovery of these amounts to the IBA Accounts (discussed further at section 3.2 of the Fourth Report), the Receivers are investigating the variance between the divested and recovered Client AuM. The Receivers have requested further documentation to substantiate transactions made by BHKL while the Client AuM was the custody of BHKL. **Subject to the substantiation provided by BHKL, there may be recovery actions available to the Receivers to pursue. Any successful recovery actions, if commercial to pursue, may decrease the quantum of the shortfall.**
- (d) **Other Client AuM** – Other Client AuM includes funds held in Westpac Accounts (USD\$5.4m), funds held in HSBC Hong Kong Client Accounts since repatriated to the IBA Accounts (USD\$1.8m) and structured notes

held on the Moventum Platform (USD\$1.3m). The Receivers note that the amount held on the Moventum Platform was incorrectly reported as USD\$0.9m in the Fourth Report and has now been corrected. The Receivers have no visibility as to the recoverability of the outstanding principal and coupon payments from the Minerva Notes and have therefore excluded this value from the shortfall analysis above (set out at section 5.4 of the Fourth Report). **Subject to the identification of any additional Client AuM from the Receivers' ongoing investigations or successful recovery actions in relation to the Minerva Notes, this may decrease the quantum of the shortfall.**

- (e) **Potential tax liabilities** – This shortfall excludes a provision for the potential outstanding tax liabilities which the Receivers may incur in their capacity as Receivers of the Client AuM and are continuing to investigate.
- (f) **Beneficiary entitlements in accordance with 13 December 2023 Data** – The Receivers estimate Beneficiary entitlements to total USD\$748.5m. As set out in section 3.4 of the Fourth Report and updated at section 4.4 of this Report, the Receivers' verification of this data is ongoing including but limited to (i) verifying the purported deposits and withdrawals of Beneficiaries to bank transaction ledgers extracted from the Xero Accounting Records, (ii) verifying any identified abnormalities within the data to the Beneficiaries' underlying documentation, (iii) receiving an external valuation of the structured notes purportedly held by Beneficiaries at 13 December 2023, (iv) confirming and quantifying any tax liabilities which should be passed on to Beneficiaries, and (v) corresponding with Beneficiaries to verify claims. **Subject to completion of this verification process, this may increase or decrease the quantum of the shortfall.**
- (g) **Other Beneficiary claims** – Other Beneficiary claims include estimated outstanding Surrender Rebates (USD\$16.7m). The Receivers have concluded that Beneficiaries' entitlements should exclude Exit Fees and Upfront Transfer Fees. Further information regarding these amounts is set out at 5.6 of the Fourth Report and 4.4 of this Report. The Receivers' investigations into identifying any further Beneficiary claims is ongoing. **Subject to identification of any further Beneficiary claims excluded from the 13 December 2023 Data, this may increase or decrease the quantum of the shortfall.**
- (h) **Proof of debt received from Connaught West Limited** – The Receivers have received a proof of debt from Connaught West Limited (CWL). CWL have advised they are the Corporate Trustee of GFS Superannuation Scheme 2, a retirement scheme domiciled in Hong Kong that was associated with Mr Donnelly and Mr Couch. CWL allege that Beneficiary funds were transferred, without authority, to Brite Advisors in December 2016 and have filed a proof of debt in the sum of circa AUD\$4.2m (or circa USD\$2.8m). **The Receivers are investigating the claims asserted by CWL and proof of debt received. Subject to verification of the proof of debt, this may increase the quantum of the shortfall.**

4.1.9 The Receivers note there are a number of matters subject to ongoing investigations (outlined in section 5.5 of the Fourth Report and in section 5.1 of this Report) to determine (with legal input) whether any recovery actions are available and able to be pursued, having regard to factors including prospects, costs and commerciality considerations.

4.1.10 If recovery actions are pursued, any recoveries from those actions may be available to respond to Beneficiaries' entitlements (after deduction of costs, and any other relevant deductions, including any deductions required to be paid under a litigation funding agreement, if applicable).

4.1.11 At this stage, it is expected that it will take some time before the Receivers will be able to conclude their investigations. As such, recovery actions are currently unquantified, could be protracted and any return available to satisfy Beneficiaries' entitlements is uncertain. Accordingly, the Receivers have not factored in any potential recoveries into the estimated shortfall.

#### ***Estimated shortfall at 29 November 2024***

4.1.12 As at 29 November 2024, the Receivers estimate Brite Advisors holds circa USD\$714.0m in Client AuM and has an estimated USD(\$11.2m) (or 1.5%) shortfall to Beneficiaries' claims as at 13 December 2023, excluding the impact of potential taxation liabilities. **The Receivers stress that the quantum of the shortfall varies with time and may materially change due to a number of factors.** The table below summarises the movement in the estimated shortfall to 29 November 2024.

## Movement in estimated total shortfall to 29 November 2024

| USD\$m   | 13-Dec-23     | Movement    | 29-Nov-24     |
|--|---------------|-------------|---------------|
| <b>Client AuM held</b>   |               |             |               |
| Client AuM at 13 December 2023   | 653.7         |             |               |
| Add: Growth in portfolio   |               | 93.7        |               |
| Less: Funds withdrawn to process pension withdrawals   |               | (24.6)      |               |
| Less: Withdrawals for trading & Receivers' costs   |               | (8.9)       |               |
| Total Client AuM   | 653.7         | 60.2        | 714.0         |
| Add: Funds withdrawn to process pension withdrawals  | -             | 24.6        | 24.6          |
| Add: Recovery of Beneficiary Loans   | -             | 1.5         | 1.5           |
| Total Client AuM (gross of pension withdrawals)  | 653.7         | 86.4        | 740.1         |
| <b>Estimated Beneficiary entitlements</b>  |               |             |               |
| Beneficiary entitlements at 13 December 2023   | (751.3)       |             | (751.3)       |
| <b>Estimated total shortfall (USD\$m)</b>  | <b>(97.6)</b> | <b>86.4</b> | <b>(11.2)</b> |
| Estimated shortfall (%)  | 13.0%         |             | 1.5%          |
| Source: Westpac Account Statements, IB Account Statements, Moventum Account Statement, 13 December 2023 Data |               |             |               |

4.1.13 The Receivers note the following in relation to the movement in the estimated shortfall to 29 November 2024:

- (a) the shortfall analysis presented above has been conducted on an aggregated basis and does not consider the impact of differing legal entitlements of Beneficiaries to certain Client AuM as set out in the Explanatory Memorandum;
- (b) the shortfall analysis above has also been prepared with two changes to the version presented at section 3.3 of the Fourth Report consistent with (i) the treatment of post-appointment pension withdrawals, and (ii) Beneficiary Loans in the proposed distribution methodology set out in the Explanatory Memorandum;
- (c) whilst Client AuM on the IB Platform has performed favourably following aggregated growth in the portfolio of USD\$93.5m (or 13.3%) to 29 November 2024, the Receivers note the portfolio is highly sensitive to global market movements and stress that the estimated shortfall will similarly vary as a result;
- (d) this shortfall excludes a provision for the potential outstanding tax liabilities which the Receivers are continuing to investigate. At this stage, the Receivers are unable to estimate the total tax liabilities, but expect this may have a material impact on the timing and quantum of shortfall;
- (e) as at 29 November 2024, the Receivers have processed withdrawals from the IB Platform totalling USD(\$33.5m) as follows:
  - (i) funds withdrawn to process pension withdrawals which have been utilised to administer over 706 pension withdrawals totalling circa USD(\$24.6m). The balance of the funds are held on trust in the bank accounts used exclusively for the Brite Advisors receivership. Those funds are designated to be utilised for future pension withdrawals. Interest earned on these funds accrues forms part of the Client AuM; and
  - (ii) withdrawals totalling USD(\$8.9m) have been utilised to fund both Brite Advisors' trading costs USD(\$1.6m) and the Receivers' costs and expenses USD(\$5.6m). The funds withdrawn have been excluded from the Client AuM figures above as these funds have been (or the Receivers anticipate these funds being utilised in the short-term for costs and expenses;
- (f) trading costs paid to date primarily relate to insurance costs and costs associated with contractors assisting the Receivers with responding to Beneficiary queries and data collection and interpretation, and maintaining access to investment and portfolio management systems; and
- (g) Receivers' costs and expenses paid to date relate to the Receivers' and Liquidators' remuneration and costs incurred by solicitors, Counsel and other professional advisory fees. Prior to payment of any of the Receivers' costs and expenses, approval is obtained from the Court following submission of detailed and itemised remuneration reporting and all Corporate Trustees are notified of the respective amounts.



## 4.2 Overview of Client AuM held in other locations (continued)

### **Momentum Platform**

- 4.2.1 The Receivers have obtained access to the Momentum Platform and confirm the cash and securities held at 13 December 2023, across three different currency accounts, had a value reported by the Momentum Platform of circa USD\$1.3m.
- 4.2.2 The Receivers' investigations into the GBP and USD Momentum Platform accounts confirmed the following:
- (a) Around 5 July 2023, USD\$2.5m was transferred from IBA Master C to Brite Advisors' Westpac Client Accounts, and then to the Momentum Platform.
  - (b) On 12 July 2023, 16 structured notes were transferred in-specie from Platform One, another investment platform, to Momentum. The Receivers have been able to attribute the 16 structured notes to 12 specific Beneficiaries' holdings.
  - (c) On 13 November 2023, USD\$2.6m was transferred back to the Westpac Client Accounts, where the funds remained as of 13 December 2023. USD\$2.5m comprised of the initial cash which was transferred to the Momentum Platform and \$USD0.1m comprised of cash proceeds from two structured notes which had matured.
  - (d) The structured notes (and cash payouts from the respective matured structured notes) remaining on the Momentum Platform have not been intermingled with Client AuM held in the omnibus IBA Accounts, and therefore not exposed to the margin loan, as they were transferred in-specie from Platform One.
  - (e) There is no shortfall in the structured notes held on the Momentum Platform.
- 4.2.3 The Receivers' investigations into the EUR Momentum Platform account confirmed the following:
- (a) On 9 June 2023, USD\$6.4k was transferred from IBA Master C to Brite Advisors' Westpac Operating Accounts, and then to the Momentum Platform. Two securities were purchased on the Momentum Platform using this cash.
  - (b) The Receivers have not been able to attribute these securities to a specific Beneficiary, as no Beneficiaries hold these securities according to the 13 December 2023 Data.
- 4.2.4 As at 29 November 2024, the Momentum Platform holds cash and securities valued at circa USD\$1.6m. The movement in cash and security balances is a result of the maturity of 15 structured notes. Only three securities are still held on the Momentum Platform. One is held by a specific Beneficiary, and the other two relate to the EUR account, whereby the Receivers have not been able to attribute these securities to a specific Beneficiary.
- 4.2.5 The Receivers' investigations into the Momentum Platform are set out in detail at section A4 of this Report.

### **Westpac Accounts**

- 4.2.6 As outlined at section 4.2.2(c) of this report, on 13 November 2023, USD\$2.6m was transferred to the Westpac Client Accounts from the Momentum Platform, where the funds remained as of 13 December 2023.
- 4.2.7 USD\$0.1m of this cash relates to cash proceeds from the two structured notes which had matured at 13 December 2023 (outlined at section 0). The Receivers have been able to reconcile the portion of the cash transferred to the Westpac Client Accounts to comprise proceeds of matured securities held on behalf of two specific Beneficiaries.

### **Beneficiary loans**

- 4.2.8 The Receivers identified ten Beneficiaries with portfolio balances who received funds from Brite Advisors by way of 19 separate loan payments totalling USD\$1.7m.
- 4.2.9 The Receivers located loan agreements with BAG for six of the 19 loan advances, but have not been able to locate agreements for the remaining 13.
- 4.2.10 The Receivers' further investigations identified that USD\$0.2m was repaid, leaving USD\$1.5m outstanding (excluding interest).

## 4.3 Potential tax liabilities

- 4.3.1 The shortfall excludes a provision for the potential outstanding tax liabilities which the Receivers are continuing to investigate.



- 4.3.2 If the Receivers are or will be liable for any tax liabilities as a result of liquidating the Client AuM and making distributions to Corporate Trustees and Beneficiaries or liabilities arising from Brite Advisors' historical operations, the Receivers will either retain an appropriate amount from the Client AuM or deduct the amount from distributions to Corporate Trustees or Beneficiaries. Refer to section 4.5 of the Explanatory Memorandum for a discussion of the tax issues.

## 4.4 Beneficiary entitlements as at 13 December 2023

- 4.4.1 As set out in the table below, the Receivers' current estimate of Beneficiaries' entitlements at 13 December 2023 totals USD\$748.5m, comprising USD\$765.2m for investments and cash per the 13 December 2023 Data offset by USD(\$16.7m) of Beneficiary Surrender Rebates:

| Summary of estimated Beneficiaries' entitlements as at 13 December 2023 |              |              |
|---|--------------|--------------|
| USD\$m  | Number       | Value        |
| <b>13 December 2023 Data</b>  |              |              |
| Model portfolio   | 1,657        | 532.4        |
| Bespoke   | 390          | 142.9        |
| Total securities  | 1,846        | 675.3        |
| Cash  | 2,042        | 89.9         |
| Total per 13 December 2023 Data   | 2,042        | 765.2        |
| <b>Other Beneficiary entitlements</b>                                   |              |              |
| Surrender Rebates   | 1,119        | (16.7)       |
| Exit fees / Upfront Transfer Fees                                       | n/a          | n/a          |
| Total other Beneficiary entitlements                                    | 1,119        | (16.7)       |
| <b>Total estimated Beneficiary entitlements</b>                         | <b>2,042</b> | <b>748.5</b> |

Source: 13 December 2023 Data, MN Analysis

- 4.4.2 The estimate of Beneficiaries' entitlements has changed from the figures presented in the Fourth Report following the Receivers' ongoing verification of the 13 December 2023 Data. The Receivers stress that their investigations into the total Beneficiary entitlements, and many other factors, may result in a change in total entitlements. These factors include but are not limited to:
- verifying the purported deposits and withdrawals of Beneficiaries against bank transaction ledgers extracted from the Xero Accounting Records;
  - verifying any identified abnormalities within the data against Beneficiaries' underlying documentation;
  - receiving an external valuation of the structured notes which Brite Advisors purported to hold for Beneficiaries as at 13 December 2023;
  - confirming and quantifying any tax liabilities which should be reflected in Beneficiaries' entitlements; and
  - corresponding with Beneficiaries to verify claims in accordance with the Beneficiary entitlement verification process set out in section 3.4 of the Fourth Report.
- 4.4.3 Notwithstanding the above, the Receivers consider that their investigations and verification of Beneficiary entitlements recorded in the 13 December 2023 Data are substantially complete, and have therefore formed the view that this is the appropriate time to release Valuation Notices to Beneficiaries and publish the Explanatory Memorandum.
- 4.4.4 The following sections set out in further detail the (i) amendments to Beneficiary entitlements and the Receivers' ongoing areas of verification, and (ii) current status of the Receivers' consultation with Beneficiaries to verify their entitlements.

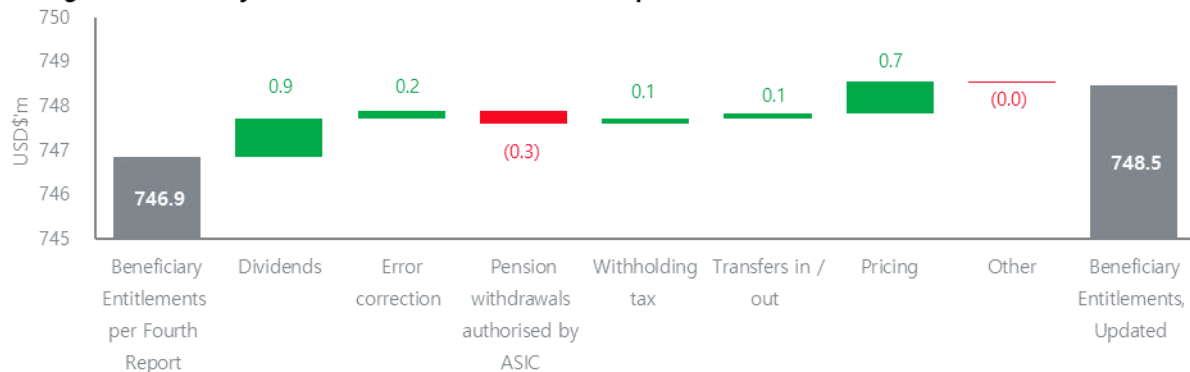
### Adjustments to 13 December 2023 Data impacting Beneficiary entitlements

- 4.4.5 The Receivers interrogated the data which makes up Beneficiaries' Valuation Notices to identify any material errors to ensure, as best as possible, the integrity of the data. As a result of this work the Receivers identified a number of issues with the data. These issues primarily effected valuation of securities and structured notes, dividends, withholding tax and Minerva Notes, but also impacted other areas of the data including withdrawals, coupons, corporate actions, transaction fees, transfers and certain transactions which erroneously appeared in duplicate.

- 4.4.6 The Receivers formed a view as to how the above data integrity issues should be addressed in the best interests of the Beneficiaries. As a result, the Receivers have processed changes in the data to rectify the issues identified. The changes made to the 13 December 2023 Data are outlined in detail below:
- (a) Pricing – The Receivers conducted a detailed review of the pricing of listed securities in the 13 December 2023 Data to identify any discrepancies. As a result, the Receivers updated the price of circa 100 securities (of a total of circa 700 securities) to reflect listed prices as at 13 December 2023.
  - (b) Dividends - The Receivers reviewed market data of all historical dividends paid in respect of the securities purportedly held on behalf of Beneficiaries during Brite Advisors' operation to calculate the value of dividends earned which should have been credited to Beneficiaries' accounts. The Receivers have compared this to the actual dividends historically reported to Beneficiaries and recorded in the 13 December 2023 Data. The Receivers identified that the dividends which should have been earned on securities held by Beneficiaries are materially misstated in the 13 December 2023 Data. The Receivers obtained the October 2024 Orders to amend the 13 December 2023 Data and adjust each Beneficiaries' claim so that errors in the reporting of the dividends which have been identified are corrected.
  - (c) Withholding tax - The Receivers identified that historical withholding tax has been inconsistently applied and reported to Beneficiaries. There are errors in the application of withholding tax which may have resulted in insufficient amounts having been withheld to meet obligations to tax authorities. The Receivers have sought specialist tax advice in this regard. Noting the complexity of the issue and the various tax jurisdictions involved, this matter will likely take some time to resolve. To avoid the delay of the issuing of the Valuation Notices, as an interim step, the Receivers obtained the October Orders to reverse all withholding tax amounts from the 13 December 2023 Data so that entitlement verification process can take place excluding any applicable withholding tax from the Valuation Notices. Any withholding tax which should have been imposed will then need to be applied to Beneficiaries' entitlements as appropriate and in accordance with the advice received. The Receivers will seek orders from the Court to do so.
  - (d) Minerva Notes - The Receivers obtained the October 2024 Orders to value the Minerva Notes still held by Beneficiaries 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.
  - (e) Minerva Coupons - The Receivers obtained the October 2024 Orders 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.
  - (f) Withdrawals - The Receivers identified withdrawals for Beneficiaries which had not been accurately reflected in the 13 December 2023 Data and have processed the appropriate adjustments to reflect these.
  - (g) Coupons - The Receivers identified coupon payments which had not been reflected in the 13 December 2023 Data and have processed the appropriate adjustments to reflect these.
  - (h) Corporate actions - The Receivers identified corporate actions which had not been reflected in the 13 December 2023 Data and have processed the appropriate adjustments to reflect these.
  - (i) Transaction fees - The Receivers identified certain transaction fees which had been incorrectly charged in the 13 December 2023 Data for certain Beneficiaries and have processed the appropriate adjustments to reverse these.
  - (j) Transfers in/out - The Receivers identified transfers in and out of Beneficiaries' financial accounts which had not been accurately reflected in the 13 December 2023 Data and have processed the appropriate adjustments to reflect these.
  - (k) Duplicated entries - The Receivers identified duplicated transaction which had been incorrectly recorded in the 13 December 2023 Data and have processed the appropriate adjustments to reverse these.
  - (l) Fees - As outlined in detail in Fourth Report at paragraph 3.4, the Receivers arranged for the transaction data to be updated to include transactions up to 13 December 2023. No fees have been applied for the period following 13 December 2023.

- 4.4.7 The steps taken by the Receivers were limited to identifying material misstatements or errors in the data, not a fulsome audit or review. The Receivers have relied on the records of Brite Advisors (which may contain errors) in calculating Beneficiary entitlements and Beneficiaries are responsible for verifying their own entitlements.
- 4.4.8 The following graph summarises the movement in Beneficiaries' entitlements as at 13 December 2023 as per the Fourth Report, and as set out in the table at section 4.4.1 above:

**Change in Beneficiary Entitlements from the Fourth Report**



- 4.4.9 Whilst the Receivers have undertaken extensive verification of the 13 December 2023 Data and processed changes to Beneficiary entitlements (as set out in section 4.4.5)4.4.7, there are a number of outstanding data verification issues which have prevented release of certain Beneficiaries' entitlements pending conclusion of the Receivers' ongoing investigations and/or advice from external experts. The Receivers' ongoing investigations are summarised below:
- Structured Notes - The Receivers have engaged an expert to value Structured Notes at 13 December 2023.
  - Minerva Notes - The Receivers are processing changes to the coupons data to reflect the actual coupons received by Brite Advisors in accordance with orders made by the Court on 29 October 2024.
  - Reconciliation of transactions - The Receivers are in the process of reconciling certain transactions included in Brite's system. These transactions include:
    - Verifying deposits made by Beneficiaries to Brite Advisors' bank statement and Xero Accounting Records, noting that a number of discrepancies have been identified by the Receivers in relation to initial deposits purportedly received from a number of Beneficiaries which the Receivers have been unable to verify in the Brite Advisors' bank records; and
    - Investigating a USD\$4.1m portfolio held in the name of "Corinthian Pension Trustees Limited re Bishops Clients".
  - Other bespoke assets - The Receivers are investigating the valuation of three other bespoke assets at 13 December 2023.
  - Loans - The Receivers are in the process of issuing correspondence to Beneficiaries who received monies by way of a loan (refer section 4.2 for further detail regarding Beneficiary loans).
- 4.4.10 The Receivers opted to release other Beneficiaries' Valuation Notices such that these ongoing investigations do not hold up verifying the majority of Beneficiaries' entitlements. The Receivers are expediting investigations into the matters outlined above in order to provide Valuation Notices to Beneficiaries whose Valuation Notices' have been withheld as soon as practicable.

#### **Current status of verifying Beneficiary identification and entitlements**

- 4.4.11 The September Orders authorised the Receivers to take steps to verify the identities of each of the Beneficiaries. The Receivers engaged GBG to undertake the identity proofing for each Beneficiary on the Receivers' behalf. Beneficiaries should have received an email containing an invitation to conduct the identity proofing process via GBG's website by 26 September 2024.
- 4.4.12 At the date of filing this Report, 132 Beneficiaries have not successfully completed the identity verification process. The Receivers have taken a number of steps in order to ensure that identity verification has been completed by as many Beneficiaries as possible, including (i) sending multiple follow up reminders by way of email, (ii) investigating

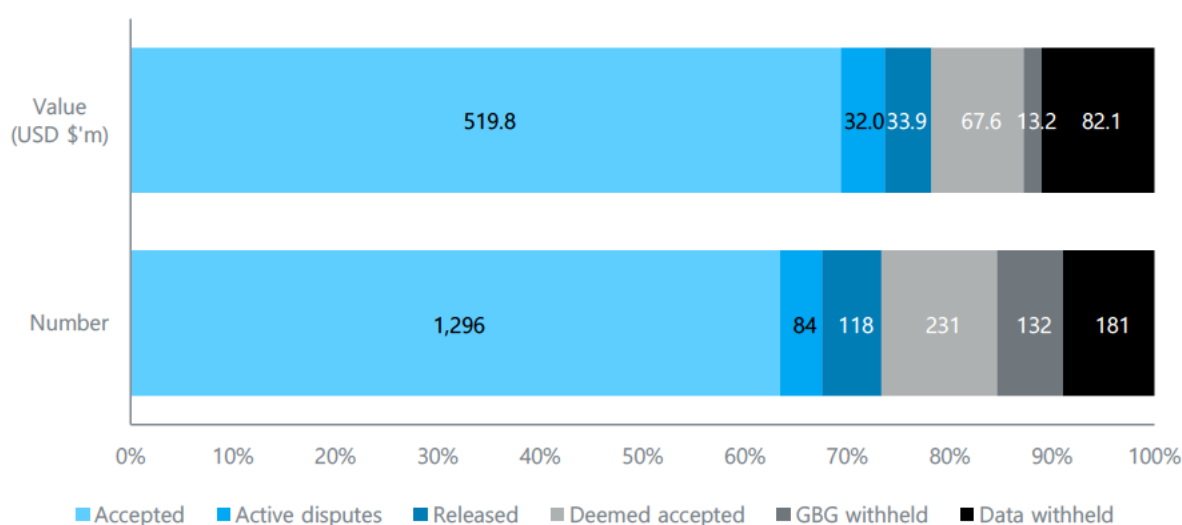
the reasons for certain emails which were returned to sender, and (iii) sending a text message to the remaining Beneficiaries who are still yet to identify themselves. The Receivers will commence (i) contacting Beneficiaries directly via phone if they have still not completed the identity proofing process, and (ii) liaising with Corporate Trustees to identify any alternative contact details.

4.4.13 The Receivers have released Valuation Notices to the majority of Beneficiaries in order for them to review and verify their entitlements. The current status of the Receivers' ongoing process to verify Beneficiaries' entitlements, as at the date of this Report, is set out below:

- (a) 1,296 Beneficiaries totalling USD\$519.8m have accepted their Valuation Notice;
- (b) 84 Beneficiaries totalling USD\$32.0m have disputed their Valuation Notice;
- (c) 118 Beneficiaries totalling USD\$33.9m have received access to Salesforce but have not accepted or disputed their Valuation Notice;
- (d) 231 Beneficiaries totalling USD\$67.6m have not responded to their Valuation Notices within the 21 day period that the 2 September 2024 Orders required them to. As a result, the Receivers will proceed with the process on the basis that the entitlements for these Beneficiaries are as set out in their Valuation Notice.
- (e) 132 Beneficiaries totalling USD\$13.2m have not yet completed the GBG identity proofing process; and
- (f) 181 Beneficiaries totalling USD\$82.1m have not received access to Salesforce yet as there are outstanding matters that must be resolved before the Receivers can calculate those Beneficiaries' entitlement.

4.4.14 The following graph sets out the categories outlined at section 4.4.13 above:

**Status of Beneficiary verification**



4.4.15

#### *Released Valuation Notices*

4.4.16 The Receivers have progressively released Valuation Notices to Beneficiaries on completion of both data verification and GBG identity verification from 7 November 2024, with the majority of Beneficiaries receiving their Valuation Notice on 12 November 2024. As set out in the 2 September Orders, if Beneficiaries do not (i) accept or dispute their Valuation Notice, or (ii) provided detailed information in relation to a dispute within 21 days of receiving their Salesforce link, the Receivers will proceed with the process on the basis that the entitlements for these Beneficiaries are as set out in their Valuation Notice.

4.4.17 The Receivers note there have been some issues with the Salesforce platform which has delayed some Beneficiaries obtaining access to their Valuation Notice. The Receivers have resolved, and are continuing to resolve, these issues. The 21-day acceptance period does not start until the Beneficiary receives a link to access their Salesforce portal, which allows them to access the portal. That is, Beneficiaries who experience technical difficulties will receive the full 21 days once they can view their Valuation Notice.

- 4.4.18 At the date of filing this Report, 231 Beneficiaries totalling USD\$67.6m with access to Salesforce had not accepted or disputed their Valuation Notice within the 21-day prescribed timeframe. As a result, the Receivers will proceed with the process on the basis that the entitlements for these Beneficiaries are as set out in their Valuation Notice.
- 4.4.19 The dates in which Beneficiaries' 21-day period to respond to their Valuation Notice expires, and as a result, the date in which the Receivers will proceed with the process on the basis that the Valuation Notices for those Beneficiaries are as they currently stand, are summarised below:

| Deemed acceptance         |                               |                  |              |                          |                     |
|---------------------------|-------------------------------|------------------|--------------|--------------------------|---------------------|
| Date of deemed acceptance | Salesforce access granted (#) | Value (USD \$'m) | Accepted (#) | Disputed articulated (#) | Deemed accepted (#) |
| 28-Nov-24                 | 56                            | 45.1             | 46           | 3                        | 7                   |
| 02-Dec-24                 | 11                            | 14.6             | 11           | -                        | -                   |
| 03-Dec-24                 | 1,220                         | 450.5            | 940          | 56                       | 224                 |
| 4 Dec-24 onwards          | 442                           | 143.1            | 299          | 25                       |                     |
| Total released            | 1,729                         | 653.3            | 1,296        | 84                       | 231                 |
| Not released              | 313                           | 95.2             | -            | -                        |                     |
| <b>Total</b>              | <b>2,042</b>                  | <b>748.5</b>     | <b>1,296</b> | <b>84</b>                | <b>231</b>          |

*Beneficiaries who have not been identified*

- 4.4.20 At the date of filing this Report, 132 Beneficiaries have been withheld from receiving access to Salesforce due to failure to successfully complete the identity verification process with GBG totalling USD\$13.2m.

*Withheld Beneficiaries*

- 4.4.21 181 Beneficiaries have been withheld due to outstanding data verification issues subject to the Receivers' ongoing investigations (as outlined at section 4.4.94.4.9) totalling USD\$82.1m.

*Disputed Beneficiaries*

- 4.4.22 At the date of filing this Report, 84 Beneficiaries have issued notices to the Receivers disputing their entitlements as at 13 December 2023 totalling circa USD\$32.0m.

- 4.4.23 Whilst each of these disputes are being addressed by the Receivers on a case-by-case basis, broadly the disputes fall into the following categories:

- 22 of the disputes received are a result of Beneficiaries raising queries in relation to various matters, including Surrender Rebates, currency exchange rates and fees. The Receivers will provide explanations to these Beneficiaries so that they can understand how their Valuation Notice has been prepared;
- 17 of the disputes may require changes to the 13 December 2023 Data as a result of matters identified by the Beneficiary, however, the Receivers are still conducting investigations into these disputes, and it is too early to quantify the potential impact on Beneficiary entitlements;
- 16 of the disputes require further information and explanation from the Beneficiary for the Receivers to be able to consider the merits of the dispute raised. The Receivers will contact Beneficiaries to request this information;
- 14 of the disputes were only received by the Receivers in the 24 hours prior to the date of writing this Report, and as a result, the Receivers have not had the opportunity to review them in detail; and
- 15 of the disputes received have not been articulated yet, and the Receivers have requested information and explanation from the Beneficiary.

**Key findings*****Foreign currency trading***

- The Receivers investigated the high volume of trading activity during the period to the movement of the Client AuM. The Receivers' investigations have identified that this trading activity related to large volumes of unauthorised foreign currency trading during the period from October 2020 to December 2023.

***Transfer of Client AuM from IBA Master A to IBA Master B in the quarter ending June 2021***

- The Receivers have identified that the shortfall in Client AuM was disproportionately, and seemingly arbitrarily, allocated to IBA Master A in June 2021 following the transfer of Client AuM to IBA Master B (designated as holding Brite US Beneficiaries Client AuM) as there was no transfer of the existing balance of the margin loan facility from IBA Master A to IBA Master B.

***Transfer of Client AuM from IBA Master C to IBA Master D in the quarter ending September 2023***

- The Receivers' investigations revealed that Brite Advisors utilised cash held in IBA Master C (i.e. the IBA Account arbitrarily designated as holding RoW Beneficiaries' Client AuM) during the quarter ending September 2023 to (i) buy-back all securities held by Mr Flambard's clients in IBA Master C, and (ii) transfer *in specie* the securities and cash held by Mr Flambard's clients from IBA Master C to a new omnibus account established in IBA (i.e. IBA Master D).
- The Receivers have located correspondence from August 2023 which references instructions issued by Mr Donnelly to execute these transactions.

***Limitations of determining shortfall by jurisdiction***

- The Receivers have attempted to determine the shortfall to Beneficiaries' entitlements by jurisdiction to the purportedly segregated IBA Accounts at 13 December 2023. This analysis has identified significant limitations in the information available to accurately identify which Beneficiaries' assets are purportedly held in the respective IBA Accounts. One such limitation is a material surplus of securities held in IBA Master A, which was arbitrarily designated as holding UK Beneficiaries' assets. The surplus appears to correspond to certain RoW and US Beneficiaries' asset holdings.

***Assets and funds subject to misuse***

- The Receivers' investigations revealed that excessive withdrawals from Client AuM and drawdowns of the margin loan facility occurred disproportionately between IB Accounts. There was a significantly higher proportion of withdrawals from and notional allocation of margin loan debt to accounts arbitrarily designated as holding RoW Beneficiaries' Client AuM.
- The Receivers' review of the IB statements and Xero accounting records revealed that payments to Brite US (including what appears to be the payment of US Beneficiaries' fees) were largely funded by withdrawals from Client AuM held in IBA Accounts arbitrarily designated as holding RoW Beneficiaries' Client AuM. This is consistent with the Receivers' findings in section 6.6 of the Fourth Report that Brite US was paid from funds (arbitrarily designated as RoW Beneficiaries' funds) transferred to BHKL ostensibly pursuant to the BHKL Outsourcing Agreement.

**5.1 Overview**

5.1.1 The purpose of this section is to detail the continuation of the Receivers' investigations into the misconduct of Brite Advisors during the period from 1 January 2021 to December 2023 including:

- unauthorised foreign currency trading;
- the transfer of Client AuM between IBA Master accounts during the quarters ending June 2021 and September 2023;
- limitations on accurately determining shortfall by jurisdiction; and

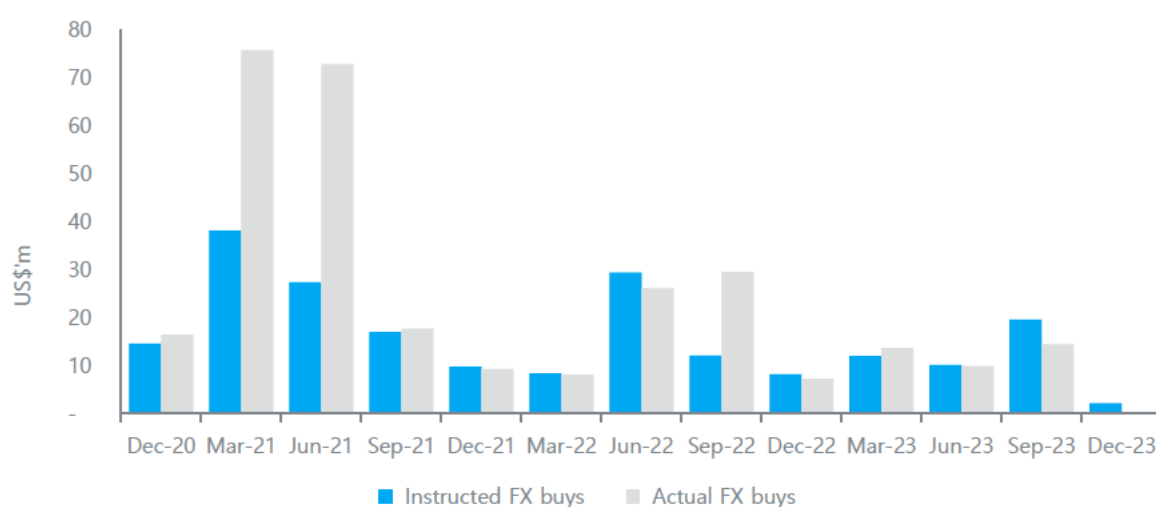


- (d) use of Client AuM from IBA Accounts arbitrarily designated as holding non-Brite US Beneficiaries' assets to fund Brite US.

## 5.2 Foreign currency trading

- 5.2.1 The Receivers' investigations have revealed that the high volume of trading during the period from January 2021 to June 2021 is primarily attributable to a high volume of unauthorised foreign currency trading carried out by Brite Advisors.
- 5.2.2 Based on the Receivers' review of the IB Statements and the 13 December 2023 Data, the Receivers have identified that during the period from October 2020 to 13 December 2023, Brite Advisors effectuated foreign currency trades totalling circa USD\$301.0m. These foreign currency trades were USD\$107.1m in excess of foreign currency trades instructed by Beneficiaries according to the 13 December 2023 Data.
- 5.2.3 The graph below shows the foreign currency trades instructed by Beneficiaries (per the 13 December 2023 Data) compared to the actual foreign currency trades undertaken by Brite Advisors (per the IB Statements) on a quarterly basis:

**Foreign currency trades - Instructed trades vs Actual trades**



- 5.2.4 Refer to Appendix A6 for the basis of preparation of the above analysis.
- 5.2.5 As evident in the above analysis, the Receivers have identified that Brite Advisors executed a significantly larger volume of currency trades than what was instructed by Beneficiaries.
- 5.2.6 During the period from October 2020 to December 2023, Beneficiaries instructed foreign currency trades which the Receivers estimate would have resulted in a total net gain of approximately USD\$6.0m, however the actual foreign currency trades executed resulted in a total net gain of approximately USD\$4.9m. As a result, the Receivers estimate the Client AuM was depleted by circa USD\$1.1m as a result of unauthorised foreign currency trading in excess of those instructed by Beneficiaries and likely contributed to the overall shortfall in the Client AuM.
- 5.2.7 The Receivers have located correspondence during the period from January 2020 to September 2022 between Mr Chun, Mr Donnelly, Mr Couch and other Brite Group employees. Although this correspondence describes the trading as "hedging", it appears from the Receivers analysis that the trades were undertaken using client money without authorisation and on a speculative basis (**Document 04**).
- 5.2.8 Conducting these currency trades without authorisation from Beneficiaries appears to constitute a misuse of Client AuM by Brite Advisors which has potentially contributed (at least marginally) to the overall shortfall in the Client AuM.

## 5.3 Asset movements and timeline of misuse

- 5.3.1 As set out at section 6.3 of the Fourth Report, during the period from June 2021 to September 2023 there were several transfers of Client AuM between IB Accounts purportedly to segregate certain Beneficiaries' Client AuM from others, primarily in response to financial regulatory investigations commenced in the US and the UK.

5.3.2 The Receivers concluded in the Fourth Report that they do not consider that the separation of funds into different IBA Accounts to constitute an effective segregation which would provide any legal protection or ring fencing, noting:

- (a) the omnibus nature of the account (communicated to all Brite US Beneficiaries onboarded on or after 8 June 2021 via the Statement of Acknowledgment annexed to the Investment Advisory Agreement);
- (b) the security facility agreement between Brite Advisors and IBA which ostensibly provided all funds in the IBA Accounts as collateral for the margin loan(s) across all other accounts;
- (c) the existing shortfall in Client AuM at the time of each transfer of Client AuM;
- (d) the Client AuM was commingled in the IBA Accounts prior to the transfers and designation of ownership of securities held by Beneficiaries across jurisdictions post transfer was largely arbitrary; and
- (e) all IBA Accounts were held in the name of Brite Advisors and there was otherwise no legal mechanism or instrument which implemented any true segregation.

5.3.3 The Receivers' investigations into the transfers of Client AuM between IBA Accounts has continued following the Fourth Report, specifically in relation to:

- (a) the transfer of Client AuM to IBA Master B in the quarter ending June 2021 which was arbitrarily designated as holding the Client AuM of Brite US Beneficiaries; and
- (b) the purchase of securities in IBA Master C and transfer of Client AuM to IBA Master D during the quarter ending September 2023.

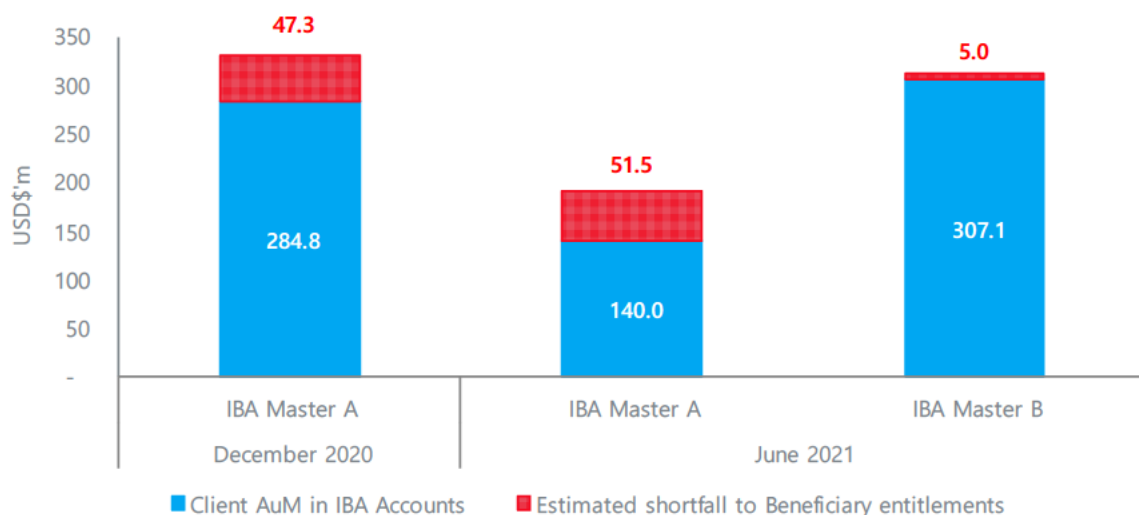
***Transfer of Client AuM from IBA Master A to IBA Master B in the quarter ending June 2021***

5.3.4 As set out in section 6.4 of the Fourth Report, Client AuM totalling USD\$296.4m was transferred from IBA Master B from IBA Master A during the quarter ending June 2021.

5.3.5 The Receivers have identified that the shortfall in Client AuM was disproportionately, and seemingly arbitrarily, allocated to IBA Master A in June 2021 following the transfer of Client AuM to IBA Master B as there was no notional allocation of the existing balance of the margin loan facility from IBA Master A to IBA Master B.

5.3.6 The graph below compares the estimated shortfall in Client AuM in the IBA Accounts to the entitlements of Beneficiaries purportedly allocated to the respective accounts at 31 December 2020 and 30 June 2021.

**Estimated shortfall by IBA Account at December 2020 and June 2021**



5.3.7 The Receivers note the following in relation to the graph above:

- (a) the Receivers' modelling of the estimated shortfall by IBA Account is split between (i) the actual balance of Client AuM in the respective IBA Accounts (included in blue), and (ii) the difference between the Client AuM in the IBA Accounts compared with the Beneficiaries' entitlements purportedly allocated to those accounts (shaded in red);

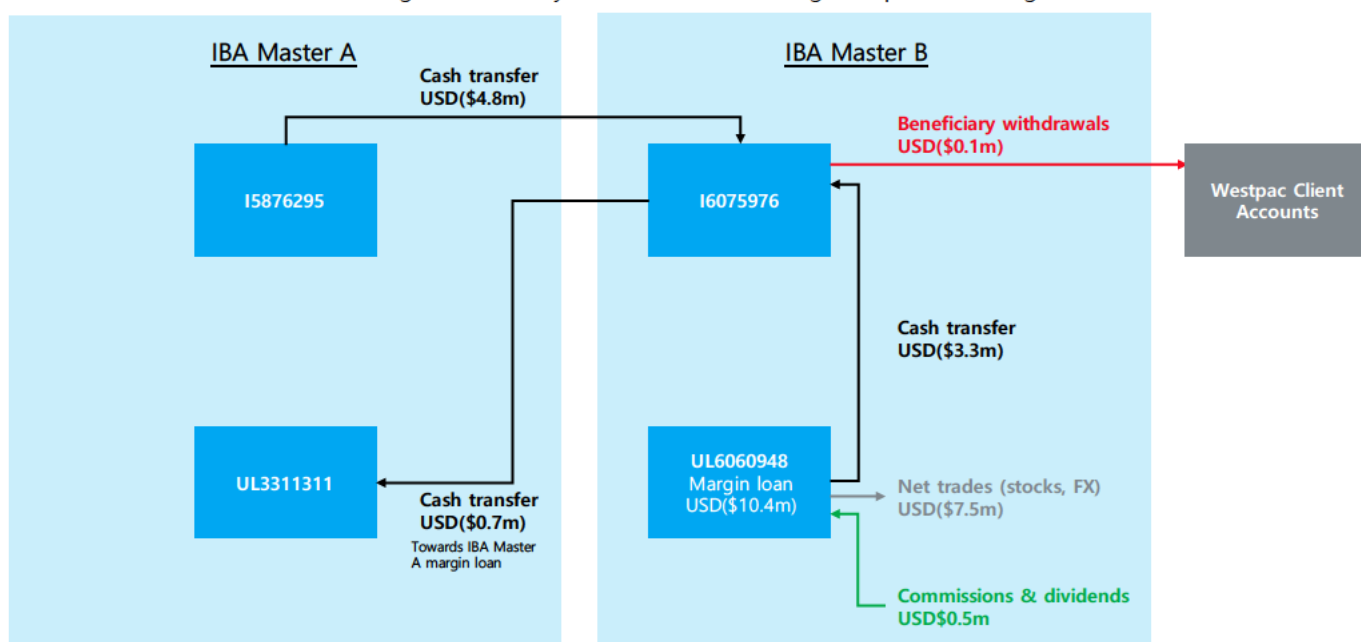


- (b) the Receivers' analysis presents the margin loan as allocated between the IBA Accounts per the IB Account Statements, even though the allocation appears to be notional and on the ostensible terms of the margin loan facility, this notional allocation did not impede the exercise of security across other accounts;
- (c) the Receivers understand that all Client AuM in the IBA Accounts was held in one master account (IBA Master A) in December 2020 and there was a USD(\$47.3m) shortfall (or 14.3%) to Beneficiary entitlements;
- (d) following the transfer of Client AuM to IBA Master B in the quarter ending June 2021, the Receivers' estimate there was a limited shortfall to Brite US Beneficiaries' entitlements in IBA Master B totalling USD(\$5.0m) (or 1.6%); and
- (e) as a result of the transfer of substantial Client AuM to IBA Master B, the significant shortfall to Client AuM remained arbitrarily allocated to IBA Master A totalling USD\$51.5m (or 26.9%).

5.3.8 Further detail on the basis of preparation of the graph at section 5.3.6 is included in Appendix A6. Specifically, the Receivers note the limitations in the information available to accurately determine which Beneficiaries' entitlements correspond to the respective IBA Accounts, which is explained further in section 5.4 below.

5.3.9 The shortfall in Client AuM in IBA Master A at June 2021 of US\$51.5m is primarily attributable to (i) the net transfer of USD\$4.1m cash from IBA Master A to IBA Master B, and (ii) the existing margin loan balance of USD\$47.3m, which had been notionally allocated to Master A.

5.3.10 Depicted below is the flow of cash funds between IBA Master A and IBA Master B along with the use of the USD\$10.4m drawdowns on the margin loan facility in IBA Master B during the quarter ending June 2021.



5.3.11 The Receivers note the following in relation to the diagram above:

- (a) during the quarter ended 30 June 2021, Brite Advisors effectuated net transfers totalling USD\$4.1m from IBA Master A to IBA Master B (comprising cash transfers from IBA Master A of USD\$4.8m, and minor repayment of the margin loan in IBA Master A from IBA Master B funds totalling USD(\$0.7m).
- (b) the estimated surrender rebates of Brite US Beneficiaries as at 30 June 2021 exceeded the USD(\$0.7m) transferred to IBA Master A used to repay the margin loan facility.
- (c) the margin loan facility drawn down which was notionally allocated to IBA Master B was USD(\$10.4m) as at 30 June 2021, which was primarily used to make net trades totalling USD(\$7.5m) and fund Beneficiary withdrawals totalling USD(\$0.1m).
- (d) there was no notional reallocation of the existing margin loan facility from IBA Master A to IBA Master B at the time of the transfer.
- (e) accordingly, the existing margin loan facility at the time of opening of the IBA Master B account was arbitrarily notionally allocated to IBA Master A.

- 5.3.12 The table below compares the estimated deficiency in the cash holdings in the IBA Accounts to the entitlements of the Beneficiaries purportedly allocated to the respective accounts at 31 December 2020 and 30 June 2021.

**Estimated deficiency in cash held in IBA Accounts at December 2020 and June 2021**

| USD\$m                                | Ref            | 31 December 2020 |              | 30 June 2021  |              |
|---------------------------------------|----------------|------------------|--------------|---------------|--------------|
|                                       |                | IBA Master A     | IBA Master B | IBA Master A  | IBA Master B |
| Cash held in IBA Accounts             |                | 31.4             |              | 8.9           | 16.8         |
| Margin loan                           |                | (27.5)           |              | (43.7)        | (10.4)       |
| Net cash held in IBA Accounts         | (A)            | 3.9              |              | (34.8)        | 6.4          |
| <b>Beneficiary entitlements</b>       |                |                  |              |               |              |
| US Beneficiaries' cash (net of SR)    |                | 19.6             |              |               | 9.4          |
| Other Beneficiaries' cash (net of SR) |                | 30.9             |              | 18.4          |              |
| Total Beneficiary entitlements        | (B)            | 50.5             |              | 18.4          | 9.4          |
| <b>Estimated cash deficiency</b>      | <b>(A - B)</b> | <b>(46.6)</b>    |              | <b>(53.2)</b> | <b>(3.0)</b> |

- 5.3.13 The Receivers note the following in relation to the table above:

- the Receivers understand all cash holdings were comingled and mixed in one master account (IBA Master A) in December 2020 totalling USD\$31.4m offset by a margin loan liability totalling USD(\$27.5m);
- as set out at section 4.6 of the Fourth Report, the margin loan facility ostensibly enabled IBA to have recourse against the assets held in the IBA Accounts (i.e. the Client AuM) to satisfy Brite Advisors' indebtedness under the margin loan facility;
- the net cash holdings in IBA Master A totalled USD\$3.9m resulting in a deficiency of USD(\$46.6m) to all Beneficiaries' cash entitlements (net of surrender rebates outstanding);
- following the transfer of Client AuM to IBA Master B, the net cash holdings in IBA Master B had a USD(\$3.0m) deficiency to the cash recorded as held by Brite US Beneficiaries (net of surrender rebates outstanding) per the 13 December 2023 Data; and
- conversely, IBA Master A had a significant USD(\$53.2m) deficiency to the estimated cash entitlements of non-Brite US Beneficiaries (net of surrender rebates outstanding) following the transfer of cash between the accounts (set out at section 5.3.7 above) which resulted in the disproportionate allocation of the margin loan facility to IBA Master A.

- 5.3.14 As set out at section 4.3 of the Fourth Report, Brite Advisors may have been entitled to drawdown on the margin loan facility for payment of Upfront Transfer Fees for non-Brite US Beneficiaries. Notwithstanding the Receivers have not formed a concluded view as to the enforceability of this entitlement (among others), the Receivers estimate the entitlement to Upfront Transfer Fees could not have exceeded USD\$5.8m at 30 June 2021 and, therefore, conclude the Upfront Transfer Fees could not account for disproportionate allocation of the margin loan facility to IBA Master A.

- 5.3.15 Further detail on the basis of preparation of the table at section 5.3.12 and the estimate of the Upfront Transfer Fees in section 5.3.14 is included in Appendix A6. Specifically, the Receivers note the limitations in the information available to accurately determine which Beneficiaries' entitlements correspond to the respective IBA Accounts, which is explained further in section 5.4 below.

***Transfer of Client AuM from IBA Master C to IBA Master D in the quarter ending September 2023***

- 5.3.16 As set out at section 6.6 of the Fourth Report, USD\$30.6m of securities were bought using cash in IBA Master C and transferred to IBA Master D along with USD\$1.1m of cash during the quarter ending September 2023. The Receivers understand the Client AuM held in IBA Master D were arbitrarily designated for Beneficiaries onboarded by financial advisor, Adrian Flambard.

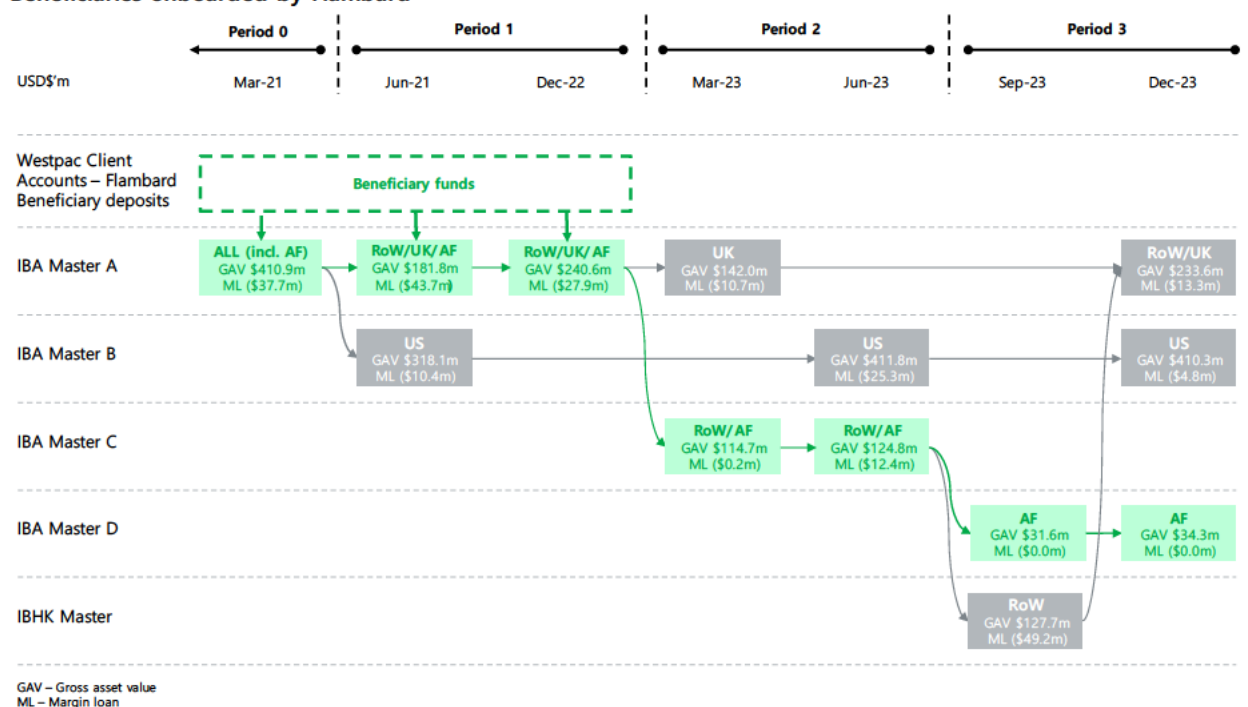
- 5.3.17 Prior to the transfer of securities and cash to IBA Master D, the Receivers understand that Mr Flambard's clients were recorded in Salesforce as being allocated to the 'Brite LLC' business unit. The Receivers have located correspondence between Mr Flambard and Brite Group employees during the period from June 2023 to August 2023 requesting that:

- RoW Beneficiaries be reallocated from the Brite LLC business unit to RoW (**Document 05**); and

(b) US Beneficiaries be reallocated from the Brite LLC business unit to Brite Inc (USA) (**Document 06**).

- 5.3.18 The Receivers have identified 78 Beneficiaries who were onboarded by Mr Flambard during the period from August 2020 to January 2023. Please refer to section 5.4 below for details regarding how the Receivers have made this determination.
- 5.3.19 The Receivers' investigations have revealed that the initial deposits of these Beneficiaries' funds were swept from the Westpac Client Accounts to IBA Master A. During the March 2023 quarter, certain Beneficiaries' securities were sold (without being instructed by those Beneficiaries) and cash totalling USD\$113.0m was transferred from IBA Master A to IBA Master C.
- 5.3.20 The Receivers understand that the Client AuM transferred to IBA Master C was arbitrarily designated as being held on behalf of RoW Beneficiaries and Beneficiaries onboarded by Mr Flambard, however, note that at the time of the sell down, there was a shortfall in the Client AuM held in the IBA Accounts.
- 5.3.21 At the end of the March 2023 quarter, IBA Master C held USD\$103.7m in cash and USD\$11.0m in stocks and bonds. The margin loan facility drawdown which was notionally allocated to this account was USD(\$0.2m).
- 5.3.22 During the June 2023 quarter, the majority of the Client AuM transferred to IBA Master C remained as cash for the entire quarter. At the end of the June 2023 quarter, IBA Master C held USD\$105.0m in cash and USD\$19.8m in stocks and bonds. The margin loan facility notionally allocated to this account was drawn down to USD(\$12.4m) over this period.
- 5.3.23 During the September 2023 quarter, Brite Advisors utilised the cash in IBA Master C to purchase securities totalling USD\$30.6m and transferred those securities, along with USD\$1.1m of cash, to IBA Master D.
- 5.3.24 Set out below is a diagram depicting the flow of funds relating to Client AuM purported to be held on behalf of Beneficiaries onboarded by Mr Flambard from January 2021 to December 2023:

#### Beneficiaries onboarded by Flambard



The Receivers note that the determination that Flambard Beneficiaries' initial deposits were transferred from the Westpac Client Accounts to IBA Master A (i.e. instead of IBA Master B) during Periods 1 and 2 has been based on tracing funds of a sample of 5 of 27 Beneficiaries onboarded during those periods.

- 5.3.25 The Receivers have located correspondence from August 2023 which references instructions issued by Mr Donnelly to (i) arrange the buy-back of all securities held by Mr Flambard's clients in IBA Master C, (ii) transfer *in specie* of the securities and cash held by Mr Flambard's clients from IBA Master C to a new master account within the omnibus account established in IBA (i.e. IBA Master D), and (iii) calculate the gain or loss resulting from the sell down and buy back of Mr Flambard's clients' positions, which was to be borne by Brite Advisors. A copy of this correspondence is enclosed at **Document 07**.

5.3.26 Notwithstanding that the securities were instructed to be purchased from Client AuM held in the IBA Account designated as holding RoW Beneficiaries' assets, the correspondence located suggests that Mr Flambard's clients were being onboarded as Brite US Beneficiaries upon execution of a Brite US Advisory Agreement. A copy of the relevant correspondence is enclosed at **Document 06**.

## 5.4 Limitations in determining shortfall by jurisdiction

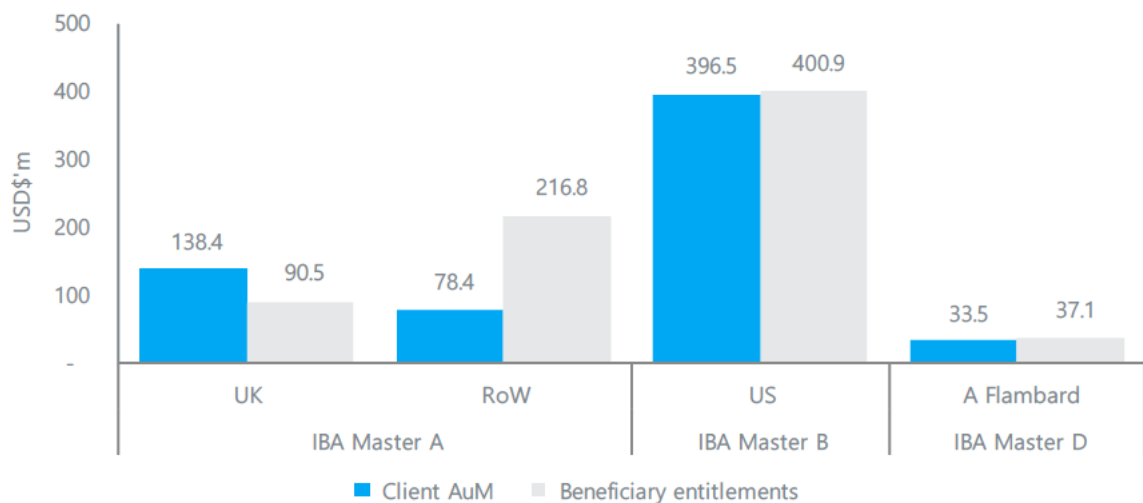
- 5.4.1 As set out in detail in the Fourth Report and in section 5.3, there are numerous reasons why the Receivers do not consider that the separation of funds into different IBA Accounts constitute an effective segregation which would provide any legal protection or ring fencing.
- 5.4.2 Notwithstanding, the Receivers have conducted preliminary analysis of the Client AuM held at 13 December 2023 to identify the shortfall of Client AuM to Beneficiaries' entitlements arbitrarily assigned in each of the respective IBA Accounts. This analysis was undertaken for the purposes of determining the maximum allowable pension withdrawal amounts as detailed in the Twelfth Affidavit.
- 5.4.3 This analysis has limitations because the Receivers have not been provided a reliable source of information to determine with specificity which Beneficiaries' holdings should correspond to Client AuM held in each of the respective IBA Accounts. The Receivers understand that the jurisdiction of a Beneficiary cannot be reliably inferred from any other data source available from the 13 December 2023 Data, including, for instance: Corporate Trustee or their corresponding jurisdiction, pension scheme, financial advisor or Beneficiary country of residence.
- 5.4.4 In addition, and as set out in section 4.6 of the Fourth Report, the IBA Accounts are held in the name of Brite Advisors and the Receivers understand that there is no way of telling, from the data held by IBA on its brokerage platform, what assets are held for which Beneficiary.
- 5.4.5 The only data sources available to the Receivers which indicate to which of the Master Accounts each Beneficiary would have been allocated during the purported segregation process are:
- (a) the Client AuM Data Pack provided by Mr Lymer on 24 November 2023 which includes each financial account and a corresponding jurisdiction (either UK, RoW or US);
  - (b) advice from i-Convergence that the "business unit" field within the 13 December 2023 Data correlates to each financial account's corresponding jurisdiction (either UK, RoW or US); and
  - (c) extracts from the rebuilt Salesforce Org of each Beneficiaries' financial advisor in order to determine the Beneficiaries onboarded by via Adrian Flambard, a financial advisor.
- 5.4.6 The Receivers note the following inconsistencies have been identified in the above sources of information which have meant the Receivers have had to a combination of the data sources to conduct the analysis set out below:
- (a) The jurisdictions mapped in the Client AuM Data Pack provided by Mr Lymer correspond to financial account numbers, of which Beneficiaries are able to have several. The Receivers have identified 62 Beneficiaries who have multiple jurisdictions recorded across their financial accounts.
  - (b) Of the 51 financial advisors recorded in the above data sources, 27 are recorded against (i) multiple business units, and (ii) multiple jurisdictions.

Accordingly, the Receivers have been required to utilise a combination of the data sources to provide their best attempt at conducting the analysis set out below and note that this is not a definitive view.



5.4.7 Based on these data sources, there are significant discrepancies between the Client AuM held in the IBA Accounts and the entitlements of the Beneficiaries purportedly allocated to these accounts, as set out in the graph below.

**Estimated shortfall by IBA Account by jurisdiction at 13 December 2023**



5.4.8 The Receivers note the following in relation to the graph above:

- in aggregate, there is a shortfall of Client AuM to Beneficiary entitlements in each of the IBA Accounts;
- the Client AuM designated for UK Beneficiaries was determined based on the total asset holdings in IBA Master A at 13 December 2023 less Client AuM returned from BHKL following the Asset Preservation Orders totalling USD\$76.5m as these funds were purportedly allocated to RoW Beneficiaries; and
- on this basis, there is a significant surplus in Client AuM to UK Beneficiary entitlements totalling USD\$47.7m at 13 December 2023.

5.4.9 The Receivers note the following Beneficiary entitlements have been excluded from the graph at 0 in order to perform a like-for-like comparison:

- USD\$0.9m of cash holdings of four onboarded within the two weeks prior to the Asset Preservation Orders which were not transferred to IBA (refer section 5.4 of the Fourth Report);
- USD\$0.5m of holdings in Minerva Notes (refer section 5.4 of the Fourth Report); and
- USD\$1.8m of structured notes holdings identified on the Moventum Platform (refer section 5.4 of the Fourth Report).

5.4.10 Further detail on the basis of preparation of the graph at section 0 is included at Appendix A6.

5.4.11 The disconnect between the Client AuM held in the IBA Accounts and the entitlements of the Beneficiaries' purportedly allocated to these accounts is further complicated by a mixing of securities within the IBA Accounts.

5.4.12 The Receivers' analysis indicates there are 183 securities held in IBA Master A valued at circa US\$54.7m at 13 December 2023 which are surplus to UK Beneficiary entitlements. The 13 December 2023 Data indicates there are shortfalls in these securities across RoW, US and A Flambard Beneficiaries.

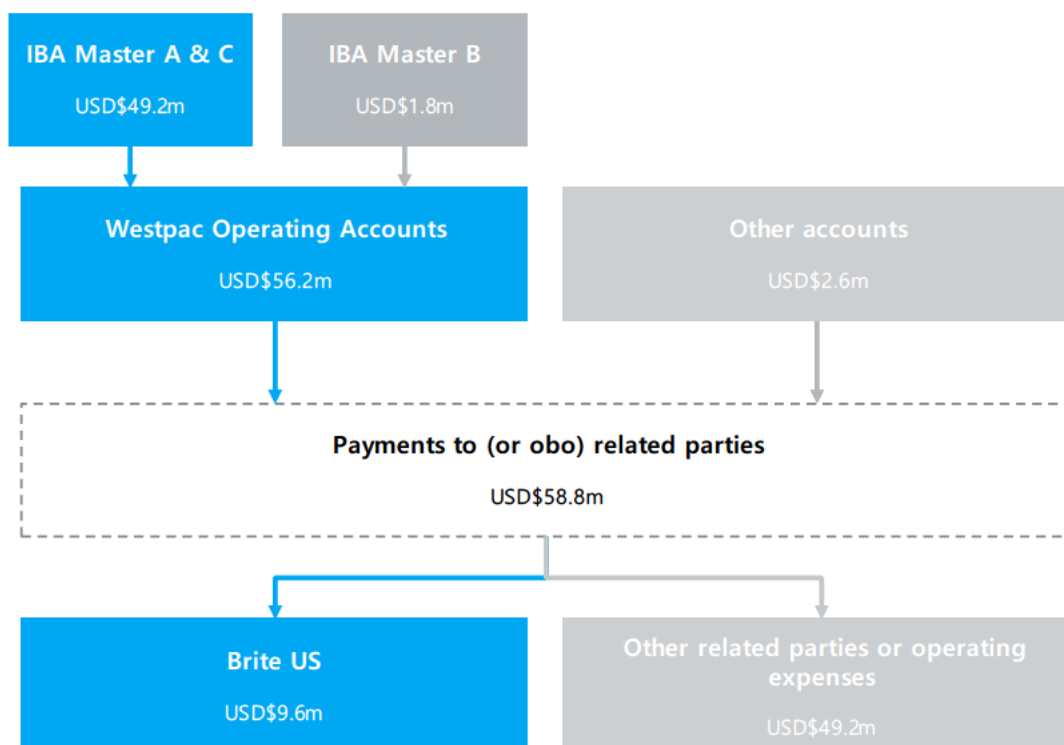
## 5.5 Assets and funds subject to misuse

5.5.1 As set out in section 6.7 of the Fourth Report, the Receivers' investigations revealed that excessive withdrawals from Client AuM and drawdowns of the margin loan facility occurred disproportionately between IB Accounts. A significantly higher proportion of withdrawals occurring from the margin loan facility was notionally assigned to accounts arbitrarily designated as holding RoW Beneficiaries' Client AuM.

5.5.2 The Receivers' investigations revealed that during the period from January 2021 to December 2023, Brite Advisors processed payments totalling USD\$58.8m to related parties (or to third parties for the benefit of related parties, or for Brite Advisors' own operating expenses) of which USD\$56.2m (or 95.7%) was transferred from Brite Advisors' Westpac Operating Accounts.

- 5.5.3 Based on the IB Account Statements and Xero Accounting Records, the USD\$56.2m of payments from Brite Advisors' Westpac Operating Accounts were funded from (i) USD\$51.0m of withdrawals from IBA Accounts deposited to the Brite Advisors' Westpac Operating Accounts, and (ii) USD\$5.2m of funds transferred from Brite Advisors' Westpac Client Accounts.
- 5.5.4 Of the USD\$51.0m of funds transferred from IBA Accounts to the Westpac Operating Accounts, USD\$49.2m (or 96.5%) originated from IB Accounts arbitrarily designated to hold RoW Beneficiaries' Client AuM.
- 5.5.5 As a result, the margin loan facility was disproportionately notionally allocated to IB Accounts arbitrarily designated to hold RoW Beneficiaries' Client AuM. Importantly, this notional allocation did not impact the security ostensibly held over all Client AuM in IBA's custody under the margin loan facility nor did it impact the risk of enforcement faced in respect of that security.
- 5.5.6 During the period from January 2021 to December 2023, funds totalling USD\$9.6m were paid from the Westpac Operating Accounts to Brite US. Notwithstanding (i) there are no contractual arrangements in place between Brite Advisors and Brite US and (ii) Brite US has not responded to the Receivers' requests to provide supporting evidence explaining entitlement to the funds received, the Receivers expect from correspondence received from Mr Byrne and the 13 December 2023 Data (refer section 5.5.9 below) that the payments would relate (at least in part) to fees payable to Brite US by Brite US Beneficiaries.
- 5.5.7 As set out above, the Receivers' investigations revealed that the primary source of funds utilised to process payments to Brite US was from IBA Accounts which were arbitrarily designated to hold RoW Beneficiaries' Client AuM. Further, Brite US have not provided any documentation to demonstrate entitlement of each transaction.
- 5.5.8 The flow of funds from those IBA Accounts arbitrarily designated to hold RoW Beneficiaries' Client AuM through to payment to Brite US is depicted in the diagram below:

**Origin of payments to Brite US during period Jan21 to Dec23**



- 5.5.9 Based on the 13 December 2023 Data and the jurisdictional mapping of Beneficiaries as set out at section 5.4, the Receivers have determined that during the period from 1 June 2021 to 13 December 2023 (i.e. following the transfer of Client AuM purportedly held by Brite US Beneficiaries to IBA Master B), Brite US Beneficiaries were charged 'Advisory Fees' totalling USD\$9.3m. The Receivers understand that these fees represent the Managed Portfolio Fees as set out in section 4.3 of the Fourth Report and broadly correlates to the cash payments made to Brite US during the same period from the Westpac Operating Accounts totalling USD\$8.3m.
- 5.5.10 The Receivers have undertaken further analysis of payments made to Brite US during the same period (i.e. 1 June 2021 to 13 December 2023), to determine the sources of funding to process these payments and confirm whether Brite Advisors withdrew funds from Client AuM arbitrarily designated as holding US Beneficiaries assets. In

summary, the Receivers consider the source of funding for the majority of payments made to Brite US during this period, were in fact from funds withdrawn from IBA Accounts arbitrarily designated as holding RoW and/or UK Beneficiaries' assets, rather than those accounts arbitrarily designated as holding US Beneficiaries' assets. The Receivers have formed this view in considering the following:

- (a) All payments made to Brite US during the period were made from the USD Westpac Operating Account. During the same period, the USD Westpac Operating Account received only four payments totalling USD\$1.2m from IBA Master B (i.e. the IBA Account arbitrarily designated as holding Brite US Beneficiaries' Client AuM). The majority of receipts to this account during this period originated from IBA Accounts arbitrarily designated as holding RoW and UK Beneficiary funds. The Receivers' analysis suggests that the fee entitlements of Brite US for this period exceeds USD\$1.2m and, on that basis, it appears that those fees may have been met by payments from elsewhere.
- (b) Based on the Receivers' review of the IB Account Statements and Xero Accounting Records, of the 62 payments totalling USD\$8.3m made to Brite US during the period from June 2021 to December 2023, 43 payments totalling USD\$6.1m (or 73.9%) occurred within 5 days after a receipt of funds to the Westpac Operating Accounts from an IBA Account arbitrarily designated as holding RoW and/or UK Beneficiaries' Client AuM. Set out below are three examples of payments to Brite US made from the USD Westpac Operating Account which were shortly preceded by a receipt from IBA Master A or C:

**Sample of transactions paid to Brite US from Westpac Operating Account**

| Date                         | Paid to / from                  | Transaction description | USD\$     |
|------------------------------|---------------------------------|-------------------------|-----------|
| <b>Transaction example 1</b> |                                 |                         |           |
| 06-Feb-23                    | IBA Master A                    | Interactive Brokers LLC | 150,000   |
| 08-Feb-23                    | Westpac Operating Account - USD | Brite Advisors USA Inc  | (150,000) |
| <b>Transaction example 2</b> |                                 |                         |           |
| 20-Apr-23                    | IBA Master C                    | Interactive Brokers LLC | 80,000    |
| 21-Apr-23                    | Westpac Operating Account - USD | Brite Advisors USA Inc  | (80,000)  |
| <b>Transaction example 3</b> |                                 |                         |           |
| 07-Jul-23                    | IBA Master C                    | Interactive Brokers LLC | 130,000   |
| 11-Jul-23                    | Westpac Operating Account - USD | Brite Advisors USA INC  | (130,000) |

*Source: IB statements, Xero accounting records*

In all examples set out above, the balance of the USD Westpac Operating Account was the same before the receipt from IBA Master A and C and after payment to Brite US, indicating the payments made to Brite US were not funded by the existing balance of the account.

- 5.5.11 Accordingly, the Receivers consider that payments to Brite US were largely funded by withdrawals from Client AuM held in IBA Accounts designated as holding RoW Beneficiaries' Client AuM. This is consistent with the Receivers' findings in section 6.6 of the Fourth Report that Brite US was paid from funds (arbitrarily designated as RoW Beneficiaries' funds) transferred to BHKL ostensibly pursuant to the BHKL Outsourcing Agreement.

## 6 Corporate Trustees

### Key findings

- The Receivers issued a survey to the Corporate Trustees in July 2024, to obtain information and Corporate Trustees' feedback on a number of matters relating to the distribution of the Client AuM (**First Trustee Survey**).
- The Receivers issued a second survey to the Corporate Trustees in October 2024 to obtain further information and feedback, specifically in relation to the Corporate Trustees' intended approach in relation to the Client AuM, once it is distributed to them (**Second Trustee Survey**). The key theme from the Second Trustee Survey was that Beneficiaries will be provided with options as to how their funds will be dealt with, once received by the Corporate Trustees. Corporate Trustees' responses to the First Trustee Survey and Second Trustee Survey are attached at **Document 08**.
- The Receivers have prepared a summary at A5 which sets out information on the Corporate Trustees for Beneficiaries' benefit. The Receivers have identified a number of Corporate Trustees who we consider are not independent of Brite Advisors and/or have not co-operated with the Receivers to date.
- The selection of Corporate Trustee is predominantly a matter between the Beneficiary and Corporate Trustees. The Receivers propose that Beneficiaries are able to instruct the Receivers (at the appropriate time) to withhold their cash distribution for a period of up to 12 months, to provide any Beneficiary with time to make appropriate arrangements.

### 6.1 Overview

- 6.1.1 As outlined at section 5.6.21 of the Fourth Report, the Receivers issued a survey to the Corporate Trustees in July 2024, to obtain information and Corporate Trustees' feedback on a number of matters relating to the distribution of the Client AuM (**First Trustee Survey**). The First Trustee Survey sought feedback on details of the Corporate Trustees, details on the underlying Beneficiaries for who the Corporate Trustees act and the Corporate Trustees' views in relation to the distribution of the Client AuM to the Corporate Trustees or to the Beneficiaries directly.
- 6.1.2 At the date of issuing the Fourth Report, responses (which were detailed at section 5.6.21 of the Fourth Report), were received from 13 of the 16 Corporate Trustees which the Receivers issued the First Trustee Survey to. Since then, an additional Corporate Trustee has responded to the First Trustee Survey. Accordingly, only two Corporate Trustees have not responded. These are (i) Global Fiduciary Solutions Limited, and (ii) iPensions Group Limited.
- 6.1.3 The Receivers issued a second survey to the Corporate Trustees in October 2024 to obtain further information and feedback, specifically in relation to the Corporate Trustees' intended approach in relation to the Client AuM, once it is distributed to them (**Second Trustee Survey**). Corporate Trustees' responses to the First Trustee Survey and Second Trustee Survey are attached at **Document 08**. Key themes from the Second Trustee Survey were as follows:
- (a) Once the Corporate Trustees receive the Client AuM from Brite Advisors, they will provide their Beneficiaries with options as to how the funds will be dealt with;
  - (b) If a Beneficiary decides to reinvest their fund with an alternative fund manager, the Beneficiary will have discretion to choose their own alternative fund manager;
  - (c) Beneficiaries who wish to change Corporate Trustee can make a request to their Corporate Trustee, subject only to the current Asset Preservation Orders which prohibit any "dealing" with the assets currently held by Brite Advisors from taking place; and
  - (d) Corporate Trustees intend to apply fees to the Client AuM once received is in accordance with the agreements which Beneficiaries already have in place with their Corporate Trustees.
- 6.1.4 The Receivers have prepared a summary at A5 which sets out information on the Corporate Trustees. The information includes (i) in the Receivers' view, whether the Corporate Trustees are independent of Brite Advisors, (ii) whether the Corporate Trustees have a Platform Agreement, and (iii) whether the Corporate Trustees have responded to the First Trustee Survey and/or the Second Trustee Survey.



## 6.2 Second Trustee Survey

- 6.2.1 The Receivers issued the Second Trustee Survey to the Corporate Trustees in October 2024 to obtain further information and feedback, specifically in relation to the Corporate Trustees' intended approach in relation to the Client AuM, once it is distributed to Corporate Trustees.
- 6.2.2 The questions in the Second Trustee Survey included the following:
- (e) If the Receivers distribute the Client AuM to the Corporate Trustee, what the Corporate Trustees' intended approach is in respect of the distribution of funds to Beneficiaries, including (i) whether Beneficiaries will be provided with options as to how their funds will be treated, and (ii) what those options will be.
  - (f) If Beneficiaries want to appoint an alternative fund manager, will the alternative fund manager be selected by the Corporate Trustee or chosen by Beneficiaries.
  - (g) What the process is for Beneficiaries to replace their Corporate Trustee.
  - (h) Confirmation of the fees that will be passed on to Beneficiaries by Corporate Trustees as a result of (i) arrears, and (ii) the distribution process.
- Clarifying documentation between the Corporate Trustee and Beneficiaries.
- 6.2.3 Responses have been received from 13 of the 16 Corporate Trustees which the Receivers have identified. Accordingly, only three Corporate Trustee have not responded. These are (i) Global Fiduciary Solutions Limited, (ii) iPensions Group Limited, and (iii) Boal and Co (Pensions) Limited.
- 6.2.4 Corporate Trustees' responses to the First Trustee Survey and Second Trustee Survey are attached at **Document 08**. Key themes arising from the Second Trustee Survey are set out below:
- (a) Once the Corporate Trustees receive the Client AuM from Brite Advisors, they will provide their Beneficiaries with options as to how the funds will be dealt with. These options include (i) transfer to a new Corporate Trustee, (ii) reinvesting funds with an alternative fund manager of their choice, (iii) leaving the funds held in cash with the Trustee, or (iv) receiving their pension (where able in accordance with the relevant rules).
  - (b) If a Beneficiary decides to reinvest their fund with an alternative fund manager, the Beneficiary will have discretion to choose their own alternative fund manager, subject only to the Corporate Trustees' regular due diligence in relation to that fund manager.
  - (c) Changing a Corporate Trustee is a 'regular' process, and Beneficiaries who wish to do this can make a request to their Corporate Trustee and follow the relevant process. The Receivers note however, that there is a risk that the current Asset Preservation Orders, which prohibit any "dealing" with the assets currently held by Brite Advisors from taking place, prevents Beneficiaries from changing their Corporate Trustee. The Receivers will consider the appropriate orders required to deal with this risk at the appropriate time.
  - (d) The structure of Corporate Trustees' fees applied to the Client AuM once received is in accordance with the agreements which Beneficiaries already have in place with their Corporate Trustee, this includes fees accrued as well as fees to deal with the Client AuM received.
- 6.2.5 There are some instances where responses to the Second Trustee Survey differ to the key themes set out above. These are summarised below:
- (a) Relay Administration Limited - Joanne Wild and Adrian Hyde of Begbies Traynor (Gibraltar) Limited were appointed Administrators of Relay Administration Limited by the Supreme Court of Gibraltar on 14 February 2024. Relay Administration Limited's response to the Second Trustee Survey differed to the general themes of the other Corporate Trustees for the following reasons:
    - (i) Beneficiaries will not be offered the option to change Corporate Trustee and/or select a new fund manager. The Administrators have advised that this is because at a meeting of creditors, creditors unanimously voted that the portfolio be transferred to another trustee as soon as the Client AuM is paid to Relay Administration Limited.
    - (ii) The administration of Relay Administration Limited is funded pursuant to a Berkeley Applegate Order against certain members' funds. Relay Administration Limited advised that once the Client AuM is received, they will consult with the creditors' committee and propose to the Supreme Court of

Gibraltar that an equitable pari passu reduction be applied across the entire membership in accordance with that Order.

- (b) Sovereign Pension Services Limited, Sovereign Pensions Limited, Sovereign Trust (Guernsey) Limited and Sovereign Trust International Limited (Sovereign) – The Trustees have indicated that they will open accounts for all members on the Morningstar Wealth Platform, unless alternative instructions are received from Beneficiaries.
- (c) PSG SIPP Limited – Adam Stephens and Christopher Allen of Evelyn Partners were appointed Administrators of PSG SIPP Limited on 25 October 2024. The administrators of PSG SIPP completed a sale of PSG SIPP's business and certain assets to Alltrust Services Limited. The First Trustee Survey and Second Trustee Survey were responded to by PSG SIPP Limited, not Alltrust Services Limited.
- (d) The Pensioneer Trustee Company (Guernsey) Limited (Pensioneer) - Pensioneer's response to the Second Trustee Survey differed to the general themes of the other Corporate Trustees for the following reasons:
  - (i) Pensioneer advised that it intends to reinvest the Client AuM via a new scheme of which Pensioneer will be the trustee and where the investment manager will be Canaccord Genuity Wealth Management; and
  - (ii) Pensioneer has advised that it does not have a bank account and cannot accept funds.

6.2.6 The Receivers are carefully considering the feedback obtained from the First Trustee Survey and the Second Trustee Survey in the context of the distribution application and will seek further information from Corporate Trustees in due course.

## 6.3 Trustee independence

6.3.1 The Receivers have prepared a summary at A5 which sets out information on the Corporate Trustees for Beneficiaries' benefit. The information includes (i) current and former names, (ii) jurisdiction, (iii) current directors, (iv) whether the Corporate Trustees are independent of Brite Advisors, (v) whether the Corporate Trustees have a Platform Agreement, and (vi) whether the Corporate Trustees have responded to the First Trustee Survey and/or the Second Trustee Survey.

6.3.2 The Receivers consider that the following Corporate Trustees are not independent of the Brite Group:

- (a) Relay Administration Limited – this Gibraltar entity is now under the control of independent external administrators appointed by the Supreme Court of Gibraltar on 14 February 2024.
- (b) PSG SIPP Limited – this UK entity is now under the control of independent external Administrators following their appointment by the Directors of PSG SIPP Limited. The Receivers have been advised that the business of PSG SIPP has been recently acquired by an unrelated entity, Alltrust Services Limited, as part of pre-packaged sale effected by the Administrators immediately after their appointment.
- (c) MC Trustees (Malta) Ltd.

6.3.3 The Receivers have not been provided with (or been able to locate) any platform agreements between Brite Advisors and the following Corporate Trustees:

- (a) Global Fiduciary Solutions Limited;
- (b) iPensions Group Limited;
- (c) Boal and Co (Pensions) Limited;
- (d) London & Colonial Services Limited;
- (e) Concept Group Limited;
- (f) Praxis Pes Malta Limited;
- (g) Mattioli Woods Ltd;
- (h) Sovereign Trust (Guernsey) Limited;
- (i) Sovereign Trust International Limited; and
- (j) Sovereign Pensions Limited.

6.3.4 The undernoted Corporate Trustees have not co-operated with the Receivers and failed to respond to all of the Receivers' surveys:

- (a) Global Fiduciary Solutions Limited;
- (b) iPensions Group Limited; and
- (c) Boal and Co (Pensions) Limited.

## A1 DOCUMENTS RELIED UPON

### Schedule of documents relied upon

| Document number | Document name  | Details   |
|-----------------|--|---|
| 01              | Document 01 - 13 December Court Orders   | Court Orders made by the Federal Court of Australia on 13 December 2023 appointing Linda Smith and Robert Kirman as Receivers and Managers of Brite Advisors. |
| 02              | Document 02 - Brite US response to SEC complaint   | Response from Brite US to complaint brought by the SEC in the United States District Court.   |
| 03              | Document 03 - Correspondence from M Byrne  | Correspondence received from Mr Byrne advising that Brite US Beneficiaries are excluded from 5% Upfront Fees.   |
| 04              | Document 04 - Correspondence regarding FX trades   | Correspondence between Brite Group employees regarding foreign currency exchange trading.   |
| 05              | Document 05 - Correspondence between Mr Flambard and Brite staff                                       | Correspondence regarding the re-categorisation of Mr Flambard's RoW clients to RoW jurisdiction.  |
| 06              | Document 06 - Correspondence regarding Brite LLC beneficiaries reallocated to Brite US                 | Correspondence regarding the re-categorisation of Mr Flambard's US clients to the Brite US business unit.   |
| 07              | Document 07 - Correspondence regarding the transfer and buy back and transfer of Mr Flambard's clients | Correspondence regarding trades to be made to repurchase Mr Flambard's clients' assets.   |
| 08              | Document 08 - Corporate Trustee survey responses   | Collated Corporate Trustee survey responses   |

## A2 RECEIVERS' CVS

# Linda Smith

## Partner in Perth

+61 8 6363 7633

lsmith@mcgrathnicol.com

Linda is a highly skilled restructuring and insolvency professional, with extensive experience in leading complex restructuring matters and conducting independent business reviews.

Linda's experience includes leading a number of high-profile formal insolvency appointments, managing business trade on scenarios and recovery actions.

She has also led significant forensic investigations, providing reports to regulators such as ASIC and the ATO. Linda provides practical advice to companies experiencing financial difficulties, conducting independent business reviews and implementing turnaround strategies.

Recent engagements include being appointed by the Federal Court as Receiver and Liquidator of Brite Advisors Pty Ltd, managing Client Assets under Management totaling over \$1bn. During her career, Linda has worked across a broad range of industries including financial services, mining, property and construction in Australia and the United Kingdom.

## Engagement Experience —

- Receiver and Manager of Brite Advisors Pty Ltd, appointed in Federal Court proceedings to undertake significant investigations, manage and distribute over \$1bn of Client Assets under Management.
- Administrator of Catalano Seafood, successful restructure via DOCA for ASX listed food retailer.
- AMIP for Iris Terrace Claremont Pty Ltd, appointed AMIP in respect of substantial property development in WA.
- Chris Marco Scheme, managed the winding up of one of Australia's largest Ponzi Schemes.
- Continental Coal Limited, managed the winding up of ASX listed Continental Coal Limited.
- Conducts independent business reviews for lenders, assessing the financial position of borrowers and determining strategies for restructuring or reducing debt. Recent assignments include a review of ASX listed mining operations.
- Managed a range of Liquidator recovery actions for the benefit of creditors, with experience in director examinations, voidable transactions and transfer of assets to phoenix companies.
- Voluntary administration of gold producer GMK Exploration Pty Ltd, including the trade on and business sale.
- Voluntary administration of Midwest Vanadium, an ASX listed mine in remote WA.



## Qualifications & Memberships —

- Registered Liquidator
- Member, CA ANZ
- Member, ARITA
- ARITA, WA Division Committee Member
- Member, Institute of Chartered Accountants Scotland
- Certified Proficiency in Insolvency (Insolvency Practitioners Association, UK)
- BA (Hons) in Finance and Marketing

## Board Roles —

- Board Member, Cystic Fibrosis WA



McGrathNicol

# Rob Kirman

## Partner in Perth

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Rob has over 25 years' of restructuring experience and is the Partner in charge of the McGrathNicol Perth office. Prior to joining McGrathNicol in 2004, Rob worked for an international advisory and restructuring firm in the UK.

As a national firm with representation on the panel of each of Australia's big four banks, McGrathNicol is known for its commercial acumen exceptional leadership and our highly regarded specialists.

Rob has a proven reputation for providing his clients with strategic and innovative solutions to challenging situations and is highly skilled at considering issues from the perspective of different stakeholders.

He has led teams in financial assignments such as restructuring, insolvency, business improvement and transactions. He has also conducted numerous business reviews, assisted companies with business improvement, strategic planning, working capital management and capital reorganisation.

Rob has been an appointee in relation to a range of recent high-profile matters including The Chris Marco Scheme, the related entities of Alan Caratti, Tiger Resources Ltd, Alita Resources Ltd and MZI resources Ltd.

Rob's sector experience is broad and includes mining, property, construction, hospitality, transport and logistics, agribusiness and manufacturing.

## Engagement Experience —

- Numerous business reviews and restructurings including performance improvement, strategic planning, working capital management and capital reorganisation.
- Due diligence and transaction services support.
- Voluntary Administrator of Tiger Resources Ltd, an ASX listed company with an investment in a copper mine in the Democratic Republic of Congo.
- Voluntary Administrator of Alita Resources Ltd, an SGX listed company with an investment in a lithium mine in WA.
- Voluntary Administrator of MZI Resources, an ASX listed company Mineral Sands producer.
- Liquidator and Receiver & Manager of the Chris Marco Scheme, an unregistered and alleged 'ponzi' scheme of more than 300 investors.
- Liquidator of the related entities of Alan Caratti, an appointment that has included the investigation of a number of significant contraventions of the Corporations Act.

## Qualifications & Memberships —

- Registered Liquidator
- Member, ARITA
- Member, TMA
- Member, CA ANZ
- Bachelor of Science (Honours) in Special Mathematics

## Board Roles —

- Board Member, McGrathNicol



McGrathNicol



## A3 KEY STAFF AND QUALIFICATIONS

| Assisting staff  |                   |                   |
|------------------|-------------------|-------------------|
| Name             | Position          | Years' experience |
| Linda Smith      | Partner, Receiver | 19                |
| Robert Kirman    | Partner, Receiver | 27                |
| Mark Knight      | Director          | 18                |
| Lauren Burton    | Director          | 11                |
| James Clark      | Director          | 10                |
| Amber Kirkbright | Senior Manager    | 9                 |
| Annie Purbrick   | Manager           | 6                 |
| Niall Kennedy    | Manager           | 3                 |

## A4 ASSETS HELD ON MOVENTUM

### A4.1 ASSETS ON MOVENTUM AT 13 DECEMBER 2023

At the date of writing the Fourth Report, the Receivers did not have access to the Moventum Platform, a digital trading platform providing online access to invested funds and securities held in name of Brite Advisors.

The Receivers have now obtained access to the Moventum Platform, and as a result, confirm the cash and securities held on the Moventum Platform at 13 December 2023 were valued at circa USD\$1.3m (according to the Moventum Platform). This is made up three distinct accounts in GBP, USD and EUR, as set out in the table below:

| Assets held on Moventum at 13 December 2023       |                       |                        |                       |                  |
|---|-----------------------|------------------------|-----------------------|------------------|
| ccy'000   | GBP Account<br>(GBP£) | USD Account<br>(USD\$) | EUR Account<br>(EUR€) | Total<br>(USD\$) |
| Cash  | 15.4                  | 41.9                   | 3.9                   | 65.5             |
| Securities (market value per Moventum statements) | 599.3                 | 473.6                  | 2.2                   | 1,232.2          |
| <b>Total</b>                                      | <b>614.7</b>          | <b>515.6</b>           | <b>6.0</b>            | <b>1,297.8</b>   |

As set out in the following sections, the cash and securities held on the Moventum Platform at 13 December 2023 were a result of the following:

- cash transferred to the Moventum Platform from the IBA Accounts in July 2023 totalling circa USD\$2.5m;
- structured notes transferred to the Moventum Platform in July 2023 in-specie from Platform One valued at USD\$1.2m at 13 December 2023 (according to the Moventum Platform);
- cash receipts from structured notes which had matured totalling USD\$0.1m; and
- cash transferred from the Moventum Platform to Brite Advisors' Westpac Client Accounts totalling USD\$(2.6m).

### A4.2 GBP AND USD ACCOUNTS

The circumstances around the GBP and USD Moventum Platform accounts are explained in the sections that follow.

#### A4.2.1. CASH TRANSFERRED TO MOVENTUM

On 5 July 2023, USD\$2.5m was transferred to Brite Advisors' Westpac Client Accounts from the cash held in IBA Master C, following the substantial sell down of securities in the quarter ending March 2023, but prior to the transfer of cash to BHKL in the quarter ending September 2023 (as set out as section [6.6] of the Fourth Report).

On 6 July 2023, these funds (being USD\$2.5m) were transferred from Brite Advisors' Westpac Client Accounts to the Moventum Platform.

#### A4.2.2. SECURITIES TRANSFERRED TO MOVENTUM

A Share Purchase Agreement was entered into between Corinthian Trust Company Limited and BAG on 31 July 2019 whereby BAG purchased 100% of Corinthian Trust Company Limited.

On 12 July 2023, 16 different types of structured notes were transferred to the Moventum Platform (in Brite Advisors' name) in-specie from Platform One, a separate platform in the name of Corinthian Pension Trustees Ltd, a wholly owned subsidiary of Corinthian Trust Company Limited.

The Receivers have been able to reconcile the 16 structured notes to 12 specific Beneficiaries' holdings (noting a number of Beneficiaries hold multiple structured notes).

At 13 December 2023, two of the structured notes had matured and proceeds totalling circa USD\$0.1m had been received into the Moventum Platform, leaving only 14 structured notes remaining.

#### A4.2.3. CASH TRANSFERRED FROM MOVENTUM TO WESTPAC

On 13 November 2023 (i.e. after the Asset Preservation Orders), USD\$2.6m was transferred from the Moventum Platform to Brite Advisors' Westpac Client Accounts comprising:

- the initial cash which was transferred to the Moventum Platform on 6 July 2023 totalling circa USD\$2.5m (outlined at section A4.2.1); and
- cash proceeds from the two structured notes which had matured totalling circa USD\$0.1m (outlined at section A4.2.2).

This cash was not transferred to the IBA Accounts and was still held in the Brite Advisors' Westpac Client Accounts on 13 December 2023. The Receivers have been able to reconcile the cash transferred to the Westpac Client Accounts to comprise proceeds of matured securities held on behalf of two specific Beneficiaries.

#### A4.3 MOVENTUM EUR ACCOUNT

The circumstances around the EUR Moventum Platform account are explained in this section.

On 9 June 2023, it appears that USD\$6,446 was transferred from IB to the Brite Advisors' Westpac Operating Account, to the Moventum Platform. Two securities were purchased on the Moventum Platform using this cash.

The Receivers have not been able to attribute these securities to any specific Beneficiary, as no Beneficiaries hold these securities per the 13 December 2023 Data. The two securities on the Moventum Platform in the EUR account have not matured.

#### A4.4 CASH AND SECURITIES AT 29 NOVEMBER 2024

As at 29 November 2024, the Moventum Platform holds cash and securities valued at circa USD\$1.6m based on the Moventum Platform, as set out in the table below:

| Assets held on Moventum at 29 November 2024       |                       |                        |                       |                  |
|---|-----------------------|------------------------|-----------------------|------------------|
| ccy'000   | GBP Account<br>(GBP£) | USD Account<br>(USD\$) | EUR Account<br>(EUR€) | Total<br>(USD\$) |
| Cash  | 543.1                 | 645.5                  | 0.1                   | 1,330.8          |
| Securities (market value per Moventum statements) | 179.6                 | -                      | 2.4                   | 229.2            |
| <b>Total</b>                                      | <b>722.7</b>          | <b>645.5</b>           | <b>2.5</b>            | <b>1,560.1</b>   |

The movement in cash and security balances is a result of the maturity of an additional 13 structured notes.

Only three securities are still held on the Moventum Platform. One is held by a specific Beneficiary, and the other the two relate to the EUR account whereby the Receivers have not been able to attribute these securities to a specific Beneficiary.

## A5 SUMMARY OF CORPORATE TRUSTEES

| Summary of Corporate Trustees |   |   |                   |  |               |                    |                      |                       |
|-------------------------------|---|---|-------------------|--|---------------|--------------------|----------------------|-----------------------|
| No.                           |   |   | Corporate Trustee |  | Related party | Platform Agreement | Survey response      |                       |
|                               |   |   | Jurisdiction      | Directors  |               |                    | First Trustee Survey | Second Trustee Survey |
| 1                             | PSG SIPP Limited (recently acquired by Alltrust Services Limited) | n/a                                     | United Kingdom    | Natalie Suzanne Pike, Duncan Parsons   | Yes           | Yes                | Yes                  | Yes                   |
| 2                             | MC Trustees (Malta) Ltd   | n/a                                     | Malta             | Helen Murdoch, Brett Michael Taylor  | Yes           | Yes                | Yes                  | Yes                   |
| 3                             | Relay Administration Limited (Subject to External Administration) | n/a                                     | Gibraltar         | Richard William Lissenden, Mark Peter Richardson, Brett Michael Taylor   | Yes           | Yes                | Yes                  | Yes                   |
| 4                             | Global Fiduciary Solutions Limited                                | n/a                                     | Hong Kong         | Company liquidated in Jan 2020   | No            | No                 | No                   | No                    |
| 5                             | iPensions Group Limited   | Forthplus Pensions Limited              | United Kingdom    | Craig Cheyne, Hrishikesh Kulkarni, Sandra Robertson, Heather Smyth   | No            | No                 | No                   | No                    |
| 6                             | Boal and Co (Pensions) Limited                                    | n/a                                     | Isle of Man       | Directors Mark Kiernan, Karen Kelly and Mark Doyle   | No            | No                 | Yes                  | No                    |
| 7                             | STM Malta Pension Services Limited                                | n/a                                     | Malta             | Joseph Grioli, Ray Stafrace, Robin Ellison, Keith Psaila, Andrew William Gardner   | No            | Yes                | Yes                  | Yes                   |
| 8                             | The Pensioneer Trustee Company (Guernsey) Limited                 | n/a                                     | Guernsey          | Timothy Ross Salisbury, Paul Richard Ockleford, Paul Richard Gaudion, Mark Andrew Le Page  | No            | Yes                | Yes                  | Yes                   |
| 9                             | Pathlines Pensions UK Limited                                     | London & Colonial Services Limited      | United Kingdom    | David Edward Hatch, Kenneth Duncan Hogg  | No            | No                 | Yes                  | Yes                   |
| 10                            | Concept Group Limited   | n/a                                     | Guernsey          | Roger Berry, Kevin John Le Moigne, Thomas Burns  | No            | No                 | Yes                  | Yes                   |
| 11                            | Praxis Pes Malta Limited  | Tireme Pension Services (Malta) Limited | Malta             | James Jonathan King, Denis Vella, Andrea Garroni, James Barber-Lomax, Richard Thomson Wight  | No            | No                 | Yes                  | Yes                   |
| 12                            | Mattioli Woods Ltd  | n/a                                     | United Kingdom    | Duncan Garard, Anne Gunther, Ian Mattioli, Iain McKenzie, Alison Heather, Lindsey McMurray, John Reason, Ravi Tara, Michael Wright | No            | No                 | Yes                  | Yes                   |
| 13                            | IFG Pensions Limited  | Sovereign Pension Services (UK) Limited | United Kingdom    | Rachel Meadows, Philip Salter, Sue-Ann Ind, Alistair Brogden, Jonathan Kneale  | No            | Yes                | Yes                  | Yes                   |
| 14                            | Sovereign Trust (Guernsey) Limited                                | n/a                                     | Guernsey          | Sean Gillease & Martin-Dale Bradley  | No            | No                 | Yes                  | Yes                   |
| 15                            | Sovereign Trust International Limited                             | n/a                                     | Gibraltar         | Diane Dentith, John Gonzalez   | No            | No                 | Yes                  | Yes                   |
| 16                            | Sovereign Pension Services Limited                                | n/a                                     | Malta             | John Lyndon Hodgson, Cristina Cassar Difesa, Stephen Frederick Griffiths, Maria Delia, Darren Whitley, Peter Max Yeoman            | No            | No                 | Yes                  | Yes                   |

## A6 BASIS OF PREPARATION

### A6.1 OVERVIEW

The purpose of this appendix is to set out the key sources of information, basis of preparation and key assumptions / limitations of the analysis presented in section 5 of this Report.

### A6.2 SOURCES OF INFORMATION

The Receivers note the key sources of information for the analysis presented in section 5 of this Report are set out in the table below along with the limitations.

| Source                       | Description and limitations   |
|------------------------------|---|
| <b>13 December 2023 Data</b> | <p><b>Overview</b></p> <ul style="list-style-type: none"><li>▪ Brite Advisors utilised AutoRek in order to reconcile Client AuM held by Brite Advisors with data received from Interactive Brokers. AutoRek acts as a tool to assist with the maintenance and reconciliation of the significant volume of financial data at a Beneficiary level, which is then displayed and stored via Salesforce.</li><li>▪ The Receivers obtained a raw export of the updated Beneficiary investment data set which included all Beneficiary positions up to 13 December 2023.</li><li>▪ This data set includes a transaction record of each Beneficiaries' interactions with Brite Advisors including deposits, withdrawals, security purchases and sales, dividends, coupons, fees, Surrender Rebates Fees and other corporate actions by date. This represents the transactions which would comprise what Beneficiaries' considered Brite Advisors <i>should</i> have held on their behalf.</li><li>▪ The Receivers have processed amendments to the raw export of the 13 December 2023 Data to address data integrity issues identified during the verification of the data. A detailed explanation of the data integrity issues identified and amendments made is set out in section 4.4 of this Report.</li><li>▪ In addition, the Receivers obtained accompanying data which recorded the business unit (i.e. the entity which provides financial advice to the Beneficiary), Corporate Trustee and financial advisor associated with each Beneficiaries' financial account.</li></ul> <p><b>Limitations</b></p> <ul style="list-style-type: none"><li>▪ Whilst the 13 December 2023 Data is the most accurate record of what Brite Advisors <i>should</i> have held on each Beneficiaries behalf in the Receivers' possession, there is a material shortfall between Client AuM held at 13 December 2023 and Beneficiaries' entitlements. The Receivers' investigations indicate that this shortfall likely existed as early as the year ended 30 June 2020. The Receivers' investigations into the reason for the shortfall in Client AuM is ongoing however this shortfall does bring into question the veracity of the 13 December 2023 Data. In the absence of a more accurate record of Beneficiaries' interactions with Brite Advisors, the Receivers have utilised the information available. Discrepancies in the 13 December 2023 Data may alter the findings presented in this Report.</li><li>▪ The Receivers have undertaken (and continue to undertake) a verification of various aspects of the 13 December 2023 Data to verify the accuracy of the data including, but not limited to, verification of Brite Advisors' bank account transaction listings (as extracted from Brite Advisors' accounting system) against both the IB Account Statements and Beneficiary deposit and withdrawal information disclosed in the 13 December 2023 Data. As a result of this verification, the 13 December 2023 Data has been amended to rectify issues identified with the integrity of certain aspects of the data. A detailed explanation of the data integrity issues identified and amendments made is set out in section 4.4 of this Report.</li><li>▪ The Receivers have not undertaken a review of the allocation of Beneficiaries' financial accounts to their associated business units, Corporate Trustees or financial advisor to</li></ul> |

| Source                          | Description and limitations   |
|---------------------------------|---|
|                                 | <p>confirm its accuracy. Any inaccuracies in these allocations may alter the findings presented in this Report.</p> <ul style="list-style-type: none"> <li>The transactions in the 13 December 2023 are recorded in 13 different currencies. The Receivers have converted these transactions to USD for the purposes of providing digestible analysis for the Court however the analysis presented is therefore sensitive to movements in foreign currency exchange rates.</li> </ul>   |
| <b>IB Account Statements</b>    | <p><b>Overview</b></p> <ul style="list-style-type: none"> <li>The majority of Client AuM was held on the IB Platform in an omnibus structure across four master accounts, comprising of 12 sub-accounts. In addition, BHKL held Client AuM in one master account, comprising of three sub-accounts, with IBHK. The Receivers have obtained statements copies of the statements for these accounts during the period from 1 October 2019 to 13 December 2023 (or the equivalent period in which these accounts were open).</li> </ul> <p><b>Limitations</b></p> <ul style="list-style-type: none"> <li>The IB Account Statements will report transactions in a base currency nominated for the respective account. The Receivers have converted these transactions to USD for the purposes of providing digestible analysis for the Court however the analysis presented is therefore sensitive to movements in foreign currency exchange rates.</li> </ul>  |
| <b>Xero Accounting Records</b>  | <p><b>Overview</b></p> <ul style="list-style-type: none"> <li>Brite Advisors utilised Xero for bookkeeping and financial reporting purposes on a day-to-day basis. The Brite Advisors' Xero account was created in August 2017.</li> <li>The Receivers obtained access to the Xero account in November 2023, however this access was revoked by Brite Advisors' Xero administrator (i.e. a Brite Group employee) shortly thereafter in December 2023.</li> <li>Brite Advisors' Xero subscription was transferred to the Receivers on or around 19 February 2024, and access was obtained again.</li> <li>The Xero Accounting Records can be used to generate historical financial reports in relation to Brite Advisors, such as balance sheets and profit and loss statements, and to obtain transactional ledger data.</li> </ul> <p><b>Limitations</b></p> <ul style="list-style-type: none"> <li>The Westpac Accounts were last reconciled in the Xero Accounting Records on 15 November 2023 (or prior), and accordingly, the Xero Accounting Records do not record transactions which occurred during the period from 15 November 2023 to 13 December 2023.</li> <li>Brite Advisors did not record the majority of funds received from IBA into the Westpac Operating Accounts as revenue for fees drawn. Instead, these funds were applied to set off related party loans in the Xero Accounting Records.</li> <li>No prepaid income was recognised in the Xero Accounting Records for upfront transfer fees during the four years ending 30 June 2023.</li> <li>Xero does not interact with Salesforce or AutoRek software, and accordingly, certain accounts (including assets under management) were updated on an annual basis only via year end manual journal entries. Accordingly, the Xero Accounting Records cannot be relied upon to give a day-to-day snapshot of the Client AuM.</li> <li>The Xero Accounting Records were maintained by Brite Advisors' internal accounts/bookkeeping function prior to the appointment of the Receivers, and accordingly, the Receivers cannot attest to the accuracy or completeness of the transactional data recorded.</li> </ul> |
| <b>BHKL Transaction Listing</b> | <p><b>Overview</b></p> <ul style="list-style-type: none"> <li>As set out in section 6.6 of the Receivers' Fourth Report, in response to the Receivers' requests for a fulsome reconciliation of the use of Client AuM whilst in the custody of BHKL, BHKL provided a transaction listing ledger extracted from its management accounting software for the period from 1 January 2023 to 31 December 2023.</li> </ul>  |



| Source | Description and limitations   |
|--------|---|
|        | <ul style="list-style-type: none"> <li>The BHKL Transaction Listing contains transactional ledger data relating to the BHKL HSBC Accounts as well as other income, expense, asset and liability accounts for the period 1 January 2023 to 31 December 2023.</li> </ul> <p><b>Limitations</b></p> <ul style="list-style-type: none"> <li>The Receivers do not have oversight over the accuracy or completeness of the BHKL Transaction Listing and we do not have access to BHKL's complete management accounts.</li> <li>The Receivers note we have submitted multiple requests to BHKL for further information regarding the use of Client AuM whilst in their custody however we have not received an adequate response as at the date of this Report.</li> </ul> |

### A6.3 BASIS OF PREPARATION

Set out below is the basis of preparation of the analysis presented in section 5 of this Report utilising the sources of information set out in A6.2.

#### A6.3.1. FOREIGN CURRENCY TRADES – INSTRUCTED VS. ACTUAL TRADES

Set out below is the basis of preparation for the analysis presented at section 5.2.3 utilising:

- 13 December 2023 Data; and
- IB Account Statements.

##### ***Basis of preparation***

- The IB Account Statements include a trades report which sets out a transactional record of all (i) sales and purchases of securities and bonds, and (ii) foreign currency exchange trades within each sub-account.
- The Receivers extracted the foreign currency exchange trade transactions (one side of the transaction only – the amount 'purchased' of various currencies), converted each of those transactions from their original base currencies to USD at the foreign currency exchange rates extracted from the IB Statements (as set out in the table below) and totalled these transactions on a quarterly basis.

##### Currency conversion to USD as at 13 Dec-23

| Base currency | FOREX rate |
|---------------|------------|
| USD           | 1.000      |
| GBP           | 1.262      |
| AUD           | 0.666      |
| EUR           | 1.088      |
| HKD           | 0.128      |
| CHF           | 1.147      |
| ZAR           | 0.054      |
| NZD           | 0.617      |

*Source: IB Statements*

- To compare the foreign currency exchange trades actually made in the IBA Accounts to the foreign currency exchange trades instructed by Beneficiaries, the Receivers extracted the foreign currency exchange trades (one side of the transaction only – the amount 'purchased' of various currencies) from the 13 December 2023 Data, converted each of those transactions from their original base currencies to USD at the same foreign currency exchange rates extracted from the IB Statements as set out above and totalled these transactions on a quarterly basis.
- The Receivers summarised the totals per quarter based on the 13 December 2023 Data and IB Account Statements in a clustered bar chart.

##### ***Limitations / assumptions:***

- As the analysis presented has converted multiple currencies to USD, the outputs are sensitive to movement in foreign currency exchange rates.



### A6.3.2. ESTIMATED SHORTFALL BY IBA ACCOUNT AT DECEMBER 2020 AND JUNE 2021

Set out below is the basis of preparation for the analysis presented at section 5.3.6 utilising:

- 13 December 2023 Data; and
- IB Account Statements.

#### ***Basis of preparation***

- In order to determine the shortfall in each of the respective IBA Accounts at 31 December 2020 and 30 June 2021, the Receivers compared (i) the net asset value held in IBA Master A and IBA Master B, and (ii) an estimate of Beneficiaries' entitlements per the 13 December 2023 Data. The basis of preparation to quantify these amounts is set out below.

#### *Gross asset value per IBA Accounts*

- The Receivers extracted the following reports from the IB Account Statements:
  - the cash summary reports for IBA Master A for 31 December 2020 and 30 June 2021 and for IBA Master B for 30 June 2021; and
  - a positions report which sets out the quantity and current value (as well as movement in those positions during the respective period) of all securities held in the respective IBA Accounts as at 31 December 2020 and 30 June 2021.
- In order to determine the value of the cash held at 31 December 2020 and 30 June 2021 in the IBA Accounts, the Receivers took the net value of the long cash position less the short cash position (i.e. the margin loan liability) at each point in time.
- In order to determine the value of securities held at 31 December 2020 and 30 June 2021 in the IBA Accounts, the Receivers extracted the pricing of the securities held per the IB Account Statements at 31 December 2020 and 30 June 2021 and multiplied the quantity of the securities by the listed price per the positions reports in the respective accounts.
- The total value of the cash and securities was totalled in order to determine the net Client AuM held in the respective IBA Accounts at 31 December 2020 and 30 June 2021.
- The value of the cash and securities Brite Advisors' held in the IBA Accounts on behalf of Beneficiaries was converted to USD for ease of review and compared with the net asset value per the IB Account Statements at 13 December 2023 as presented below:

#### **Currency conversion to USD as at 13 Dec-23**

| <b>Base currency</b> | <b>FOREX rate</b> |
|----------------------|-------------------|
| USD                  | 1.000             |
| GBP                  | 1.262             |
| AUD                  | 0.666             |
| EUR                  | 1.088             |
| HKD                  | 0.128             |
| CHF                  | 1.147             |
| ZAR                  | 0.054             |
| NZD                  | 0.617             |

*Source: IB Statements*

#### *Estimate of Beneficiary entitlements*

- The Receivers utilised the 13 December 2023 Data to determine how much cash each Beneficiary was reported to hold within their portfolio and offset their surrender rebate from their cash position (where applicable) to determine the net cash entitlement of each Beneficiary as at 31 December 2020 and 30 June 2021.
- The transactional data within the 13 December 2023 Data comprises 21 different transaction types. Set out below are the key transaction types utilised by the Receivers to determine the amount of cash that Brite Advisors reportedly held for each Beneficiary as at 31 December 2020 and 30 June 2021 along with our understanding of the nature of the underlying transactions based on discussions with i-Convergence:

- **Deposits** – Deposits made by Beneficiaries including initial and additional contributions;
  - **Withdrawals** – Withdrawals made by Beneficiaries;
  - **Buys/Sells** – stocks, bonds and structured notes purchased/sold;
  - **Fees** – Comprising a variety of different fees including but not limited to portfolio management fees, asset management fees, advisory fees, exit fees and bank charges;
  - **Surrender Rebates** – The loan provided to Beneficiaries to allow them to invest the amount paid to their incumbent pension fund for surrender / exit fees when they transition to Brite Advisors;
  - **Surrender rebate transfers** – Transfers of surrender rebate loans between financial accounts; and
  - **Surrender rebate Fees** – The monthly instalment repayments fees charged to Beneficiaries with a surrender rebate.
- The Receivers calculated the amount of cash each Beneficiary was reported to hold as total deposits, less withdrawals and fees, add net cash impact of buys and sells of securities, less the total surrender rebates owed (being surrender rebates, add net surrender rebate transfers, less surrender rebate fees) to each end date.
  - Set out below are the key transaction types utilised by the Receivers to determine the quantity of securities that Brite Advisors reportedly held for each Beneficiary as at 31 December 2020 and 30 June 2021 along with our understanding of the nature of the underlying transactions based on discussions with i-Convergence:
    - **Buys/Sells** – stocks, bonds and structured notes purchased/sold.
    - **Transfers in/out** – stocks, bonds and structured notes transferred in/out.
  - The Receivers calculated the quantity of securities each Beneficiary was reported to hold as at 31 December 2020 and 30 June 2021 by adding the net quantity of each asset bought/sold and the net quantity of each asset transferred in/out to each end date.
  - In order to determine the value of securities reportedly held by each Beneficiary at 31 December 2020 and 30 June 2021 in accordance with the 13 December 2023 Data, the Receivers multiplied the quantity of the securities by the listed price per the positions reports by extracting the pricing of the securities held per the IB Account Statements at 31 December 2020 and 30 June 2021 and.
  - Where a security was not listed in the IB Account Statements, the Receivers utilised publicly available pricing data to estimate value of the securities. There were seven securities which the Receivers were unable to source historic pricing from publicly available sources, the valuation of these securities was estimated based on the cost in the 13 December 2023 Data.
  - The value of the cash and securities Brite Advisors' reported to hold on behalf of Beneficiaries was converted to USD for ease of review and compared with the net asset value per the IB Account Statements at 13 December 2023 as presented below:

#### Currency conversion to USD as at 13 Dec-23

| Base currency | FOREX rate |
|---------------|------------|
| USD           | 1.000      |
| GBP           | 1.262      |
| AUD           | 0.666      |
| EUR           | 1.088      |
| HKD           | 0.128      |
| CHF           | 1.147      |
| ZAR           | 0.054      |
| NZD           | 0.617      |

Source: IB Statements

- In order to compare the estimated Beneficiary entitlements to the Client AuM held in IBA Master A and IBA Master B, the Receivers mapped each Beneficiaries based on their purported jurisdiction (either US or RoW, UK and A Flambard) by applying the following process:

- First, by allocating jurisdiction to each Beneficiary based on the Business Unit recorded against each Beneficiary's financial accounts in the 13 December 2023 Data as follows:

| Jurisdictional mapping          |              |
|---------------------------------|--------------|
| Business Unit                   | Jurisdiction |
| Brite UK                        | UK           |
| Brite Inc (USA)                 | US           |
| Brite International             | RoW          |
| Brite Ltd (Bahamas)             | RoW          |
| Brite LLC (Dubai)               | RoW          |
| The Brite Advisors SA Pty (Ltd) | RoW          |
| Brite Pty (AUS)                 | RoW          |
| Brite MD                        | RoW          |
| Genesis                         | RoW          |
| IWG (Cyprus)                    | RoW          |
| Brite LLC (USA)                 | A Flambard   |

*Source: i-Convergence*

- Then, reallocating Beneficiaries from "US" to "A Flambard" for those Beneficiaries whose Business Unit is listed as 'Brite Inc (USA)' but has "A Flambard US" listed as their Financial Advisor.
- Beneficiary entitlements (both cash and value of securities) were totalled based on jurisdiction in order to compare to the value of the Client AuM held in the respective accounts as follows:
  - all Beneficiary entitlements were totalled regardless of jurisdiction as at 31 December 2020 to compare to the Client AuM held in IBA Master A;
  - RoW, UK and A Flambard Beneficiary entitlements were totalled as at 30 June 2021 to compare to the Client AuM held in IBA Master A;
  - US Beneficiary entitlements were totalled as at 30 June 2021 to compare to the Client AuM held in IBA Master B.

#### *Preparation of graph*

- The Receivers plotted the above comparison in the graph at section 5.3.6 as follows:
  - The blue bar in the graph represents the value of the Client AuM actually held in the respective IBA Accounts as at 31 December 2020 and 30 June 2021.
  - The red shaded bar in the graph represents the shortfall in the Client AuM of Beneficiaries grouped by jurisdiction (based on the IBA Account their assets were purported to be held in), being the difference between (i) the value of the Client AuM reportedly held by Beneficiaries based on the 13 December 2023 Data, and (ii) the value of the Client AuM actually held in the respective IBA Accounts.

#### **Limitations / assumptions:**

- As the analysis presented has converted multiple currencies to USD, the outputs are sensitive to movements in foreign currency exchange rates.
- As the analysis presented is reliant upon the 13 December 2023 Data, the Receivers note the limitations set out at A6.2 which may impact the findings presented in the Supplementary Report.
- The analysis is dependent on the assumption that the jurisdictional mapping of the Beneficiaries is correct, and accordingly the limitations set out in 5.4 apply.
- **The Receivers note the above analysis is indicative only** as this does not include (i) accurate historical pricing for seven securities listed in the 13 December 2023 Data which we were unable value based on either the IB Account Statements or publicly available information, and (ii) the valuations attributable to any Other Client AuM including (but not limited to) those held on the Moventum Platform the Minerva Notes which would decrease the estimated shortfall at 31 December 2020 and 30 June 2021, however the Receivers consider these would only have an incremental impact on the estimated shortfall.

### A6.3.3. ESTIMATED DEFICIENCY IN CASH HELD IN IBA ACCOUNTS AT DECEMBER 2020 AND JUNE 2021

Set out below is the basis of preparation for the analysis presented at section 5.3.12 utilising:

- 13 December 2023 Data; and
- IB Account Statements.

#### ***Basis of preparation***

- The Receivers undertook the analysis set out in section A6.3.2 and summarised the deficiency in cash only (i.e. excluding securities) in IBA Master A as at 31 December 2020 and IBA Master A and B as at 30 June 2021 in the table set out at section 5.3.12.

#### ***Limitations / assumptions:***

- As the analysis presented has converted multiple currencies to USD, the outputs are sensitive to movement in foreign currency exchange rates.
- As the analysis presented is reliant upon the 13 December 2023 Data, the Receivers note the limitations set out at A6.2 which may impact the findings presented in the Supplementary Report.
- The analysis is dependent on the assumption that the jurisdictional mapping of the Beneficiaries is correct, and accordingly the limitations set out in section 5.4 apply.

### A6.3.4. ESTIMATED UPFRONT TRANSFER FEES AS AT 31 DECEMBER 2020 AND 30 JUNE 2021

Set out below is the basis of preparation for the analysis presented at section 5.3.14 utilising the 13 December 2023 Data.

#### ***Basis of preparation***

- The transactional data within the 13 December 2023 Data comprises 21 different transaction types. Set out below are the key transaction types utilised by the Receivers to determine the estimated Upfront Transfer Fees for Beneficiaries as at 31 December 2020 and 30 June 2021 along with our understanding of the nature of the underlying transactions based on discussions with i-Convergence:
  - **Deposits** – Deposits made by Beneficiaries including initial and additional contributions; and
  - **Fees** – Comprising a variety of different fees including but not limited to portfolio management fees, asset management fees, advisory fees, exit fees and bank charges.
- The Receivers mapped the purported jurisdiction of each Beneficiary (either RoW, UK, A Flambard or US Beneficiaries) by following the process set out in section A6.3.2 above.
- To estimate the entitlement to Upfront Transfer Fees during the respective periods, the Receivers:
  - totalled the deposits for all non-Brite US Beneficiaries in the respective periods per the 13 December 2023 Data;
  - calculated the estimated entitlement to Upfront Transfer Fees during the respective periods based on the total deposits for all non-Brite US Beneficiaries in the respective periods multiplied by 5%; and
  - converted the outputs from the respective native currencies in the 13 December 2023 Data to USD at 13 December 2023 for ease of review.
- The value presented at section 5.3.14 presents the value of the estimated Upfront Transfer Fees outstanding as at 30 June 2021.

#### ***Limitations / assumptions:***

- As the analysis presented has converted multiple currencies to USD, the outputs are sensitive to movement in foreign currency exchange rates.
- As the analysis presented is reliant upon the 13 December 2023 Data, the Receivers note the limitations set out at A6.2 which may impact the findings presented in the Supplementary Report.
- The analysis is dependent on the assumption that the jurisdictional mapping of the Beneficiaries is correct, and accordingly the limitations set out in section 5.4 apply.
- The Receivers understand Brite Advisors' entitlement to Upfront Transfer Fees were based on 5% of gross asset value of non-Brite US Beneficiaries' initial investments. Brite Advisors' Upfront Transfer Fees were expensed by the

respective Beneficiary's Managed Portfolio Fees (generally 1% p.a. of the net value of the Beneficiary's initial investments) and/or Exit Fees. The Receivers understand the terms for some Beneficiaries permitted Managed Portfolio Fees to be charged at the greater of their net asset value or their initial investment. The Receivers' calculation of Brite Advisors' fee and Upfront Fee Entitlement does not include any of the additional fee entitlement for growth in their net asset value (in the event of favourable market movements). In lieu of any proper accounting of Brite Advisors' Upfront Fee Entitlement, the Receivers consider calculating this additional fee entitlement to be expensive and would likely only have an incremental impact on the analysis presented.

#### A6.3.5. ESTIMATED SHORTFALL BY IBA ACCOUNT BY JURISDICTION AT 13 DECEMBER 2023

Set out below is the basis of preparation for the analysis presented at section 5.4.6 utilising:

- 13 December 2023 Data; and
- IB Account Statements.

##### ***Basis of preparation***

- The IB Account Statements include a net asset value report which sets out the long, short, and net total values of each of the asset classes (i.e. cash, securities, bonds, and accruals) as at a certain date. The Receivers extracted the net asset value reports from each of the IBA Accounts.
- The Receivers made an adjustment for the cash transferred from IBHK totalling USD\$76.5m to IBA Master A from IBHK as well as the USD\$1.8m transferred from BHKL's HSBC Client Accounts to the Westpac Client Accounts to account for the assets purportedly held on behalf of RoW Beneficiaries.
- The Receivers utilised the 13 December 2023 Data to determine at 13 December 2023 (i) the total cash Brite Advisors reported to hold on behalf of Beneficiaries (being the net total of transactions within the 13 December 2023 Data), (ii) the total quantity of securities Brite Advisors reported to hold on behalf of Beneficiaries, and (iii) the estimated Surrender Rebates outstanding. The Receivers then split these values by jurisdiction, by applying the jurisdictional mapping method set out above in section A6.3.2.
- In order to determine the value of securities reported to be held at 13 December 2023, the Receivers extracted the pricing of securities held per the IB Account Statements at 13 December 2023 and multiplied the quantity by the listed price.
- Where a security was not listed in the IB Account Statements, the Receivers utilised publicly available pricing data to estimate value of the securities. There were circa 60 securities which the Receivers were unable to source historic pricing from publicly available sources, the valuation of these securities was estimated based on the cost in the 13 December 2023 Data.
- The value of the cash and securities held in the IBA Accounts and that Brite Advisors' reported to hold on behalf of Beneficiaries was converted to USD for ease of review and compared with the net asset value per the IB Account Statements at 13 December 2023 as presented in the table below:

##### **Currency conversion to USD as at 13 Dec-23**

| <b>Base currency</b> | <b>FOREX rate</b> |
|----------------------|-------------------|
| USD                  | 1.000             |
| GBP                  | 1.262             |
| AUD                  | 0.666             |
| EUR                  | 1.088             |
| HKD                  | 0.128             |
| CHF                  | 1.147             |
| ZAR                  | 0.054             |
| NZD                  | 0.617             |

*Source: IB Statements*

- The Receivers compared the value of the assets reported to be held by Brite Advisors on behalf of the following groups of Beneficiaries against the value of the assets in the IBA Account arbitrarily designated as holding that group of Beneficiaries, as follows:
  - UK Beneficiaries – IBA Master A (less adjustment made for cash returned from IBHK)
  - RoW Beneficiaries – Amount returned from BHKL's HSBC Client Accounts add the adjustment from IBA Master A for cash returned from IBHK
  - US Beneficiaries – IBA Master B
  - A Flambard Beneficiaries – IBA Master D

***Limitations / assumptions:***

- As the analysis presented has converted multiple currencies to USD, the outputs are sensitive to movement in foreign currency exchange rates.
- As the analysis presented is reliant upon the 13 December 2023 Data, the Receivers note the limitations set out at A6.2 which may impact the findings presented in the Supplementary Report.
- The analysis is dependent on the assumption that the jurisdictional mapping of the Beneficiaries is correct, and accordingly the limitations set out in 5.4 apply.

**A6.3.6. ESTIMATED PAYMENTS TO BRITE US MADE WITHIN 5 DAYS OF RECEIPT FROM IBA MASTER A AND C DURING PERIOD FROM JANUARY 2021 TO DECEMBER 2023**

Set out below is the basis of preparation for the analysis presented at section 5.5.10 utilising:

- Xero Accounting Records;
- BHKL Transaction Listing; and
- IB Account Statements.

***Basis of preparation***

- The Receivers extracted the transaction list for the USD Westpac Operating Account from Brite Advisors' Xero Accounting Records for the period from 1 January 2021 to 13 December 2023.
- For all payment transactions recorded as being paid to Brite US (identified via reference to the contact field of the transaction listing recorded as 'Brite Advisors USA Inc.'), the Receivers checked whether a receipt from IBA Master A or B had been received to the USD Westpac Operating Account within 5 days of each payment to Brite US.
- Of the USD\$9.8m paid to Brite US during the period from 1 January 2021 to 13 December 2023 (i.e. USD\$9.6m US recorded in the Xero Accounting Records and USD\$0.2m recorded in the BHKL Transaction Listing), the Receivers identified that USD\$7.2m occurred within 5 days of a receipt to the USD Westpac Operating Account from IBA Master A or C.

***Limitations / assumptions:***

- As the analysis presented has converted multiple currencies to USD, the outputs are sensitive to movement in foreign currency exchange rates.
- The Receivers are reliant upon the correct and accurate recording of transactions in the Xero Account Records by Brite Group employees prior to appointment for the categorisation and summarisation of the transactions. The Receivers are unable to attest to the completeness or accuracy of transactions prior to their appointment.

**A6.3.7. ESTIMATED FEES CHARGED TO BRITE US BENEFICIARIES AND PAID TO BRITE US DURING PERIOD FROM JANUARY 2021 TO DECEMBER 2023**

Set out below is the basis of preparation for the analysis presented at section 5.5.9 utilising the 13 December 2023 Data.

***Basis of preparation***

- As set out in section 4.3 of the Fourth Report, the Receivers understand Brite Advisors was entitled withdraw funds from Client AuM (excluding Beneficiary withdrawals and surrenders) for certain fees.
- To determine the estimated fees that Brite US may be entitled to, the Receivers utilised the 13 December 2023 Data to estimate fees charged to Brite US Beneficiaries during the period from 1 June 2021 to 13 December 2023.



- The transactional data within the 13 December 2023 Data comprises 21 different transaction types. The Receivers utilised the fee transactions (comprising a variety of different fees including but not limited to portfolio management fees, asset management fees, advisory fees, exit fees and bank charges) for the purpose of this analysis.
- The Receivers utilised the description field in the 13 December 2023 Data to identify transactions relating to advisory fees.
- To estimate the entitlement to fees during the period from 1 June 2021 to 13 December 2023, the Receivers:
  - allocated the transactions within the 13 December 2023 Data based on the jurisdictional mapping method set out above in section A6.3.2 in order to identify the Brite US Beneficiaries;
  - totalled the fees with descriptions “Advisory Fees” charged to Brite US Beneficiaries per the 13 December 2023 Data in order to estimate advisory fees charged to each Beneficiary during the respective period; and
  - converted the outputs from the respective native currencies in the 13 December 2023 Data to USD at 13 December 2023 for ease of review.

***Limitations / assumptions:***

- As the analysis presented has converted multiple currencies to USD, the outputs are sensitive to movement in foreign currency exchange rates.
- As the analysis presented is reliant upon the 13 December 2023 Data, the Receivers note the limitations set out at A6.2 which may impact the findings presented in the Supplementary Report.
- The analysis is reliant upon all relevant fees being captured by utilising the description field of the 13 December 2023 Data and filtering for references to “Advisory Fees”.
- The analysis is dependent on the assumption that the jurisdictional mapping of the Beneficiaries is correct, and accordingly the limitations set out in section 5.4 apply.



## **Annexure A – July Trustee Survey**

**CONFIDENTIAL**

### **Section 1: Trustee contact details**

Please confirm your address, the relevant contact person, email address and phone number.

### **Section 2: Trustee details**

#### Question 2A - Relationships

Are you a related and/or associated party of the below:

- Brite Advisors.
- Any entity in the broader Brite Group, including The Aurom Group Limited (UK), Relay Group Limited (BVI), Brite Advisory Group Limited (HK).
- Mr Mark Donnelly or Mr John Lymer.

For the avoidance of doubt, the definition a related party is set out at Section 9 of the Corporations Act 2001 and includes (i) directors or members (of the company, or of a related party), and (ii) relatives and spouses of the persons listed above. Associated parties refer to parties that have a relationship or connection, often in terms of ownership or control.

#### Question 2B - Jurisdiction

In respect of the Brite Advisors' Beneficiaries for whom you act as Trustee, what legal jurisdiction/s do you operate in?

#### Question 2C - Regulators

Please advise which jurisdiction(s) your business is registered in and operates from.

Please provide details of the Regulator(s) which provide oversight of your compliance with applicable legal and regulatory obligations.

Please advise of any obligations imposed on you which you consider ought to be brought to our attention in the context of our consideration of methods by which the Client AuM might be distributed to Beneficiaries.



#### Question 2D - Compliance

In your role as Trustee, have you complied with the laws and regulations applicable in the jurisdictions in which you operate at all times?

Have you been sanctioned by any Regulator?

Are you under investigation by any Regulator?

Please provide a copy of your most recent set of audited financial statements.

#### Question 2E - Brite Advisors' contractual arrangements

To the extent not already provided, please confirm if there is a written contract or agreement in place between you and Brite Advisors, and if so provide a copy.

If there is no written contract or agreement, please outline what you understand to be the arrangements between you and Brite Advisors. Please also cite any reasons why there is no written contract or agreement available.

#### Question 2F - Pensions schemes

What type of pension schemes do you administer for the Brite Advisors Beneficiaries (i.e. SIPP, QROPS, QNUPs or other)?

#### Question 2G - Fee arrangements with Brite Advisors

Please advise the contractual arrangements which are in place (if any) between you and Brite Advisors in respect of entitlement to Trustee fees.

### **Section 3: Beneficiary details**

#### Question 3A - Beneficiary details

To the extent not already provided, please provide a detailed list of the Beneficiaries for who you act as Trustee, including full name, address, jurisdiction, pension scheme/superannuation fund type, scheme or fund name, and investment value (per the latest set of data you have to hand).

#### Question 3B Beneficiary jurisdiction

Please provide a list of the jurisdictions/countries where your Beneficiaries reside.

#### Question 3C - Entitlement to act

Please provide details of the arrangements in place between you and each of the Beneficiaries demonstrating your entitlement to act on behalf of each Beneficiary with reference to the relevant written contracts or standard onboarding agreements. If there are no written contracts or agreements, please outline the reason why, and what you understand to be the arrangements between you and the relevant Beneficiaries.

#### Question 3D – Beneficiary identification process

Please provide details of what steps have been taken to identify the Beneficiaries as required in Question 3A and what Anti Money Laundering regulations you are obliged to follow relating to customer identification/verification both from an initial onboarding and ongoing perspective.



#### Question 3E - Trustee fees with beneficiaries

Please provide a summary of the arrangements (if any) between you and the Beneficiaries in respect of entitlement to Trustee fees.

#### Question 3F – Beneficiary communication

Please provide details of how you communicate with the Beneficiaries for who you act as Trustee (i.e. post, email, portal/app)?

### **Section 4: Distribution of funds**

#### Question 4A – Client AuM Distribution

Do you consider that the liquidation of the Client AuM (i.e. sale of all of the investments and conversion to cash) and return of that cash to you as Trustee would have any negative implications for Beneficiaries, as opposed to the Client AuM being transitioned to a new fund manager? For example, tax, regulatory or any other implications. Please include references to local laws and regulations (where relevant).

#### Question 4B - Distribution methodology

Do you have any views or comments in relation to two options for distribution being either (i) distribution of the funds to the Trustees, or (ii) distribution of the funds directly to the Beneficiaries and any implications you see from either option? For example, tax, regulatory or any other implications. Please include references to local laws and regulations (where relevant).

#### Question 4C - Intention of Trustee

If the Receivers distribute the funds to you, please outline your intended approach in respect of the funds. For example, will you distribute the funds to the Beneficiaries, seek to reinvest the funds with an alternative fund manager or take some other action?

#### Question 4D – Regulator approval

If the Receivers distribute the funds to you, please confirm that you have the necessary authority, including any appropriate approvals from your regulator(s), to undertake the work required to deal with the funds, whether that is by payment to Beneficiaries, reinvestment of the funds or any other action.

#### Question 4E - Trustee fees for distribution

If the Receivers distribute the funds to you, please advise the proposed structure of your fees and how you would propose your Trustee fees be paid (with reference to the relevant contractual arrangements) for arranging (i) to pay a distribution to Beneficiaries, (ii) reinvestment of the fund, or (iii) any other action.

#### Question 4F - Trustee ability to distribute funds

If the Receivers distribute the funds to you, do you currently have the capability, information, resources and appropriate systems in place to deal with the funds in a timely manner, whether by way of distribution to Beneficiaries, reinvestment or some other action. Your response should include details of your capabilities, relevant information held, available resources, systems used and estimated timeframes to deal with the funds.



**Question 4G – Taxation implications for Beneficiaries**

Do you consider there to be any possible taxation implications for your Beneficiaries resulting from either of the two options for distribution, being either (i) distribution of the funds to the Trustees, or (ii) distribution of the funds directly to the Beneficiaries.

**Question 4H – Replacement Trustee**

The Receivers have received requests from beneficiaries seeking to change their Trustee/pension scheme administrator.

If a Beneficiary wishes to replace you as their Trustee/pension scheme administrator, please confirm that you would consent to such a request or advise the terms on which you provide such consent. Please also advise of any difficulties you would consider would be encountered, including any applicable regulations.

**Section 5: Distribution of funds**

**Question 5A – Other**

Please outline any other comments or views you have in respect of the distribution of the Client AuM which have not been addressed above.





## **Annexure A – October Trustee Survey**

### **CONFIDENTIAL**

#### **Section 1: Intended approach in relation to distribution of funds to Beneficiaries**

##### Question 1A

If the Receivers distribute the funds to you as Trustee, please outline your intended approach in respect of the distribution of funds to Beneficiaries. In particular:

- a) Will Beneficiaries be provided with options as to how their funds will be treated?
  - i. If yes, will those options include, (i) transfer of funds to a new Trustee, or (ii) reinvestment of funds with an alternative fund manager, or (iii) no preference, or (iv) some other option?
  - ii. If not, why will the Beneficiaries not be provided with options? How will the funds be treated?
- b) Will the options presented to the Beneficiaries be different depending on their personal circumstances, or will all the options be the same?
- c) Where relevant, will the alternative fund manager be selected by you, or will the decision be at the discretion of the Beneficiaries? If the decision is at the discretion of the Beneficiaries, is that discretion limited by a panel of fund managers selected by you?
- d) In the event an alternative fund manager or panel of options for an alternative fund manager is to be selected by you, please explain:
  - i. If this has already been done, which fund manager(s) have been selected?
  - ii. What due diligence has been done to select an appropriate fund manager / fund managers?

##### Question 1B

What infrastructure, expertise and personnel do you have in place to attend to selection and reinvestment of funds with an alternative fund manager (if applicable).

##### Question 1C

If you are proposing to provide an option to Beneficiaries, how will you:

- a) Request Beneficiaries' preferred option? Please detail in your response:
  - i. The method by which you will contact the Beneficiaries.
  - ii. The information the Beneficiaries will receive.
  - iii. When you propose to seek the views of Beneficiaries.
  - iv. The expected timeframe for this process.
- b) Deal with Beneficiaries having different preferences (i.e. requesting various alternative fund managers).

##### Question 1D

How can a Beneficiary elect to replace you as pension administrator and Trustee?

##### Question 1E

If a Beneficiary does elect to replace you as pension administrator and Trustee:

- a) What steps will you require the Beneficiary undertake to complete this?





- b) What fees or charges will be imposed on the Beneficiary?
- c) How long will this process take?
- d) Will the above change depending on who the Beneficiary elects to be the replacement Trustee?
- e) Do you consider that you have any discretion (legally or procedurally) to refuse the request? If so, please explain this with reference to supporting documentation.

## **Section 2: Proposed structure of fees proposed to be passed on to Beneficiaries**

### Question 2A

If the Receivers distribute the funds to you, what is the proposed structure of your fees and how you would propose your Trustee fees be paid (with reference to the relevant contractual arrangements) for the following:

- To pay a distribution to Beneficiaries; and/or
- Transfer a Beneficiaries' fund to a new Trustee; and/or
- Reinvestment of the fund and appoint alternative fund manager.

### Question 2B

Please advise if:

- a) There are current and valid contractual arrangements in place between you and each of your Beneficiaries? If there is, please provide examples of these documents.
- b) There are clear contractual arrangements in place that stipulates your entitlement to deduct or claim fees from each Beneficiary (if that is different to what you already provided above) and, if so, please reference the relevant clauses or provisions of those contractual arrangements.
- c) The contractual arrangements in place vary between Beneficiaries or if they are all the same? If they vary, please outline the variations by reference to supporting documentation.
- d) The contractual arrangements in place vary over time, or if they have remained consistent? If they vary, please outline the variations by reference to supporting documentation, including an explanation as to how you have satisfied yourself that any such variation is binding and enforceable as against Beneficiary .
- e) There are any terms and conditions outside the documents provided which apply to the arrangement between you and the Beneficiaries? For example, general terms and conditions, amendments to conditions etc. If there is, please provide copies of these documents and explain how these additional terms and conditions are incorporated into the contractual arrangements between you and the Beneficiaries.

### Question 2C

If the Receivers distribute funds to you, will you deduct a fee from the funds returned to you in respect of arrears (with reference to relevant contractual arrangements)? If so, what is the total quantum of fees owed to you to date?

\*\*\*\*\*END OF SURVEY\*\*\*\*\*

**From:** [QROPS](#)  
**To:** [Amber Kirkbright](#); [Paul Bradley](#); [QROPS](#)  
**Cc:** [Linda Smith](#); [Lauren Burton](#); [Ben Schuhkraft](#); [FM-McN Brite Advisors](#)  
**Subject:** RE: Brite Advisors Pty Ltd (Receivers and Managers Appointed) (In Liquidation) (Brite Advisors)  
**Date:** Tuesday, 23 July 2024 11:46:01 PM  
**Attachments:** [image001.jpg](#)  
[image002.jpg](#)  
[image003.png](#)  
[image004.jpg](#)

You don't often get email from [qrops@boalco.com](mailto:qrops@boalco.com). [Learn why this is important](#)

**EXTERNAL SENDER**

Hi

Amber

Thanks for your call earlier. Apologies for the late response, Paul has been off sick and it seems your email to the QROPS@ inbox was missed.

1. The address you have for us is incorrect and we have never been at that address. Our correct address is Marquis House, IOM Business Park, Douglas, Isle of Man IM2 2QZ

2. Trustee Details

2A. No to all

2B. Isle of Man

2C. Isle of Man – Isle of Man Financial Services Authority

Jersey – Jersey Financial Services Commission

Gibraltar – Gibraltar Financial Services Commission

2D. To the best of our knowledge we have at all times complied with all relevant laws and regulations in the jurisdictions in which we operate. We are not under investigation and have not been sanctioned by our Regulators. As a private company we will not be sharing our financial statements at this juncture.

2E. We have no formal contractual arrangement with Brite. We were asked by the scheme member to appoint them as DFM and we acted on this

2F. The only member we have is a member of our IOM based Trinity pension scheme which was a QROPS

2G. The fee arrangement is with the client and this would have been funded by withdrawals from the investment. No arrangement with Brite

Section 3. Beneficiary details

3A. One client, [REDACTED], [REDACTED].  
He is a member of our Trinity Pension Scheme based in Isle of Man. The last figure we

have is [REDACTED]

3B. Assuming you mean only the clients with Brite, the member lives in Maldives

3C. we are Trustees of the Trinity Pension and [REDACTED] is a member of that scheme. I have attached the original application form

3D. Original KYC as attached. We are required to follow IOM regulations re KYC and obtain up to date KYC at any trigger event.

3E. Annual Fee £1,299 per annum, collected annually by encashment from the underlying investment

3F. Usually by email and / or post and via their appointed financial adviser

#### Section 4

4A. We don't feel there will be any negative implications in transferring the assets as cash, other than the cost of selling and rebuying investments. As any new adviser / DFM would likely require encashment and new investments this is unlikely to be significant.

4B. As this is a pension fund, and the assets are legally owned by ourselves for the benefit of the member, these cannot be distributed to the beneficiary. There are limits to what can be paid, and the majority must be used to provide an income for life. Section 50C of the IOM Income Tax Act 1970, as well as a number of elements of UK QROPS and pension legislation. Payment of the full fund to the member would be an unauthorised payment and subject to a tax charge. This should not be an option for this fund

4C. We will contact the member and arrange for a new adviser / fund manager to be put in charge of the assets.

4D. Yes. We are a regulated IOM pension provider and as such can act in the best interest of the pension member, while abiding by the Income Tax Act 1970 and the Retirement Benefits Schemes Act 2000

4E. We will carry on with our annual fee of £1,299 p.a. and deduct by encashment from the investment. We would not charge extra for the reinvestment.

4F. We have all the facilities to arrange for reinvestment. For reference we employ c 40 staff, are Trustees for c US\$ 12 billion, and have over 100,000 scheme members, being either corporate schemes or individual schemes.

4G. There would be no taxation issue for beneficiaries if funds paid to us. There will be serious taxation issues if funds are paid direct to the beneficiaries as this would be deemed an unauthorised payment under both IOM and UK tax regulations. We cannot

comment on the tax liability the member would have in his country of residence

4H. As this is a Master Trust pension with a number of members it would not be technically possible to replace us as Trustee. However, IOM legislation allows a member to transfer his pension scheme to another IOM provider should he wish to and we have a standard set of forms for him to do this should he wish.

## Section 5

5A. No other comments other than to reiterate the requirement that these pension funds should not be paid direct to the member

If you'd like any further information on the above, please contact me at [jbatty@boalco.com](mailto:jbatty@boalco.com)

## QROPS Team

General +44 (0) 1624 606606



---

**From:** Amber Kirkbright <akirkbright@mcgrathnicol.com>

**Sent:** Friday, July 5, 2024 10:58 AM

**To:** Paul Bradley <PBradley@boalco.com>; QROPS <QROPS@boalco.com>

**Cc:** Linda Smith <lsmith@mcgrathnicol.com>; Lauren Burton <laburton@mcgrathnicol.com>; Ben Schuhkraft <bschuhkraft@mcgrathnicol.com>; FM-McN Brite Advisors <McNBriteAdvisors@mcgrathnicol.com>

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

Dear Sir/Madam

Please find attached correspondence from the Receivers of Brite Advisors.




If you have any queries, please let me know.

Kind regards

**Amber Kirkbright**



Senior Manager

|   |   |   |
|---|---|---|
|  | Level 19, 2 The Esplanade, Perth WA 6000 Australia<br>T +61 8 6363 7665<br><b>McGrathNicol</b> <a href="mailto:akirkbright@mcgrathnicol.com">akirkbright@mcgrathnicol.com</a> |  |
|  |   |   |

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> "



## Annexure A – Concept Group Limited - Trustee Survey

CONFIDENTIAL

### Section 1: Trustee contact details

Please confirm your address, the relevant contact person, email address and phone number.

Helen Slane

Concept Group Limited, Floor 1, Cambridge House, Le Truchot, St Peter Port, GY1 1WD, Guernsey

[helen@cgl.gg](mailto:helen@cgl.gg)

[0044 1481 723550](tel:00441481723550)

### Section 2: Trustee details

#### Question 2A - Relationships

Are you a related and/or associated party of the below:

- Brite Advisors. **No**
- Any entity in the broader Brite Group, including The Aurom Group Limited (UK), Relay Group Limited (BVI), Brite Advisory Group Limited (HK). **No**
- Mr Mark Donnelly or Mr John Lymer. **No**

For the avoidance of doubt, the definition a related party is set out at Section 9 of the *Corporations Act 2001* and includes (i) directors or members (of the company, or of a related party), and (ii) relatives and spouses of the persons listed above. Associated parties refer to parties that have a relationship or connection, often in terms of ownership or control.

#### Question 2B - Jurisdiction

In respect of the Brite Advisors' Beneficiaries for whom you act as Trustee, what legal jurisdiction/s do you operate in? **Guernsey, Channel Islands**

#### Question 2C - Regulators

Please provide details of the Regulator(s) which provide oversight of your compliance with applicable legal and regulatory obligations. **Guernsey Financial Services Commission**

**Website: [Guernsey Financial Services Commission — GFSC](#)**

Please advise of any obligations imposed on you which you consider ought to be brought to our attention in the context of our consideration of methods by which the Client AuM might be distributed to Beneficiaries. **See 4A**

#### Question 2D - Compliance

In your role as Trustee, have you complied with the laws and regulations applicable in the jurisdictions in which you operate at all times?

Have you been sanctioned by any Regulator? **No**

Are you under investigation by any Regulator? **No**

Please provide a copy of your most recent set of audited financial statements.

**Concept Trustees Limited (CTL) is a subsidiary of Concept Group Limited (Concept) and both are licensed and regulated by the Guernsey Financial Services Commission. It is a legal and regulatory requirement that the accounts of Concept and CTL are audited, and copies submitted to our regulator, the Guernsey Financial Services Commission. Concept do not release their accounts to third parties. We do not understand the relevance of this request.**





#### Question 2E - Brite Advisors' contractual arrangements

To the extent not already provided, please confirm if there is a written contract or agreement in place between you and Brite Advisors, and if so provide a copy. **Copies of the Brite application forms have previously been provided.**

If there is no written contract or agreement, please outline what you understand to be the arrangements between you and Brite Advisors. Please also cite any reasons why there is no written contract or agreement available. **CTL are the pension Trustee and remain legal owner of the assets. Brite were acting as the custodian and investment managers.**

#### Question 2F - Pensions schemes

What type of pension schemes do you administer for the Brite Advisors Beneficiaries (i.e. SIPP, QROPS, QNUPs or other)? **QROPS (now grandfathered)**

#### Question 2G - Fee arrangements with Brite Advisors

Please advise the arrangements (if any) between you and Brite Advisors in respect of entitlement to Trustee fees. **None, the contractual arrangement for Trustee fees is between the Trustee and the Pension Member (Beneficiary). The Trustee would withdraw any contractual Trustee fees due to the Trustee from the pension funds held with Brite.**

### **Section 3: Beneficiary details**

#### Question 3A - Beneficiary details

To the extent not already provided, please provide a detailed list of the Beneficiaries for who you act as Trustee, including full name, address, jurisdiction, pension scheme/superannuation fund type, scheme or fund name, and investment value (per the latest set of data you have to hand). **Previously provided**

#### Question 3B Beneficiary jurisdiction

Please provide a list of the jurisdictions/countries where your Beneficiaries reside.

**Previously provided**

#### Question 3C - Entitlement to act

Please provide details of the arrangements in place between you and each of the Beneficiaries demonstrating your entitlement to act on behalf of each Beneficiary with reference to the relevant written contracts or standard onboarding agreements. If there are no written contracts or agreements, please outline the reason why, and what you understand to be the arrangements between you and the relevant Beneficiaries. **Concept and CTL are licensed and regulated by the Guernsey Financial Services Commission under The Regulation of Fiduciaries, Administration Businesses and Company Directors, etc (Bailiwick of Guernsey) Law, 2020, which includes the pension schemes. We are a professional Trustee of multi-member pension schemes which are written under The Trusts (Guernsey) Law, 2007 (the Trust Law) and are regulated by the Guernsey Financial Services Commission and approved by the Guernsey Revenue Service. Upon a client applying to become a client of Concept and a member of the pension scheme, if accepted a Pension Sub-Fund is created, by way of a Deed of Appointment, for their sole and exclusive benefit.**



#### Question 3D – Beneficiary identification process

Please provide details of what steps have been taken to identify the Beneficiaries as required in Question 3A.

The Beneficiaries are clients of Concept, we are the Trustee of their Pension Plan. As a licensed and regulated entity we are required to identify and verify all our clients in accordance with the Guernsey Financial Services Commission Handbook on Countering Financial Crime (AML/CFT/CPF)

#### Question 3E – Trustee fees with beneficiaries

Please provide a summary of the arrangements (if any) between you and the Beneficiaries in respect of entitlement to Trustee fees. The contractual arrangement for Trustee fees is between the Trustee and their client, the Pension Member (Beneficiary). This would be in accordance with the application form which the Beneficiary signed applying to become a client of Concept and a member of the pension scheme

#### Question 3F – Beneficiary communication

Please provide details of how you communicate with the Beneficiaries for who you act as Trustee (i.e. post, email, portal/app)? We are in regular contact with our clients and communication is normally by e-mail and telephone, which may include video calls.

### **Section 4: Distribution of funds**

#### Question 4A – Client AuM Distribution

Do you consider that the liquidation of the Client AuM (i.e. sale of all of the investments and conversion to cash) and return of that cash to you as Trustee would have any negative implications for Beneficiaries, as opposed to the Client AuM being transitioned to a new fund manager? For example, tax, regulatory or any other implications. Please include references to local laws and regulations (where relevant). From a tax and regulatory position, whilst we cannot be sure until the exact method is finalised, we do not envisage issues with the proposal to liquidate the Client AuM and return cash to the Trustees. We make no comments on whether there are any negative implications arising from the timing of this, which is a matter for the interim fund manager and our response to this question should not be seen as agreement to the timing of any encashment. In respect of the alternative of this transitioning to a new fund manager, as Trustee and legal owner of the assets, any accounts with a new fund manager would need to be agreed in the name of the Trustee so they would need to be returned to the Trustee first.

#### Question 4B – Distribution methodology

Do you have any views or comments in relation to two options for distribution being either (i) distribution of the funds to the Trustees, or (ii) distribution of the funds directly to the Beneficiaries and any implications you see from either option? For example, tax, regulatory or any other implications. Please include references to local laws and regulations (where relevant). The funds must not be distributed directly to the beneficiaries. These are pension trusts and the funds can only be distributed to the beneficiaries from the Trust by way of pension benefits. As these are UK Tax Relieved Funds they must be paid in line with HM Revenue & Customs and the Guernsey Revenue Service tax laws. Payments to Beneficiaries outside of allowable limits would create unauthorised member payment charges and significant tax liabilities on the Beneficiaries.





#### Question 4C - Intention of Trustee

If the Receivers distribute the funds to you, please outline your intended approach in respect of the funds. For example, will you distribute the funds to the Beneficiaries, seek to reinvest the funds with an alternative fund manager or take some other action? **As Trustee, we will be responsible for ensuring the pensions funds are reinvested, and will liaise with our clients' on a case by case basis.**

#### Question 4D – Regulator approval

If the Receivers distribute the funds to you, please confirm that you have the necessary authority, including any appropriate approvals from your regulator(s), to undertake the work required to deal with the funds, whether that is by payment to Beneficiaries, reinvestment of the funds or any other action. **See 3C**

#### Question 4E - Trustee fees for distribution

If the Receivers distribute the funds to you, please advise the proposed structure of your fees and how you would propose your Trustee fees be paid (with reference to the relevant contractual arrangements) for arranging (i) to pay a distribution to Beneficiaries, (ii) reinvestment of the fund, or (iii) any other action. **See 3E**

#### Question 4F - Trustee ability to distribute funds

If the Receivers distribute the funds to you, do you currently have the capability, information, resources and appropriate systems in place to deal with the funds in a timely manner, whether by way of distribution to Beneficiaries, reinvestment or some other action. Your response should include details of your capabilities, relevant information held, available resources, systems used and estimated timeframes to deal with the funds. **Yes, See 3C.**

#### Question 4G - Taxation implications for Beneficiaries

Do you consider there to be any possible taxation implications for your Beneficiaries resulting from either of the two options for distribution, being either (i) distribution of the funds to the Trustees, or (ii) distribution of the funds directly to the Beneficiaries. **See 4B**

#### Question 4H – Replacement Trustee

The Receivers have received requests from beneficiaries seeking to change their Trustee/pension scheme administrator.

If a Beneficiary wishes to replace you as their Trustee/pension scheme administrator, please confirm that you would consent to such a request or advise the terms on which you provide such consent. Please also advise of any difficulties you would consider would be encountered, including any applicable regulations. **We are in regular contact with our clients and are not aware that any have suggested that they are looking to change their Trustee. If a client has approached the Receivers about this, we would consider any request based on the circumstances of that client. If the client is a member of a multi-member pension scheme, they cannot just replace the Trustee of their existing pension Sub-Fund, they would need to request a transfer to a new pension scheme. While a transfer request would not be unreasonably withheld, as Trustee we have a duty to ensure that any request is in the best interest of the Member in accordance with the Trust Law and the Guernsey Financial Services Commission The Pension Scheme and Gratuity Scheme Rules and Guidance, 2021 (the Pension Rules). As such, we would be required to consider any request on a case by case basis and cannot provide a blanket answer to confirm whether we would consent to a request, or whether it would cause any regulatory difficulties.**



Question 5A – Other

Please outline any other comments or views you have in respect of the distribution of the Client AuM which have not been addressed above.

Will consideration be given to the timeframe of any disinvestments and if the markets are in a suitable position to sell down any investments.



## Annexure A – Concept Group Limited - Trustee Survey

### CONFIDENTIAL

#### Section 1: Intended approach in relation to distribution of funds to Beneficiaries

##### Question 1A

If the Receivers distribute the funds to you as Trustee, please outline your intended approach in respect of the distribution of funds to Beneficiaries. In particular:

- a) Will Beneficiaries (our Pension Members) be provided with options as to how their funds will be treated?
- i. If yes, will those options include,
- (i) transfer of funds to a new Trustee, the Beneficiary can request to transfer their pension to another pension provider at any time, currently we have not received any requests to transfer to another provider.
  - (ii) reinvestment of funds with an alternative fund manager, This is a member directed scheme where the power of investment lies with the Beneficiary. They have the power to appoint an Investment Manager of their choice. We will work with the Beneficiary to agree where the funds will be invested and will be recommending a regulated discretionary investment manager or managed portfolio solution.
  - (iii) no preference, N/A
  - (iv) some other option? N/A
- ii. If not, why will the Beneficiaries not be provided with options?
- N/A
- b) Will the options presented to the Beneficiaries be different depending on their personal circumstances, or will all the options be the same? No
- c) Where relevant, will the alternative fund manager be selected by you, or will the decision be at the discretion of the Beneficiaries? If the decision is at the discretion of the Beneficiaries, is that discretion limited by a panel of fund managers selected by you? See a) (ii)
- d) In the event an alternative fund manager or panel of options for an alternative fund manager is to be selected by you, please explain: N/A
- i. If this has already been done, which fund manager(s) have been selected?
- ii. What due diligence has been done to select an appropriate fund manager / fund managers?

##### Question 1B

What infrastructure, expertise and personnel do you have in place to attend to selection and reinvestment of funds with an alternative fund manager (if applicable).

Concept Group Limited and Concept Trustees Limited are licensed and regulated by the Guernsey Financial Services Commission under The Regulation of Fiduciaries, Administration Businesses and Company Directors, etc (Bailiwick of Guernsey) Law, 2020, which includes the pension schemes. We are a professional Trustee of multi-member pension schemes which are written under The Trusts (Guernsey) Law, 2007 (the Trust Law) and are regulated by the Guernsey Financial Services Commission and approved by the Guernsey Revenue Service. We are not licensed to provide investment advice but work with companies that are licensed and regulated to provide these services.

##### Question 1C

If you are proposing to provide an option to Beneficiaries, how will you:

We are in regular contact with our clients and communication is normally by e-mail and telephone, which may include video calls. We only have seven Beneficiaries affected and the Concept administration team will deal with the





Beneficiaries on a case-by-case basis. As we do with all other pension funds we manage. This will be business as usual. We have already started discussions with some of the Beneficiaries and as soon as you provide further information we will be liaising with them further.

- a) Request Beneficiaries' preferred option? Please detail in your response:
- The method by which you will contact the Beneficiaries.
  - The information the Beneficiaries will receive.
  - When you propose to seek the views of Beneficiaries.
  - The expected timeframe for this process.
- b) Deal with Beneficiaries having different preferences (i.e. requesting various alternative fund managers).

#### Question 1D

How can a Beneficiary elect to replace you as pension administrator and Trustee? [See Q1](#)

#### Question 1E

If a Beneficiary does elect to replace you as pension administrator and Trustee:

- a) What steps will you require the Beneficiary undertake to complete this?

[Our standard transfer out process will be followed](#)

- b) What fees or charges will be imposed on the Beneficiary?

[In line with the standard fee schedule agreed with the Beneficiary.](#)

- c) How long will this process take?

[Transfers can take up to three months to complete but can be longer depending on the receiving scheme](#)

- d) Will the above change depending on who the Beneficiary elects to be the replacement Trustee?

[See above](#)

- e) Do you consider that you have any discretion (legally or procedurally) to refuse the request? If so, please explain this with reference to supporting documentation.

[Unlike in the UK where a Beneficiary frequently has a statutory right to transfer their pension benefits to another provider, in Guernsey, and in accordance with the Trust deed and rules \(the Governing Documentation\) and the Guernsey Financial Services Commission Pension Scheme and Gratuity Scheme Rules and Guidance 2020 \(the Pension Rules\), transfer requests are at the discretion of the Trustee. There are a number of potentially significant risks that must be considered when a transfer request is received to ensure that the transfer is in the best interest of the Beneficiary.](#)

### **Section 2: Proposed structure of fees proposed to be passed on to Beneficiaries**

#### Question 2A

[We have previously agreed fee structures in place with the Beneficiaries \(our clients\). Any Trustee fees which are currently outstanding will be settled from the funds received. The average fee outstanding is around £1,500.](#)

If the Receivers distribute the funds to you, what is the proposed structure of your fees and how you would propose your Trustee fees be paid (with reference to the relevant contractual arrangements) for the following:

- To pay a distribution to Beneficiaries; and/or
- Transfer a Beneficiaries' fund to a new Trustee; and/or
- Reinvestment of the fund and appoint alternative fund manager.

#### Question 2B

[We have contractual fee agreements in place with the Beneficiaries \(our clients\). These consist of the application form which they signed to become a member of the Pension Plan and the General Terms and Conditions of Business. Any variations to the fees will be and have been notified to the Beneficiaries in accordance with the General Terms of Business. An example of the fee schedule is attached together with our General Terms of Business.](#)





Please advise if:

- a) There are current and valid contractual arrangements in place between you and each of your Beneficiaries? If there is, please provide examples of these documents.
- b) There are clear contractual arrangements in place that stipulates your entitlement to deduct or claim fees from each Beneficiary (if that is different to what you already provided above) and, if so, please reference the relevant clauses or provisions of those contractual arrangements.
- c) The contractual arrangements in place vary between Beneficiaries or if they are all the same? If they vary, please outline the variations by reference to supporting documentation.
- d) The contractual arrangements in place vary over time, or if they have remained consistent? If they vary, please outline the variations by reference to supporting documentation, including an explanation as to how you have satisfied yourself that any such variation is binding and enforceable as against Beneficiary.
- e) There are any terms and conditions outside the documents provided which apply to the arrangement between you and the Beneficiaries? For example, general terms and conditions, amendments to conditions etc. If there is, please provide copies of these documents and explain how these additional terms and conditions are incorporated into the contractual arrangements between you and the Beneficiaries.

#### Question 2C

If the Receivers distribute funds to you, will you deduct a fee from the funds returned to you in respect of arrears (with reference to relevant contractual arrangements)? If so, what is the total quantum of fees owed to you to date?

See Question 2A above

\*\*\*\*\*END OF SURVEY\*\*\*\*\*



## Annexure A – IFG Pensions Limited - Trustee Survey

CONFIDENTIAL

### Section 1: Trustee contact details

Please confirm your address, the relevant contact person, email address and phone number.

**IFGL Pensions. Third Floor, Cotton House, Old Hall Street, Liverpool, United Kingdom. L3 9TP. Richard Foden, [Richard.foden@ifg-ltd.com](mailto:Richard.foden@ifg-ltd.com). 0151 328 177**

### Section 2: Trustee details

#### Question 2A - Relationships

Are you a related and/or associated party of the below:

- Brite Advisors.
- Any entity in the broader Brite Group, including The Aurom Group Limited (UK), Relay Group Limited (BVI), Brite Advisory Group Limited (HK).
- Mr Mark Donnelly or Mr John Lymer.

For the avoidance of doubt, the definition a related party is set out at Section 9 of the *Corporations Act 2001* and includes (i) directors or members (of the company, or of a related party), and (ii) relatives and spouses of the persons listed above. Associated parties refer to parties that have a relationship or connection, often in terms of ownership or control.

**No**

#### Question 2B - Jurisdiction

In respect of the Brite Advisors' Beneficiaries for whom you act as Trustee, what legal jurisdiction/s do you operate in?

**United Kingdom.**

#### Question 2C - Regulators

Please provide details of the Regulator(s) which provide oversight of your compliance with applicable legal and regulatory obligations.

Please advise of any obligations imposed on you which you consider ought to be brought to our attention in the context of our consideration of methods by which the Client AuM might be distributed to Beneficiaries.

**FCA – reference number: 458576**



#### Question 2D - Compliance

In your role as Trustee, have you complied with the laws and regulations applicable in the jurisdictions in which you operate at all times? **Yes**

Have you been sanctioned by any Regulator? **No**

Are you under investigation by any Regulator? **No**

Please provide a copy of your most recent set of audited financial statements. **Please confirm reasons why this has been requested**

#### Question 2E - Brite Advisors' contractual arrangements

To the extent not already provided, please confirm if there is a written contract or agreement in place between you and Brite Advisors, and if so provide a copy.

If there is no written contract or agreement, please outline what you understand to be the arrangements between you and Brite Advisors. Please also cite any reasons why there is no written contract or agreement available.

**Example application form provided**

#### Question 2E - Pensions schemes

What type of pension schemes do you administer for the Brite Advisors Beneficiaries (i.e. SIPP, QROPS, QNUPs or other)?

**SIPP**

#### Question 2G - Fee arrangements with Brite Advisors

Please advise the arrangements (if any) between you and Brite Advisors in respect of entitlement to Trustee fees.

**Trustee fees are taken by IFGL Pensions and have no bearing on the relationship between IFGL Pensions & Brite Advisers**

### **Section 3: Beneficiary details**

#### Question 3A - Beneficiary details

To the extent not already provided, please provide a detailed list of the Beneficiaries for who you act as Trustee, including full name, address, jurisdiction, pension scheme/superannuation fund type, scheme or fund name, and investment value (per the latest set of data you have to hand).

**Please see attached excel**

#### Question 3B Beneficiary jurisdiction

Please provide a list of the jurisdictions/countries where your Beneficiaries reside.

**Please see attached excel**

#### Question 3C - Entitlement to act

Please provide details of the arrangements in place between you and each of the Beneficiaries demonstrating your entitlement to act on behalf of each Beneficiary with reference to the relevant written contracts or standard onboarding agreements. If there are no written contracts or agreements, please outline the reason why, and what you understand to be the arrangements between you and the relevant Beneficiaries.



**T&Cs and application form provided 23/10/2024**

Question 3D – Beneficiary identification process

Please provide details of what steps have been taken to identify the Beneficiaries as required in Question 3A.

**Internal records**

Question 3E – Trustee fees with beneficiaries

Please provide a summary of the arrangements (if any) between you and the Beneficiaries in respect of entitlement to Trustee fees.

**As per T&Cs**

Question 3F – Beneficiary communication

Please provide details of how you communicate with the Beneficiaries for who you act as Trustee (i.e. post, email, portal/app)?

**Post and/or email**



## Section 4: Distribution of funds

### Question 4A – Client AuM Distribution

Do you consider that the liquidation of the Client AuM (i.e. sale of all of the investments and conversion to cash) and return of that cash to you as Trustee would have any negative implications for Beneficiaries, as opposed to the Client AuM being transitioned to a new fund manager? For example, tax, regulatory or any other implications. Please include references to local laws and regulations (where relevant).

**Potential 'out of market' loss**

### Question 4B – Distribution methodology

Do you have any views or comments in relation to two options for distribution being either (i) distribution of the funds to the Trustees, or (ii) distribution of the funds directly to the Beneficiaries and any implications you see from either option? For example, tax, regulatory or any other implications. Please include references to local laws and regulations (where relevant).

**Distributions must be made to the trustee. Any distributions paid directly to the member needs to go through the 'payroll' process with the appropriate tax calculated and paid. Paying direct to members would constitute an unauthorised payment**

### Question 4C – Intention of Trustee

If the Receivers distribute the funds to you, please outline your intended approach in respect of the funds. For example, will you distribute the funds to the Beneficiaries, seek to reinvest the funds with an alternative fund manager or take some other action?

**See answer to question 1A a) from response on 23/10/2024**

### Question 4D – Regulator approval

If the Receivers distribute the funds to you, please confirm that you have the necessary authority, including any appropriate approvals from your regulator(s), to undertake the work required to deal with the funds, whether that is by payment to Beneficiaries, reinvestment of the funds or any other action.

**Confirmed**

### Question 4E – Trustee fees for distribution

If the Receivers distribute the funds to you, please advise the proposed structure of your fees and how you would propose your Trustee fees be paid (with reference to the relevant contractual arrangements) for arranging (i) to pay a distribution to Beneficiaries, (ii) reinvestment of the fund, or (iii) any other action.

**As per T&Cs provided on 23/10/2024**

### Question 4F – Trustee ability to distribute funds

If the Receivers distribute the funds to you, do you currently have the capability, information, resources and appropriate systems in place to deal with the funds in a timely manner, whether by way of distribution to Beneficiaries, reinvestment or some other action. Your response should include details of your capabilities, relevant information held, available resources, systems used and estimated timeframes to deal with the funds.

**Yes, IFGL Pensions are sufficiently resourced to deal with this fund distribution**





Question 4G – Taxation implications for Beneficiaries

Do you consider there to be any possible taxation implications for your Beneficiaries resulting from either of the two options for distribution, being either (i) distribution of the funds to the Trustees, or (ii) distribution of the funds directly to the Beneficiaries.

**Yes, please see answer to 4B**

Question 4H – Replacement Trustee

The Receivers have received requests from beneficiaries seeking to change their Trustee/pension scheme administrator.

If a Beneficiary wishes to replace you as their Trustee/pension scheme administrator, please confirm that you would consent to such a request or advise the terms on which you provide such consent. Please also advise of any difficulties you would consider would be encountered, including any applicable regulations.

**Yes, IFGL Pensions would consent to a request to transfer out if the transaction was in line with internal/regulatory requirements**

**Section 5: Distribution of funds**

Question 5A – Other

Please outline any other comments or views you have in respect of the distribution of the Client AuM which have not been addressed above.

**Under no circumstances can funds be distributed directly to beneficiaries. This type of distribution would classify as an 'unauthorised payment'**





## Annexure A – IFG Pensions Limited - Trustee Survey

### CONFIDENTIAL

#### Section 1: Intended approach in relation to distribution of funds to Beneficiaries

##### Question 1A

If the Receivers distribute the funds to you as Trustee, please outline your intended approach in respect of the distribution of funds to Beneficiaries. In particular:

- a) Will Beneficiaries be provided with options as to how their funds will be treated?
  - i. If yes, will those options include, (i) transfer of funds to a new Trustee, or (ii) reinvestment of funds with an alternative fund manager, or (iii) no preference, or (iv) some other option?
  - ii. If not, why will the Beneficiaries not be provided with options? How will the funds be treated?

**Once funds are received by IFGL Pensions, beneficiaries will be contacted and given the opportunity to reinvest funds with an alternative fund manager. Transferring to a new trustee is a 'BAU' request which all members are already entitled to make**

- b) Will the options presented to the Beneficiaries be different depending on their personal circumstances, or will all the options be the same?

**Same**

- c) Where relevant, will the alternative fund manager be selected by you, or will the decision be at the discretion of the Beneficiaries? If the decision is at the discretion of the Beneficiaries, is that discretion limited by a panel of fund managers selected by you?

**Alternative fund manager will be at the discretion of the beneficiary and will have to be an entity which IFGL Pensions have terms of business with**

- d) In the event an alternative fund manager or panel of options for an alternative fund manager is to be selected by you, please explain:
  - i. If this has already been done, which fund manager(s) have been selected?
  - ii. What due diligence has been done to select an appropriate fund manager / fund managers?

**N/A**

##### Question 1B

What infrastructure, expertise and personnel do you have in place to attend to selection and reinvestment of funds with an alternative fund manager (if applicable).

**N/A**

##### Question 1C

If you are proposing to provide an option to Beneficiaries, how will you:

- a) Request Beneficiaries' preferred option? Please detail in your response:
  - i. The method by which you will contact the Beneficiaries. **Email/post**
  - ii. The information the Beneficiaries will receive. **Comms not yet drafted but essence of comms will confirm amount IFGL Pensions have received and process required to reinvest funds**
  - iii. When you propose to seek the views of Beneficiaries. **No time limit**
  - iv. The expected timeframe for this process. **Dependent on direction of beneficiary**
- b) Deal with Beneficiaries having different preferences (i.e. requesting various alternative fund managers).

**IFGL Pensions have existing terms with various fund managers and it is at the discretion of the**



beneficiary which fund manager they want to invest with. This is standard practice with IFGL Pensions and would be a 'BAU' activity

Question 1D

How can a Beneficiary elect to replace you as pension administrator and Trustee?

**Submitting the relevant Transfer Out paperwork**

Question 1E

If a Beneficiary does elect to replace you as pension administrator and Trustee:

- a) What steps will you require the Beneficiary undertake to complete this? **Submit the relevant Transfer Out paperwork and abide by all other internal/regulatory requirements**
- b) What fees or charges will be imposed on the Beneficiary? **As per fee schedule at the time of transaction**
- c) How long will this process take? **Dependent on receiving scheme requirements**
- d) Will the above change depending on who the Beneficiary elects to be the replacement Trustee? **Yes, please see responses to A & C**
- e) Do you consider that you have any discretion (legally or procedurally) to refuse the request? If so, please explain this with reference to supporting documentation. **Yes, in line with regulatory and industry standard requirements**



## Section 2: Proposed structure of fees proposed to be passed on to Beneficiaries

### Question 2A

If the Receivers distribute the funds to you, what is the proposed structure of your fees and how you would propose your Trustee fees be paid (with reference to the relevant contractual arrangements) for the following:

- To pay a distribution to Beneficiaries; and/or
- Transfer a Beneficiaries' fund to a new Trustee; and/or
- Reinvestment of the fund and appoint alternative fund manager.

### **As per fee schedule at the time of transaction**

### Question 2B

Please advise if:

- a) There are current and valid contractual arrangements in place between you and each of your Beneficiaries? If there is, please provide examples of these documents. **See attached SIPP application form and T&Cs**
- b) There are clear contractual arrangements in place that stipulates your entitlement to deduct or claim fees from each Beneficiary (if that is different to what you already provided above) and, if so, please reference the relevant clauses or provisions of those contractual arrangements. **See above**
- c) The contractual arrangements in place vary between Beneficiaries or if they are all the same? If they vary, please outline the variations by reference to supporting documentation. **Same**
- d) The contractual arrangements in place vary over time, or if they have remained consistent? If they vary, please outline the variations by reference to supporting documentation, including an explanation as to how you have satisfied yourself that any such variation is binding and enforceable as against Beneficiary. **Same**
- e) There are any terms and conditions outside the documents provided which apply to the arrangement between you and the Beneficiaries? For example, general terms and conditions, amendments to conditions etc. If there is, please provide copies of these documents and explain how these additional terms and conditions are incorporated into the contractual arrangements between you and the Beneficiaries. **N/A**

### Question 2C

If the Receivers distribute funds to you, will you deduct a fee from the funds returned to you in respect of arrears (with reference to relevant contractual arrangements)? If so, what is the total quantum of fees owed to you to date? **Yes, fees in line with contractual arrangements. Current quantum is circa £45,000**

\*\*\*\*\*END OF SURVEY\*\*\*\*\*

**Private & Confidential**

McGrathNicol  
Level 19, The Esplanade  
Perth  
WA6000

1st Floor Lakeside House  
Shirwell Crescent  
Furzon Lake  
Milton Keynes  
Buckinghamshire  
MK4 1GA

18<sup>th</sup> July 2024

Dear Sir/Madam

**Brite Advisors Pty Ltd CAN 135 024 412**  
**London & Colonial Services Ltd ("London & Colonial")**

I write following your letter dated 8<sup>th</sup> July 2024 in response to the above matter.

I hereby enclose a completed questionnaire (appendix A) with answers to your questions. A folder will be shared with you containing the following information:

1. Response to your questionnaire (Appendix A). This has also been appended to this letter as Appendix A.
2. Full client information
3. Copy of Trust Deed and rules
4. Copy of product literature which contains terms and conditions and fee schedules for the membership.

I would be grateful if you could confirm receipt of this letter and access to the folder with the information you require and we look forward to hearing from you with any further information or questions you may have.

Kind regards



David Hatch  
Managing Director

**Appendix A – London & Colonial Services Limited – Trustee Survey**

| Question Number | Question Description  | London & Colonial Services Limited Response   |
|-----------------|---|---|
| 1               | Please confirm your address, the relevant contact person, email address and phonen umber  | <p>London &amp; Colonial Services Limited<br/>1st Floor<br/>Lakeside House<br/>Shirwell Crescent<br/>Furzton Lake<br/>Milton Keynes<br/>MK4 1GA<br/>Contact Persons: David Hatch, Manya Ray Scales<br/>Email: david.hatch@optionspensions.co.uk, Manya-Ray.Scales@optionspensions.co.uk<br/>Phone Number: 0330 124 1510</p> |
| 2A              | <p>Are you a related and/or associated party of the below:<br/>Brite Advisors<br/>Any entity in the broader Brite Group, including the Aurom Group Limited (UK), Relay Group Limited (BVI), Brite Advisory Group Limited (HK)<br/>Mr Mark Donnelly or Mr John Lymer</p> <p>For the avoidance of doubt, the definitions of a related party is set out at Section 9 of the Corporations Act 2001 and includes, (i) directors or members (of the company, or of a related party), and (ii) relatives, and spouses of the persons listed above. Associated parties refer to parties that have a relationship or connection, often in terms of ownership or control.</p> | No  |
| 2B              | In respect of the Brite Advisors Beneficiaries for whom you act as Trustee, what legal jurisdiction/s do you operate in?  | United Kingdom (England and Wales)  |



|    |   |   |
|----|---|---|
| 2C | <p>Please provide details of the Regulator(s) which provide oversight of your compliance with applicable legal and regulatory obligations.</p> <p>Please advise of any obligations imposed on you which you consider ought to be brought to our attention in the context of our consideration of methods by which the Client AUM might be distributed to beneficiaries.</p>                                   | <p>Financial Conduct Authority (FCA)</p> <p><a href="https://register.fca.org.uk/s/firm?id=001b000000Mfp2xAAB">https://register.fca.org.uk/s/firm?id=001b000000Mfp2xAAB</a></p> <p>His Majesties Revenue and Customers (HMRC) Pension Tax Regulations</p> <p><a href="https://www.gov.uk/hmrc-internal-manuals/pensions-tax-manual">https://www.gov.uk/hmrc-internal-manuals/pensions-tax-manual</a></p>  |
| 2D | <p>In your role as trustee, have you complied with the laws and regulations applicable in the jurisdictions in which you operate in at all times?</p> <p>Have you been sanctioned by the regulator?</p> <p>Are you under investigation by any regulator?</p> <p>Please provide a copy of your most recent set of audited financial statements?</p>  | <p>We can confirm that we have complied with the laws and regulations applicable to a UK registered pension scheme and scheme operator.</p> <p>We confirmed we have not been sanctioned by the regulator.</p> <p>We confirm we are not under investigation by any regulator.</p> <p>Please find attached last set of audited financial statements. Please note these audited accounts for the administrator business who receive the fees from members for providing the product (SIPP) in line with the regulations.</p> |
| 2E | <p>To the extent not already provided, please confirm if there is a written contract or agreement in place between you and Brite Advisors, and if so provide a copy.</p> <p>If there is no written contract or agreement, please outline what you understand to be the arrangements between you and Brite Advisors. Please also cite any reasons why there is no written contract or agreement available.</p> | <p>All firms who introduce or act as a DFM / Investment manager are subject to our intermediary terms and conditions. A copy of those conditions have been added to the folder shared with you.</p>   |
| 2F | <p>What type of pension schemes do you administer for the Brite Advisors Beneficiaries (i.e SIPP, QROPS, QNUPS or Other)?</p>   | <p>We operate and administer a UK regulated Self Invested Personal Pensions (SIPP).</p>   |



|    |  |   |
|----|--|---|
| 2G | Please advise the arrangements (if any) between you and Brite Advisors in respect of entitlement to Trustee fees.  | The entitlement to fees is a contract created between the scheme administrator and the underlying beneficiary only. Brite Advisors are purely the investment manager. The contract created between the underlying beneficiary and London & Colonial Services enables the scheme administrator to charge and receive its fees from the members pension fund. Fees are collected from the scheme trustee pension account held with HSBC bank and where there insufficient funds, we disinvest from the members underlying pension assets held (in this case with Brite Advisors) to return the funds to the scheme trustee account for collection. A copy of the members terms and conditions and fee schedules are enclosed. Please note at the time of writing you have refused to return funds to us for the fees (a breach of the clients terms and conditions causing consumer detriment) to enable fees to be collected. Whilst we do appreciate your support and challenges you have in completing the exercise of reconciliation, at the time of writing we have in excess of £75,000 of outstanding debt for annual fees which have not been remitted or paid by the member in line with their contract. |
| 3A | To the extent not already provided, please provide a detailed list of the beneficiaries for who you act as Trustee, including Full Name, address, jurisdiction, pension scheme/superannuation fund type, scheme or fund name and investment value (per latest set of data you have to hand)  | Please see attached folder which contains an excel document for all members. The sheet is called Brite Platform - Information Request.  |
| 3B | Please provide a list of the jurisdictions/countries where your beneficiaries reside   | Please see answer to question 3A with an excel that also confirms the jurisdiction for the beneficiary.   |
| 3C | Please provide details of the arrangements in place between you and each of the beneficiaries demonstrating your entitlement to act on behalf of each beneficiary with reference to the relevant written contracts or standard onboarding agreements. If there are no written contracts or agreements, please outline the reason why, and what you understand to be the arrangements between you and the relevant beneficiaries. | Please see attached folder with all the information you require which includes the members application to open a SIPP with London & Colonial Services Limited. By applying a member agrees to the terms and conditions of the SIPP which are also included in the folder, along with fee schedules.   |

|    |  |  |
|----|--|--|
| 3D | Please provide details of what steps have been taken to identify the Beneficiaries as required in question 3A.   | All members prior to opening a pension with us are subject to our Know Your Customer (KYC) and Anti money laundering (AML) checks. As part of onboarding we seek certified copies of an identity document (such as passport) and verification of address (such as utility bill). We also then complete an online search against the member using Reinfinitiv (World Check) to scan for Politically Exposed Persons (PEP) and Sanctions. The member remains in WorldCheck which completes a daily check. If any suspicious items flags this is then investigated and resolved.  |
| 3E | Please provide a summary of the arrangements (if any) between you and the beneficiaries in respect of entitlement to Trustee fees.   | We have included the members application forms where the member agrees to our terms and conditions and fees. Copy of the fee schedules are also included.  |
| 3F | Please provide details of how you communicate with the beneficiaries for who you act as trustee (i.e post, email, portal, app)?  | We communicate with members through post, email. Members have access to view their pension information through an online portal.   |
| 4A | Do you consider that the liquidation of the client AuM (i.e Sale of all of the investments and conversion to cash) and return of that cash to you as Trustee would have any negative implications for beneficiaries, as opposed to the client AuM being transitioned to a new fund manager? For example, tax, regulatory or any other implications. Please include references to local laws and regulations (where relevant) | <p>We do not consider the sale of the investments and conversion to cash would have any negative implications for the beneficiaries. If funds are to be transitioned to a new fund manager, we do consider the following should happen:</p> <ol style="list-style-type: none"> <li>1. We are notified first and prior to any transition of who the proposed manager is.</li> <li>2. We are able to complete our own due diligence and acceptance of that fund manager first in line with our obligations and principles of a UK FCA regulated firm (Principle 2, 3, 6, 7, 10,12)<br/><a href="https://www.handbook.fca.org.uk/handbook/PRIN/2/1.html">https://www.handbook.fca.org.uk/handbook/PRIN/2/1.html</a></li> <li>3. Should we not accept the fund manager then funds must be returned to the Trustee account with HSBC.</li> <li>4. Should we accept the fund manager, we are able to then communicate to the members and provide them with clear information that enables them to determine whether they wish the funds to be returned to their SIPP trustee account or transitioned to the new fund manager.</li> </ol> |

|    |   |   |
|----|---|---|
| 4B | <p>Do you have any views or comments in relation to two options for distribution being either (i) distribution of the funds to the trustees, or (ii) distribution of the funds directly to the beneficiaries and any implications you see from either option? for example, tax, regulatory, or any other implications. Please indicate references to local laws and regulations (where relevant).</p> | <p>We only support the distribution of funds to the trustees. Distribution of funds directly to the beneficiaries will fall foul of the unauthorised payments regimes under the HMRC Pension Tax rules. To distribute the funds directly to members in all circumstances would constitute a significant tax charge for the members.</p> <p><a href="https://www.gov.uk/hmrc-internal-manuals/pensions-tax-manual/ptm132000">https://www.gov.uk/hmrc-internal-manuals/pensions-tax-manual/ptm132000</a></p> <p>Please see PTM133200 - assignment of members rights</p> <p>Please also see <a href="https://www.gov.uk/hmrc-internal-manuals/pensions-tax-manual/ptm026000#IDA3CZ4B">https://www.gov.uk/hmrc-internal-manuals/pensions-tax-manual/ptm026000#IDA3CZ4B</a> specifically definition of payment.</p> <p>We do not authorise any payments to be made directly to beneficiaries in any circumstances.</p> |
|----|---|---|



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| 4C | <p>If the receivers distribute the funds to you, please outline your intended approach in respect of the funds. For example will you distribute the funds to the beneficiaries, seek to re-invest the funds with an alternative fund manager or take some other action?</p> | <p>The funds can only be distributed to the trustee client account with HSBC as clearly outlined in previous answers. To distribute otherwise would cause significant tax implications for members and their funds. When the funds are distributed to the SIPP trustee account we will then advise members of this and seek thier direction on what they would like to do with the funds, subject to the scheme rules and the HMRC Pension tax rules.</p> <p>For members below the age of 55 they will be given the following options:</p> <ol style="list-style-type: none"> <li>1. Transfer out to a new provider in line with the transfer out regulations (The Occupational and Personal Pensions schemes (conditions of transfers) regulations 2021 - <a href="https://www.legislation.gov.uk/uksi/2021/1237/made">https://www.legislation.gov.uk/uksi/2021/1237/made</a>)</li> <li>2. Select a new investment provider which we have approved in line with our FCA obligations.</li> <li>3. Leave the funds held in trustee cash.</li> </ol> <p>For members over the age of 55, they will be given the following options:</p> <ol style="list-style-type: none"> <li>1. Transfer out to a new provider in line with the transfer out regulations ((The Occupational and Personal Pensions schemes (conditions of transfers) regulations 2021 - <a href="https://www.legislation.gov.uk/uksi/2021/1237/made">https://www.legislation.gov.uk/uksi/2021/1237/made</a>)</li> <li>2. Select a new investment provider which we have approved in line with our FCA obligations.</li> <li>3. Leave the funds held in trustee cash.</li> <li>4. Receive their pension in line with the scheme rules and pension tax rules. Draw and income or take a lump sum.</li> </ol> |
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| 4D | If the receivers distribute the funds to you, please confirm that you have the necessary authority, including any appropriate approvals from your regulator(s), to undertake the work required to deal with the funds, whether that is by payment to beneficiaries, reinvestment of the funds or any other action  | <p>London &amp; Colonial Services Limited is an FCA authorised and regulated firm. You will note that unlike most if not all of the SIPP operators you deal with London &amp; Colonial Services Limited is a CASS7 firm which has permissions to hold and control client money. This provides greater protection for members as funds held in the client account are subject to these regulations and reported to the regulator. Most if not all other SIPP operators administer client funds in a bare trustee arrangement where the client funds are not subject to the same regulations.</p> <p><a href="https://register.fca.org.uk/s/firm?id=001b000000Mfp2xAAB">https://register.fca.org.uk/s/firm?id=001b000000Mfp2xAAB</a></p> <p>We confirm we have the necessary authority, including any appropriate approvals from the regulator to undertake the work required to deal with the funds in line with the options stated in our response to question 4C.</p> |
| 4E | If the receivers distribute the funds to you, please advise the proposed structure of your fees and how you would propose your Trustee fees be paid (with reference to the relevant contractual arrangements) for arranging (i) to pay a distribution to beneficiaries, (ii) reinvestment of the fund, or (iii) any other action.  | As outlined in our response in question 2G and 3E, fees are paid from the trustee client account held with HSBC. We have enclosed within the folder details of each member, the terms and conditions and the fee schedules with which fee basis the member has agreed to.  |
| 4F | If the receivers distribute funds to you, do you currently have the capability, information, resources and appropriate systems in place to deal with the funds in a timely manner, whether by distribution to beneficiaries, reinvestment or some other action. Your response should include details of your capabilities, relevant information held, available resources, systems used and estimated timeframes to deal with the funds. | <p>We confirm we have the capability, information, resource, systems in place to deal with the funds in a timely manner. As previously stated we are a CASS7 Client money firm where funds will be reconciled the next working day (in line with the CASS7 regulations for the FCA, (<a href="https://www.handbook.fca.org.uk/handbook/CASS/7/10.html">https://www.handbook.fca.org.uk/handbook/CASS/7/10.html</a>)).</p> <p>We have a dedicated team associated to these members headed up by Manya Ray Scales (contact information provided) who will support the members with their options available. We use an inhouse administration system to administer our clients pensions which provides an online portal for members. Provided we receive the correct information on the funds being received to enable us to identify</p>   |

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|    |   | the funds to a members pension, funds will be reconciled and visible on the client portal the next working day.  |
| 4G | Do you consider there to be any possible taxation implications for your beneficiaries resulting from either of the two options for distribution, being either (i) distribution of the funds to the trustees, or (ii) distribution of the funds directly to the Beneficiaries. | <p>Please see response in question 4B.</p> <p>The only viable option is for payments to be distributed back to the pension trustee client account with HSBC otherwise this would constitute an unauthorised payment under the pension tax rules for a UK pension scheme.</p> |



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| 4H | <p>The receivers have received requests from beneficiaries seeking to change their trustee / pension scheme administrator.</p> <p>If a beneficiary wishes to replace you as their Trustee / pension scheme administrator, please confirm that you would consent to such a request or advise the terms on which you provide such consent. Please also advise of any difficulties you would consider would be encountered, including any applicable regulations.</p> | <p>All funds must be returned to the client trustee account with HSBC. To not do so would constitute an unauthorised payment and subject the member to significant tax charges.</p> <p>In line with the answer to question 4C, once funds are received we will inform members of their options available which includes the option to transfer to a new provider in which we will follow the Occupational and Personal Pensions Schemes 2021 (conditions of transfers) regulations 2021.</p>   |
| 5A | <p>Please outline any other comments or views you have in respect of the distribution of the client AuM which have not been addressed above.</p>   | <p>We re-iterate the importance the funds must only be returned to the client trustee account with HSBC to avoid breaching the unauthorised payment regime and significant tax charges on the members.</p> <p>We remain available for conference calls and telephone calls to discuss this matter (which have previously been ignored by you) to ensure that we are kept fully abreast of the situation and we can help support you with the returning of the client funds.</p> <p>Should you have any questions or require any further clarification please contact us immediately.</p> |

| Section Number | Section Title   | Question Number | Question Description   | London & Colonial Services Limited Response  |
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| 1              | Intended approach in relation to distribution of funds to beneficiaries | 1A              | If the Receivers distribute the funds to you as Trustee, please outline your intended approach in respect of the distribution of funds to Beneficiaries. In particular:                        |  |
| 1              | Intended approach in relation to distribution of funds to beneficiaries | 1A a            | Will Beneficiaries be provided with options as to how their funds will be treated?   | Yes  |
| 1              | Intended approach in relation to distribution of funds to beneficiaries | 1A ai           | If yes, will those options include, (i) transfer of funds to a new Trustee, or (ii) reinvestment of funds with an alternative fund manager, or (iii) no preference, or (iv) some other option? | <p>i) In the UK the do not transfer trustee, but transfer the scheme operator which also transfers the scheme trustee.</p> <p>ii) Yes they will be provided the option of an alternative fund manager.</p> <p>As per response on previous questionnaire, we confirmed:</p> <p>The funds can only be distributed to the trustee client account with HSBC as clearly outlined in previous answers. To distribute otherwise would cause significant tax implications for members and their funds. When the funds are distributed to the SIPP trustee account we will then advise members of this and seek thier direction on what they would like to do with the funds, subject to the scheme rules and the HMRC Pension tax rules.</p> <p>For members below the age of 55 they will be given the following options:</p> <ol style="list-style-type: none"> <li>1. Transfer out to a new provider in line with the transfer out regulations (The Occupational and Personal Pensions schemes (conditions of transfers) regulations 2021 - <a href="https://www.legislation.gov.uk/uksi/2021/1237/made">https://www.legislation.gov.uk/uksi/2021/1237/made</a>)</li> <li>2. Select a new investment provider which we have approved in line with our FCA obligations.</li> <li>3. Leave the funds held in trustee cash.</li> </ol> <p>For members over the age of 55, they will be given the following options:</p> <ol style="list-style-type: none"> <li>1. Transfer out to a new provider in line with the transfer out regulations ((The Occupational and Personal Pensions schemes (conditions of transfers) regulations 2021 -</li> </ol> |
| 1              | Intended approach in relation to distribution of funds to beneficiaries | 1A aii          | If not, why will the Beneficiaries not be provided with options? How will the funds be treated?  | N/A  |

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| 1 | Intended approach in relation to distribution of funds to beneficiaries | 1A b    | Will the options presented to the Beneficiaries be different depending on their personal circumstances, or will all the options be the same?   | Yes, please see answer in 1A I above and answer provided to your previously in 4C. If the member is over the normal minimum pension age (NMPA) they will also receive the option to taken their pension benefits. Those under the age of 55 will not meet the legislation and tax rules to receive thier pension benefits.   |
| 1 | Intended approach in relation to distribution of funds to beneficiaries | 1A c    | Where relevant, will the alternative fund manager be selected by you, or will the decision be at the discretion of the Beneficiaries? If the decision is at the discretion of the Beneficiaries, is that discretion limited by a panel of fund managers selected by you? | Please see answer above in 1A I and previously provided in 4C.<br><br>The decision is the discretion of the beneficiary. Any new investment will be subject to the product terms and our due diligence.<br><br>There is no panel, just our permitted investments which must be adhered to.   |
| 2 | Intended approach in relation to distribution of funds to beneficiaries | 1A d    | In the event an alternative fund manager or panel of options for an alternative fund manager is to be selected by you, please explain:   |  |
| 3 | Intended approach in relation to distribution of funds to beneficiaries | 1A d i  | If this has already been done, which fund manager(s) have been selected?   | We have not selected an alternative fund manager, we will seek direction from the beneficiaries  |
| 1 | Intended approach in relation to distribution of funds to beneficiaries | 1A d ii | What due diligence has been done to select an appropriate fund manager / fund managers?  | We have not selected an alternative fund manager, we will seek direction from the beneficiaries  |
| 1 | Intended approach in relation to distribution of funds to beneficiaries | 1B      | What infrastructure, expertise and personnel do you have in place to attend to selection and reinvestment of funds with an alternative fund manager (if applicable).   | We have not selected an alternative fund manager, we will seek direction from the beneficiaries. We have a dedicated technical pension team who review new investment custodians and investments to ensure they meet our product rules.  |
| 1 | Intended approach in relation to distribution of funds to beneficiaries | 1C A    | If you are proposing to provide an option to Beneficiaries, how will you:<br>Request Beneficiaries' preferred option? Please detail in your response:  |  |
| 1 | Intended approach in relation to distribution of funds to beneficiaries | 1C Ai   | The method by which you will contact the Beneficiaries.  | Usually via email as this is the most common method. However is appropriate we will communicate via postal letters and of course faciliate phone calls with the beneficiaries.   |
| 1 | Intended approach in relation to distribution of funds to beneficiaries | 1C Aii  | The information the Beneficiaries will receive.  | Beneficiaries will receive a communication in line with our previous responses in 1A c and 4C initial providing their options. Once they have determined thier preferred route, we will then follow our normal processes providing them with the relevant documentation forms, risks, warnings and process to enable them to request the processing of that transaction. |

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| 1 | Intended approach in relation to distribution of funds to beneficiaries | 1C Aiii | When you propose to seek the views of Beneficiaries.  | We will seek the views of the beneficiaries at the appropriate time when we know the timescales for the distribution of the funds back to the trustee account or otherwise. Ideally we will not wait until the distribution and therefore, although you have provided some indication of the timeframe, clear and accurate timeframes are required from you. What a person decides today maybe different tomorrow and so seeking views at the appropriate time is important. Too early and the beneficiary may change their approach. We would of course wish to have the beneficiaries directly as soon as possible, but note some beneficiaries may also wish to receive financial advice first before directing us which will be appropriate for them.  |
| 1 | Intended approach in relation to distribution of funds to beneficiaries | 1C Aiv  | The expected timeframe for this process.  | As soon as we have a clear direction from you on the expected dates of distribution, we will begin the process of letting the beneficiaries know of their options available to them. The timeframe from responses will vary between each beneficiary depending on their own personal circumstances and whether they wish to receive financial advice or not.   |
| 1 | Intended approach in relation to distribution of funds to beneficiaries | 1C B    | Deal with Beneficiaries having different preferences (i.e. requesting various alternative fund managers). | <p>We already deal with beneficiaries today who have different preferences and different advisers with different approaches. It will depend on what the beneficiary decides as to the process will enact:</p> <ol style="list-style-type: none"> <li>1. If they wish to change the scheme operator they will need to follow the transfer out process in line with our policy and procedures and in line with the transfer out regulations (The Occupational and Personal Pensions schemes (conditions of transfers) regulations 2021 - <a href="https://www.legislation.gov.uk/uksi/2021/1237/made">https://www.legislation.gov.uk/uksi/2021/1237/made</a>)</li> <li>2. If they wish to receive their benefits we will follow our normal policy and procedure in line with <a href="https://www.handbook.fca.org.uk/handbook/COBS/19/7.html?date=2022-06-01&amp;timeline=True">https://www.handbook.fca.org.uk/handbook/COBS/19/7.html?date=2022-06-01&amp;timeline=True</a></li> <li>3. If they wish to choose a new custodian and investments, again subject to that new firm meeting our due diligence</li> </ol> |
| 1 | Intended approach in relation to distribution of funds to beneficiaries | 1D      | How can a Beneficiary elect to replace you as pension administrator and Trustee?                          | As stated previously, they can contact us and we will then provide them with the relevant forms and process to enable the transfer.  |
| 1 | Intended approach in relation to distribution of funds to beneficiaries | 1E      | If a Beneficiary does elect to replace you as pension administrator and Trustee:                          |  |
| 1 | Intended approach in relation to distribution of funds to beneficiaries | 1E a    | What steps will you require the Beneficiary undertake to complete this?                                   | Contact us to request a transfer out form. We will then provide that direct to the beneficiary   |

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| 1 | Intended approach in relation to distribution of funds to beneficiaries | 1E b | What fees or charges will be imposed on the Beneficiary?   | <p>Please see previous response and questions along with the documentation provided in the shared folder enclosing our fee schedules. The fees will depend on which fee basis a beneficiary elected to choose when they opened their account with us.</p> <p>Assuming these are cash transfer out to another UK registered pension scheme and that we are able to process the request in line with the Occupational and Personal Pensions Transfer regulations, the fees are expected to be:</p> <p>Variable Fee basis = £155<br/>Fixed basis = £860</p>  |
| 1 | Intended approach in relation to distribution of funds to beneficiaries | 1E c | How long will this process take?   | That will depend on how long the member takes to return the forms to us, how long the receiving scheme takes to confirm acceptance of the transfer and whether or not the member has to take moneyhelper guidance or not in line with the Occupational and Personal Pension legislation for transfer. Transfers can take anywhere from around 5-10 working days to 8-12 weeks depending on the requested scheme to transfer to and the availability of moneyhelper where it is required   |
| 1 | Intended approach in relation to distribution of funds to beneficiaries | 1E d | Will the above change depending on who the Beneficiary elects to be the replacement Trustee?   | No  |
| 1 | Intended approach in relation to distribution of funds to beneficiaries | 1E e | Do you consider that you have any discretion (legally or procedurally) to refuse the request? If so, please explain this with reference to supporting documentation. | <p>Yes, under the legislation introduced in November 2021, where the scheme identifies RED warnings it has the right to refuse the transfer.<br/><a href="https://www.legislation.gov.uk/ukSI/2021/1237/made">https://www.legislation.gov.uk/ukSI/2021/1237/made</a></p> <p>You can also find a useful process flow through the Pension REgulator guidance at <a href="https://www.thepensionsregulator.gov.uk/en/document-library/scheme-management-detailed-guidance/administration-detailed-guidance/dealing-with-transfer-requests">https://www.thepensionsregulator.gov.uk/en/document-library/scheme-management-detailed-guidance/administration-detailed-guidance/dealing-with-transfer-requests</a></p> |



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| 2 | Proposed structure of fees proposed to be passed on to beneficiaries | 2A   | <p>If the Receivers distribute the funds to you, what is the proposed structure of your fees and how you would propose your Trustee fees be paid (with reference to the relevant contractual arrangements) for the following:</p> <p><input type="checkbox"/> To pay a distribution to Beneficiaries; and/or</p> <p><input type="checkbox"/> To transfer a Beneficiaries' fund to a new Trustee; and/or</p> <p><input type="checkbox"/> Reinvestment of the fund and appoint alternative fund manager.</p> | Please note fees are paid to the scheme operator the administration it provides under a SIPP. We have previously provided the fee schedules and information on which beneficiaries are on which fee basis. These include the fees for all the transactions requested. Each member will be different depending on thier circumstances and the options they choose. For example if a member wishes to receice PCLS only and no income they will not be charged the income fee. |
| 2 | Proposed structure of fees proposed to be passed on to beneficiaries | 2B a | There are clear contractual arrangements in place that stipulates your entitlement to deduct or claim fees from each Beneficiary (if that is different to what you already provided) and, if so, please reference the relevant clauses or provisions of those contractual arrangements.  | There are clear contractual agreements. Please see terms and conditions previous provided which a beneficiary agreed to on sign up to a pension with us. Section 23 contains the contractual terms   |
| 2 | Proposed structure of fees proposed to be passed on to beneficiaries | 2B b | The contractual arrangements in place vary between Beneficiaries or if they are all the same? If they vary, please outline the variations by reference to supporting documentation.  | They do not vary. Each member agrees to the same terms. The fees will vary depending on the fee basis they elected at application.   |
| 2 | Proposed structure of fees proposed to be passed on to beneficiaries | 2B c | The contractual arrangements in place vary over time, or if they have remained consistent? If they vary, please outline the variations by reference to supporting documentation, including an explanation as to how you have satisfied yourself that any such variation is binding and enforceable as against a Beneficiary .  | They have remained consistent  |
| 2 | Proposed structure of fees proposed to be passed on to beneficiaries | 2b d | There are any terms and conditions outside the documents provided which apply to the arrangement between you and the Beneficiaries? For example, general terms and conditions, amendments to conditions etc. If there is, please provide copies of these documents and explain how these additional terms and conditions are incorporated into the contractual arrangements between you and the Beneficiaries .  | No amendments  |

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| 2 | Proposed structure of fees proposed to be passed on to beneficiaries | 2C | If the Receivers distribute funds to you, will you deduct a fee from the funds returned to you in respect of arrears (with reference to relevant contractual arrangements)? If so, what is the total quantum of fees owed to you to date? | Yes we will deduct a fee from the funds returned to us in line with our normal terms and conditions. A schedule of outstanding fees due under the terms and conditions for each beneficiary has been added to the file called LCS_Brite Clients - Outstanding Fees |
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## Annexure A – MC Trustees (Malta) Limited – Trustee Survey

### Section 1 – Trustee contact details

Helen Murdoch  
Grand Central  
157 Archbishop Street  
Valletta  
VLT 1750  
  
[helen@mctrustees.com.mt](mailto:helen@mctrustees.com.mt)  
Direct Dial: 00356 79222330

### Section 2 – Trustee Details

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| <b>2A – Jurisdiction</b>   | Malta   |
| <b>2B - Regulators</b>   | Malta Financial Services Authority<br>Pensions and Insurance Supervision<br>Triq I-Imdina, Zone 1<br>Central Business District, Birkirkara<br>CBD 1010  |
| <b>Compliance with applicable legal &amp; regulatory obligations</b> | There is an ongoing case with the tribunal for alleged breaches in 2012. MCT believe the MFSA are applying 2018 rules to 2012 processes. The Tribunal ruled in MCT's favour but after an appeal by the MFSA the court ordered it back to the Tribunal for assessment on other merits. Decision will be in October 2024.<br>There have been no breaches other than this alleged legacy breach. |

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| <b>Obligations</b> | <p>Assets must remain in the name of MCT as the legal owners of the assets until such time that they are transferred and accepted by a new legal owner, either the client himself or an alternative trustee.</p> <p>If a transfer to a new trustee is requested by the client and his advisor, the transfer can be done in-specie into the name or the new trustee's name by deed of assignment. The same goes if a client and his advisor opt to take the portfolio on in his own name as full flexi-access. Same process via a deed of assignment.</p> <p>If in Specie to the client (100% of his AUM), will trigger full-flexi-access income. We as trustees need to know exactly how much was transferred in specie in order for us to follow that up with our regulatory reporting (MFSA, Central Bank Malta, Malta IRD and HMRC).</p> <p>We also have an obligation (HMRC imposed) to issue a flexi-access statement to the client setting out the implications of triggering flexi-access. There will be deeds of assignment to be signed by each party to acknowledge the new ownership.</p> <p>Alternatively, funds can be cashed in and sent to the client as full flexi-access or to a new trustee as a cash transfer but as mentioned above MCT needs to know exactly how much and the dates in order to follow up on its reporting requirements. Same requirements as in-specie.</p> <p>It is important the client gets a chance to discuss all options with a financial advisor, taking full-flexi access will result in a huge tax liability.</p> <p>If the decision is to return all cash to the scheme bank accounts, MCT will seek instructions from the client and his advisor on whether:</p> <ul style="list-style-type: none"> <li>They want to reinvest with a new platform provider remaining with MCT</li> <li>Transfer the cash to a new trustee and reinvest via the new trustee</li> <li>Take full flexi-access income</li> </ul> <p>*****only clients over the age of 55 can take flexi-access income*****</p> <p>If there are clients that do not wish for funds to be sent to MCT's scheme account, it is possible for the payments to be made directly from the platform accounts to the client given it is still considered to be within the scheme. However, MCT needs the full transactions histories in order for us to follow up on our regulatory reporting.</p> <p>You may also transfer portfolios in specie to the client as full-flexi-access but again we must know about every transaction in order for us to follow that up with our reporting requirements and organise the deed of assignments.</p> <p>You may also transfer in-specie to an alternative QROPS provider (client's own choice) but we need to know the full transaction history for our own reporting requirements.</p> |
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We would have rather our client's were given a choice in the distribution. The above can be facilitated but MCT must be in the loop at all times.

Some of our clients have already expressed an interest in transferring to an alternative provider in-specie, keeping the portfolio with Interactive Brokers as is.

**USA Connected clients:**

There is a very serious matter in relation to US connected persons and the tax implications. I have one client in particular who has asked me to get some points across to you that he has already written to you about. I have copied them below:

Each year US persons must disclose any overseas holding (greater than USD 10,000 in the aggregate) to the US IRS as part of their annual tax filings.

For overseas trusts this disclosure must be accompanied by an annual statement issued by the Trustee AND a holding level year end statement of their account - i.e this must list each position held during the prior calendar year and its closing position.

For US persons with Malta QROPS, the US IRS and Malta [tax authority] issued a letter of understanding in December 2021 stating that Malta QROPS do not constitute pensions in the eyes of IRS. Known as the Competent Authority Agreement ("CAA")

Should the CAA apply and Malta QROPS not be considered a pension, they are in the eyes of IRS same as any other taxable overseas account and subject to tax payable on interest, dividends and gains/losses.

So what? Tax consequences aside, US Clients taking this position need to be able to go back to IRS and restate 2021 onwards tax filings, at the holding level and pay any taxes due on interest, dividends and capital gains/losses. This cannot currently be done given MCN's position that statements are not accurate.

When MCN completes its distributions, each [US] Client must be informed with accuracy and supported by documents and statements, its holdings, the dates each position was were sold and a reconciliation at the holding level of the gain/loss on each individuals holding culminating in their total account. This distribution method has the potential to crystalize gain/loss on the entirety of a Client's account with massive tax implications.



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|                                      | <p>If a “haircut” is going to be applied Clients need to understand how this can be applied back to the individual holding level to be reflected in US Tax filings. By way of example, were my position as I understand it to be sold today, I would have a tax liability of something like ~\$110,000 payable on funds I cannot access (age restricted) to make such a payment. I would need to personally find \$100,000 to pay a cash tax liability due to the method MCN chose to distribute funds. Every client will experience this differently, but this is a serious consequence to face. Should my positions be different historically or have been sold (by Brite without my wishes) in the prior periods, this might materially impact any tax position. Knowing this with accuracy or distributing positions in-specie make a huge difference here.</p> <p>If indeed the prior year end statements are inaccurate, they need to be rebuilt such that US clients can restate their prior tax filings with a contiguous flow of value.</p> <p>Yes this is hard, but US IRS doesn’t ‘screw’ around and given ~40% of Client AuM is US based, this is not a trivial item. (but may not need to be resolved for the other 60% of clients)</p> <p>We MUST get MCN to appreciate the seriousness of US tax considerations in how they calculate and make distributions and then the documents to be provided. Done badly individuals take on cash tax liabilities that dwarf the Brite issues and more structurally, should the Malta trustees collectively have to admit to Malta/US IRS they cannot properly account for some US\$300M of funds that may well further persuade US IRS that Malta pension schemes are not legitimate or trustworthy - something I’m sure/hope you and fellow trustees are very keen to avoid.</p> <p>*****</p> |
| <b>2C - Compliance</b>               | <p>Only the alleged breach back in 2012 that is being appealed mentioned in 2B</p> <p>No investigations is underway by the regulators</p> <p>Audited Financial Statements attached</p>   |
| <b>2D – Pension Schemes</b>          | QROPS only   |
| <b>2E – Fee Arrangement</b>          | Trustee fees are usually deducted by Brite GBP 500 per client every January for the year ahead and paid to MCT’s own bank account. We are currently owed GBP 500 for every MCT client on the Brite platform.   |
| <b>3A – Beneficiary Details</b>      | There have been no changes to the data that we provided you in 2023  |
| <b>3B – Beneficiary jurisdiction</b> | This information is on the list we provided you with in 2023, full addresses were provided.  |

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| <b>3C – Entitlement to act</b>                 | All beneficiaries must complete a full application pack and deed of adherence in order to join the scheme. The deed of adherence binds the client to the schemes trust deed and the trustee & client relationship begins.  |
| <b>3D – Beneficiary identification process</b> | Every client must provide a certified copy his ID and a recent proof of address before he can be accepted into the scheme. The certification requirements issued by the FIAU are followed. All client information is run through a KYC platform to screen for PEP's, Sanctions and adverse media.  |
| <b>3E – Trustee fees with beneficiaries</b>    | Each beneficiary signs a fee disclosure accepting an annual management/trustee fee of GBP 500. Brite would normally deduct this fee from client AUM and pay this directly to MCT following receipt of an invoice from MCT. There is also an initial set-up fee of £500 as well as an exit fee of £500 on leaving the scheme.   |
| <b>3F – Beneficiary Communication</b>          | Email, telephone and post, no apps   |
| <b>4A – Client Aum Distribution</b>            | These decisions must always be between client and his appointed regulated advisor. MCT is not licensed to provide any kind of investment advice or make investment decisions on behalf of clients. Only a qualified financial advisor can answer that but on a client by client basis. It cannot be a generic decision. Every client has his own individual retirement goal, his own individual risk profile to consider.  |
| <b>4B – Distribution Methodology</b>           | <p>You will not be able to distribute funds directly to clients on a generic basis. This will trigger flexi-access income and will result in a huge tax liability as the assets are leaving a pension scheme. i.e. no longer a QROPS.</p> <p>You cannot make a distribution to anyone under the age of 55 (HMRC QROPS rules), this will trigger an unauthorised income payment resulting in a fine and/or tax liability for the client. HMRC and Malta Pension rules.</p> <p>For those that accept full flexi-access drawdown and happy to pay the tax liability we are fine for that to be paid directly but that has to be requested directly by the client with the advice of his advisor. MCT must be kept in the loop in order for us to follow up with our regulatory reporting requirements.</p> <p>All of the implications/consequences have been listed above in 2B (Obligations). We can facilitate either but we must work closely together on this and share the crucial information that we require for our own reporting obligations. You have already heard directly from our clients, there is clearly a split on this method. The main point being made is that all clients need a full transaction history issued that includes all deductions made to cover receiver and liquidator costs as well as the interim fund manager</p> |

|   |  |
|---|--|
| <b>4C – Intention of Trustee</b>                    | <p>All of our clients will be given the following options after they discuss it with their appointed financial advisor:</p> <ol style="list-style-type: none"> <li>1. Reinvest the funds with an alternative platform provider (client and advisor's choice) with MCT continuing as his trustee</li> <li>2. Transfer the funds to an alternative trustee and have the new trustee invest the funds for them and close the MCT scheme membership</li> <li>3. Client takes the funds as full-flexi access and accept the tax liability (must be discussed with their financial advisor first)</li> <li>4. If assets can be transferred in-specie without cashing in, we can transfer the portfolio to the new trustee or to the client as full flexi-access and close his membership with MCT</li> </ol> |
| <b>4D – Regulator Approval</b>                      | <p>We will continue complying with the pension rules and keep the regulator updated. We do not need to seek permission, we simply must abide by the pension rules. If the receivers proceed and distribute on a generic basis all funds to all clients, there will be multiple breaches, not only with our own regulators but with the tax authorities.</p>  |
| <b>4E – Trustee Fee Distribution</b>                | <p>The only fees that are owed to MCT are the annual management/trustee fees that became due and were invoiced for in January 2024. This is GBP 500 per client as per the fee disclosure duly signed by the client at application stage. MCT has still had to carry out its regulatory reporting and plead for income payments. The freezing of client funds has resulted in extraordinary administration for MCT but only the standard GBP 500 will be deducted as per the signed fee disclosure. We previously provided you with samples.</p>  |
| <b>4F – Trustee ability to distribute funds</b>     | <p>We have sufficient resource and systems to distribute funds. We will write to all clients asking them to choose from the options in 4C above. We do not have a huge number of clients compared to other trustees. It is manageable.</p>   |
| <b>4G – Taxation implications for Beneficiaries</b> | <p>Yes, as per all of the points listed above.</p>   |
| <b>4H – Replacement Trustee</b>                     | <p>Yes of course we will consider a change of trustee if that is the wish of the client, no questions asked. I do not see any difficulties as long as it is to another QROPS provider or back to a UK Registered retirement scheme. This is a simple process that we deal with on a daily basis.</p>   |
| <b>5A – Other</b>                                   | <p>We would have preferred to have individual client input on this, especially for USA residents who have a very complex tax regime to consider. It was implied in the last update that clients would be completing a survey too, there has been a lot of disappointed clients knowing the decision lies with the trustees. We are guided by the client and his appointed regulated financial advisor, the only two that should be making the decision.</p>  |



## Annexure A – MC Trustees (Malta) Limited - Trustee Survey

### CONFIDENTIAL

#### Section 1: Intended approach in relation to distribution of funds to Beneficiaries

##### Question 1A

If the Receivers distribute the funds to you as Trustee, please outline your intended approach in respect of the distribution of funds to Beneficiaries. In particular:

- a) Will Beneficiaries be provided with options as to how their funds will be treated?
- i. If yes, will those options include, (i) transfer of funds to a new Trustee, or (ii) reinvestment of funds with an alternative fund manager, or (iii) no preference, or (iv) some other option?
- (i) Transfer to a new trustee should be an option available to all clients however, given this is treated as a transfer out of the QROPS the client could be at risk of a 25% tax liability payable to HMRC. In the recent Autumn UK budget there were changes to the Overseas Transfer Charge (OTC), a transfer out to a new trustee could trigger a 25% OTC depending on the location of the new trustee and its pension structure. If the transfer to the new trustee meets one of the exemptions then a transfer will take place but it is important that you send the previous trustee the closing statement and transaction history in order for the current trustee to fulfill its regulatory reporting including its HMRC reporting requirements.
- (ii) All clients will be given a choice of reinvesting with a new platform provider with the current trustee remaining as trustee but the current trustee will need to enter terms of business with the new investment provider given the new trustee is the legal owner of the assets and policy/account holder. Funds may be sent from the Brite account directly to the new investment provider or they may be routed via the trustee's scheme bank account for onward investment.
- (iv) If a member requests a transfer of funds directly into his own personal bank account, this should be an option but the trustee must have a full breakdown as mentioned in (1) above as it is still a transfer out of the QROPS. The trustee has an obligation to report the payment as full flexi-access to HMRC under its QROPS rules as well as our own IRD reporting. There are mandatory statements that must be issued to the client with this option but it ought to be an option. Only those over 55yrs old may take this option or they will be in breach of HMRC's QROPS rules as well as local pension rules which will result in an unauthorised payment, with a fine.
- ii. If not, why will the Beneficiaries not be provided with options? How will the funds be treated?
- b) Will the options presented to the Beneficiaries be different depending on their personal circumstances, or will all the options be the same?

All options will be available to all but there are those that may be restricted:

Only over 55's can take the funds as pension income into their own bank account

New trustee option is dependent on where the new pension structure was established and where the client resides or there could be the 25% OTC to consider but it can still be an option if the client is willing to pay the 25% but the receivers must deduct the 25% prior to transferring and pay that to HMRC on behalf of the client. The client must consult with a tax advisor prior to proceeding with this option.





- c) Where relevant, will the alternative fund manager be selected by you, or will the decision be at the discretion of the Beneficiaries? If the decision is at the discretion of the Beneficiaries, is that discretion limited by a panel of fund managers selected by you?

**Investment decision must be made between the client and his regulated advisor. If a trustee is not licensed to provide investment services, then the trustee cannot be recommending investment managers. The new fund manager must be regulated and will need to pass the necessary due diligence process in order for the trustee to be comfortable entering terms of business with the new fund manager. The client is free to make his own choices.**

- d) In the event an alternative fund manager or panel of options for an alternative fund manager is to be selected by you, please explain: **N/A - client choice but must be regulated and have the necessary license permissions.**

- i. If this has already been done, which fund manager(s) have been selected?
- ii. What due diligence has been done to select an appropriate fund manager / fund managers?

#### Question 1B

What infrastructure, expertise and personnel do you have in place to attend to selection and reinvestment of funds with an alternative fund manager (if applicable).

**This must be a decision made between the client and a regulated advisor. Once a fund manager has been selected by the client and his advisor, a proposal will be sent to the trustee to start the due diligence process.**

#### Question 1C

If you are proposing to provide an option to Beneficiaries, how will you:

- a) Request Beneficiaries' preferred option? Please detail in your response:

- i. The method by which you will contact the Beneficiaries.

**A letter attached to an email requesting a signed declaration on which option to be signed by both the client and his financial advisor or tax advisor in the case of taking full-flexi access income.**

- ii. The information the Beneficiaries will receive.

**The list of options, a link to McGrathNicol website to the Q&A page, updates and court orders. The trustee will urge clients to discuss with their regulated financial advisor before making the decision.**

- iii. When you propose to seek the views of Beneficiaries.

**January 2025 or as soon as a date of distribution of funds has been declared, whichever is sooner, although this is being discussed one on one as clients reach out to ask about options. For now the trustee is giving all of the above options subject to the court orders.**

- iv. The expected timeframe for this process.

**All options should be able to complete within 6 – 8 weeks subject to satisfactory due diligence in the case of a new investment provider/funds manager as well as time to collate signed application forms.**





- b) Deal with Beneficiaries having different preferences (i.e. requesting various alternative fund managers).

**In our case we do not have a large volume of Brite invested clients. We have requests for new investment providers, transfers out, full flexi income every week for non Brite invested clients, the same process will apply.**

#### Question 1D

How can a Beneficiary elect to replace you as pension administrator and Trustee?

**We only have master schemes with multiple members. If one member requests a change of trustee it will need to be a transfer out to a new pension scheme. A new The client will source a new pension provider/trustee, the new pension provider will send us all of the necessary transfer out paperwork as well as the necessary HMRC forms and we will transfer the funds or the assets in-specie to the new provider.**

#### Question 1E

If a Beneficiary does elect to replace you as pension administrator and Trustee:

- a) What steps will you require the Beneficiary undertake to complete this?

**To source a new pension provider and sign a letter of authority giving us permission to speak to the new providers.**

What fees or charges will be imposed on the Beneficiary? **N/A**

- b) How long will this process take?
- c) Will the above change depending on who the Beneficiary elects to be the replacement Trustee?
- d) Do you consider that you have any discretion (legally or procedurally) to refuse the request? If so, please explain this with reference to supporting documentation.

### **Section 2: Proposed structure of fees proposed to be passed on to Beneficiaries**

#### Question 2A

If the Receivers distribute the funds to you, what is the proposed structure of your fees and how you would propose your Trustee fees be paid (with reference to the relevant contractual arrangements) for the following:

- To pay a distribution to Beneficiaries; and/or
- Transfer a Beneficiaries' fund to a new Trustee; and/or
- Reinvestment of the fund and appoint alternative fund manager.

**We have a standard fee arrangement in place with all Brite clients (GBP 500 annual management charge). This covers all administration and regulatory reporting. There are no extra charges for income payments.**



**The same fee disclosure document does mention that MC Trustees standard fees will apply if the client was to move away from the Brite platform but given the circumstance this will not apply, the same fee arrangement may continue at GBP 500 annual management fee per annum. There is also a GBP 500 exit fee applicable on the charging structure but this will be waived for those clients opting to transfer to another pension provider given the circumstances. Other charges applicable are the bank charges**

#### Question 2B

Please advise if:

- a) There are current and valid contractual arrangements in place between you and each of your Beneficiaries? If there is, please provide examples of these documents.

**This has been attached in the same email as the completed survey.**

- b) There are clear contractual arrangements in place that stipulates your entitlement to deduct or claim fees from each Beneficiary (if that is different to what you already provided above) and, if so, please reference the relevant clauses or provisions of those contractual arrangements. **N/A, see attached fee disclosure**
- c) The contractual arrangements in place vary between Beneficiaries or if they are all the same? If they vary, please outline the variations by reference to supporting documentation. **All the same**
- d) The contractual arrangements in place vary over time, or if they have remained consistent? If they vary, please outline the variations by reference to supporting documentation, including an explanation as to how you have satisfied yourself that any such variation is binding and enforceable as against Beneficiary.

**Only the exit fee, after 5yrs membership, there is no exit fee applicable.**

- e) There are any terms and conditions outside the documents provided which apply to the arrangement between you and the Beneficiaries? For example, general terms and conditions, amendments to conditions etc. If there is, please provide copies of these documents and explain how these additional terms and conditions are incorporated into the contractual arrangements between you and the Beneficiaries. **N/A**

#### Question 2C

If the Receivers distribute funds to you, will you deduct a fee from the funds returned to you in respect of arrears (with reference to relevant contractual arrangements)? If so, what is the total quantum of fees owed to you to date?

**GBP 500 per client is owed for 2024. This covers the continued administration and regulatory reporting. Despite assets being frozen, there is still the cost of running the scheme to cover. If the client opts to continue with us as his chosen pension provider, then GBP 500 will be deducted to cover 2025 annual management costs.**

\*\*\*\*\*END OF SURVEY\*\*\*\*\*



## Annexure A – MC Trustees Limited (Mattioli Woods) - Trustee Survey

CONFIDENTIAL

### Section 1: Trustee contact details

Please confirm your address, the relevant contact person, email address and phone number.

**Name: MC Trustees Limited**

**Registered address/contact address: 1 New Walk Place, Leicester LE1 6RU UNITED KINGDOM**

**Contact person: Mark Sapstead**

**Contact person email address: [mark.sapstead@mattioliwoods.com](mailto:mark.sapstead@mattioliwoods.com)**

**Contact person address: Same as "Registered address" above**

**Contact person telephone number: (UK) 0116 240 8700**

### Section 2: Trustee details

#### Question 2A - Relationships

Are you a related and/or associated party of the below:

- Brite Advisors. **No**
- Any entity in the broader Brite Group, including The Aurom Group Limited (UK), Relay Group Limited (BVI), Brite Advisory Group Limited (HK). **No**
- Mr Mark Donnelly or Mr John Lymer. **No**

For the avoidance of doubt, the definition a related party is set out at Section 9 of the *Corporations Act 2001* and includes (i) directors or members (of the company, or of a related party), and (ii) relatives and spouses of the persons listed above. Associated parties refer to parties that have a relationship or connection, often in terms of ownership or control.

#### Question 2B - Jurisdiction

In respect of the Brite Advisors' Beneficiaries for whom you act as Trustee, what legal jurisdiction/s do you operate in? **England and Wales**

#### Question 2C - Regulators

Please provide details of the Regulator(s) which provide oversight of your compliance with applicable legal and regulatory obligations. **Whilst MC Trustees Limited acts as the scheme trustee of the City Private Pension, the scheme administrator is MC Trustees (Pensions) Limited. M C Trustees (Pensions) Limited is authorised and regulated by the Financial Conduct Authority as a SIPP administrator. [M C Trustees \(Pensions\) Limited \(fca.org.uk\)](http://fca.org.uk). SIPPs must also adhere to HMRC rules and legislation at all times.**





Please advise of any obligations imposed on you which you consider ought to be brought to our attention in the context of our consideration of methods by which the Client AuM might be distributed to Beneficiaries.

Question 2D - Compliance

In your role as Trustee, have you complied with the laws and regulations applicable in the jurisdictions in which you operate at all times? **Yes**

Have you been sanctioned by any Regulator? **No**

Are you under investigation by any Regulator? **No**

Please provide a copy of your most recent set of audited financial statements. **The last accounts are as of 31 May 2023, although the parent company, Mattioli Woods plc is authorised and regulated by the FCA and is a listed entity. Therefore, their accounts may be more relevant: [Reports & Presentations | Mattioli Woods](#).**

Question 2E - Brite Advisors' contractual arrangements

We understand that there is no written contract or agreement in place between you and Brite Advisors.

Please outline what you understand to be the arrangements between you and Brite Advisors. Please also cite any reasons why there is no written contract or agreement available.

**For pension scheme investments, there does not need to be an agency agreement in place. The decision to invest with Brite Advisors was made by the SIPP members (the "beneficiaries"). As such, and in the absence of there being any standalone agreement between MC Trustees and Brite, all contractual agreements are solely between the pension scheme and Brite. This is documented through the fact that the SIPP member has signed the application forms alongside the professional trustee (MC Trustees Limited). No other agreements were undertaken. In the absence of any over-riding agreements in place, each investment is deemed as a standalone contractual agreement, whereby the member (and professional trustee) agree to the terms and conditions.**

Question 2F - Pensions schemes

What type of pension schemes do you administer for the Brite Advisors Beneficiaries (i.e. SIPP, QROPS, QNUPs or other)? **Only SIPPs**

Question 2G - Fee arrangements with Brite Advisors

Please advise the arrangements (if any) between you and Brite Advisors in respect of entitlement to Trustee fees.

**Whilst SIPP fees (payable to the administrator) have been drawn from the Brite portfolio in the past, this has been relied upon as Brite allowed it. There was no arrangement in place which committed to a regular**



withdrawal. When the portfolio issues began, a halt was put on fees (on the basis that they could not be withdrawn) and we have not sought to access fees via the Receivers.

### Section 3: Beneficiary details

### Question 3A - Beneficiary details

To the extent not already provided, please provide a detailed list of the Beneficiaries for who you act as Trustee, including full name, address, jurisdiction, pension scheme/superannuation fund type, scheme or fund name, and investment value (per the latest set of data you have to hand).

[illegible][illegible]



[illegible]

| Device Type                  | Smartphone (%) | Tablet (%) |
|------------------------------|----------------|------------|
| Smartphone                   | 85             | 15         |
| Tablet                       | 75             | 25         |
| Smart TV                     | 65             | 35         |
| Smartwatch                   | 55             | 45         |
| Smart Home Hub               | 45             | 55         |
| Smart Car                    | 35             | 65         |
| Smart Thermostat             | 25             | 75         |
| Smart Light Bulb             | 15             | 85         |
| Smart Plug                   | 10             | 90         |
| Smart Lock                   | 5              | 95         |
| Smart Doorbell               | 3              | 97         |
| Smart Camera                 | 2              | 98         |
| Smart Mirror                 | 1              | 99         |
| Smart Scale                  | 0              | 100        |
| Smart Weight Scale           | 0              | 100        |
| Smart Blood Pressure Monitor | 0              | 100        |
| Smart Glucose Monitor        | 0              | 100        |
| Smart Insulin Pump           | 0              | 100        |
| Smart Hearing Aid            | 0              | 100        |
| Smart Wheelchair             | 0              | 100        |
| Smart Prosthetic Limb        | 0              | 100        |

[illegible]



#### Question 3B Beneficiary jurisdiction

Please provide a list of the jurisdictions/countries where your Beneficiaries reside.

**You will note within the data submitted for Question 3A, that the jurisdiction for all individuals is recorded as UK. This is due to the fact that the investment is held by a pension scheme, and any returns from the investment need to be returned to the pension scheme. If any monies are returned to individuals personally, there is a risk of pension scheme tax charges (defined by HMRC as an unauthorised payment) and member tax charges. The data under 3A details where the individuals reside (4x South Africa and 1x Australia).**

#### Question 3C – Entitlement to act

Please provide details of the arrangements in place between you and each of the Beneficiaries demonstrating your entitlement to act on behalf of each Beneficiary with reference to the relevant written contracts or standard onboarding agreements. If there are no written contracts or agreements, please outline the reason why, and what you understand to be the arrangements between you and the relevant Beneficiaries.

**The SIPP members (the “Beneficiaries”) signed applications at the time when the pension schemes were established (noting that the schemes were all established many years before the investment with Brite). There are T&Cs in place for the schemes. The monies sent to Brite were sent by MC Trustees, and we have evidence which shows that the investment funding came from the pension scheme bank account. The investment is therefore an asset of the pension scheme. We have a duty to ensure that the monies released from Brite are returned to the pension scheme. It is unclear as to the nature of the question and whether we are having to evidence that we act as pension administrator/trustee, that the investment is held by the pension scheme, or that the SIPP member has an agreement in place with us to administer their pension scheme.**

#### Question 3D – Beneficiary identification process

Please provide details of what steps have been taken to identify the Beneficiaries as required in Question 3A.

**As stated above the pension schemes were existing arrangements prior to the Brite investments. Anti-money laundering checks have been undertaken on the beneficiaries historically and evidence of this (such as certified passport copies) are retained on record.**

#### Question 3E – Trustee fees with beneficiaries

Please provide a summary of the arrangements (if any) between you and the Beneficiaries in respect of entitlement to Trustee fees.

**With reference to the answer to 2G and 4E, please note that the SIPPs are long standing arrangements that pre-date the Brite investments. All fees are invoiced to the client and will be collected from the pension scheme bank account. We are not looking to (and have not looked to) the Receivers to settle fees due between the SIPP member and MC Trustees. It should be noted that due to the issues with the Brite portfolios, there has been a moratorium on fees and we have not sought settlement from the clients directly, but have confirmed that if/when there is liquidity, we will look to raise the contractual annual SIPP fees.**

#### Question 3F – Beneficiary communication

Please provide details of how you communicate with the Beneficiaries for who you act as Trustee (i.e. post, email, portal/app)?





**Due to the physical location of all individuals, our chosen means of communication is via email (contact email addresses supplied previously).**

#### **Section 4: Distribution of funds**

##### Question 4A – Client AuM Distribution

Do you consider that the liquidation of the Client AuM (i.e. sale of all of the investments and conversion to cash) and return of that cash to you as Trustee would have any negative implications for Beneficiaries, as opposed to the Client AuM being transitioned to a new fund manager? For example, tax, regulatory or any other implications. Please include references to local laws and regulations (where relevant).

**Whether funds are returned to the individual designated pension scheme bank accounts (noting that neither MC Trustees Limited nor M C Trustees (Pensions) Limited can accept client monies) or transitioned to a new fund manager needs to be the SIPP member's decision (on the basis that there is a choice). From a regulatory/HMRC perspective, as long as the funds are returned to the pension scheme bank account or an account with a new fund manager who recognises that the monies are due to the pension scheme there are no concerns.**

##### Question 4B – Distribution methodology

Do you have any views or comments in relation to two options for distribution being either (i) distribution of the funds to the Trustees, or (ii) distribution of the funds directly to the Beneficiaries and any implications you see from either option? For example, tax, regulatory or any other implications. Please include references to local laws and regulations (where relevant).

**Any and all distributions must be made to the pension scheme (or an account in the name of the pension scheme). Any distribution of funds directly to the Beneficiaries is not allowable as it is deemed to be an unauthorised payment by HMRC – such actions would create punitive tax charges to be levied against the individuals. We do not authorise any intention to distribute monies to the Beneficiaries directly.**

##### Question 4C – Intention of Trustee

If the Receivers distribute the funds to you, please outline your intended approach in respect of the funds. For example, will you distribute the funds to the Beneficiaries, seek to reinvest the funds with an alternative fund manager or take some other action?

**As stated above, neither MC Trustees Limited nor M C Trustees (Pensions) Limited can accept client monies). Any distribution would need to be paid to the designated pension scheme bank account (all five SIPPs have their own bank account). Thereafter, it is at the direction of the SIPP member (the "Beneficiary") as to what to do with the funds (i.e. reinvest, leave as cash etc).**

##### Question 4D – Regulator approval

If the Receivers distribute the funds to you, please confirm that you have the necessary authority, including any appropriate approvals from your regulator(s), to undertake the work required to deal with the funds, whether that is by payment to Beneficiaries, reinvestment of the funds or any other action.

**As stated above, neither MC Trustees Limited nor M C Trustees (Pensions) Limited can accept client monies). Any distribution would need to be paid to the designated pension scheme bank account (all five SIPPs have their own bank account). Thereafter, it is at the direction of the SIPP member (the "Beneficiary") as to what to do with the funds (i.e. reinvest, leave as cash etc). As we act on member**





**instructions, authority comes from the member. From a regulatory perspective, M C Trustees (Pensions) Limited has the necessary permissions for "Establishing/operating/winding up a personal pension scheme".**

Question 4E - Trustee fees for distribution

If the Receivers distribute the funds to you, please advise the proposed structure of your fees and how you would propose your Trustee fees be paid (with reference to the relevant contractual arrangements) for arranging (i) to pay a distribution to Beneficiaries, (ii) reinvestment of the fund, or (iii) any other action.

**As stated above, neither MC Trustees Limited not M C Trustees (Pensions) Limited can accept client monies). Any distribution would need to be paid to the designated pension scheme bank account (all five SIPPs have their own bank account). Fees would be raised against the scheme accordingly. SIPP members can complain if they are not happy with the fees for any reason. Please note we cannot remove fees without SIPP member awareness and all fees raised are contractually due and payable.**

Question 4F - Trustee ability to distribute funds

If the Receivers distribute the funds to you, do you currently have the capability, information, resources and appropriate systems in place to deal with the funds in a timely manner, whether by way of distribution to Beneficiaries, reinvestment or some other action. Your response should include details of your capabilities, relevant information held, available resources, systems used and estimated timeframes to deal with the funds.

**M C Trustees administers in excess of 1,000 SIPPs. For the purposes of this report, we are accounting for 5 SIPPs. We always aim to deal with client instructions within 24 hours. There are no concerns regarding resourcing.**

Question 4G - Taxation implications for Beneficiaries

Do you consider there to be any possible taxation implications for your Beneficiaries resulting from either of the two options for distribution, being either (i) distribution of the funds to the Trustees, or (ii) distribution of the funds directly to the Beneficiaries.

**Please refer to the answer to Question 4B.**

Question 4H - Replacement Trustee

The Receivers have received requests from beneficiaries seeking to change their Trustee/pension scheme administrator.

If a Beneficiary wishes to replace you as their Trustee/pension scheme administrator, please confirm that you would consent to such a request or advise the terms on which you provide such consent. Please also advise of any difficulties you would consider would be encountered, including any applicable regulations.

**We consent to any SIPP member transferring their arrangement, and this is within the T&Cs. Regulatory wise no SIPP providers should (in the course of normal business) impose any barriers to transfer. However, as the SIPPs are part of a Master SIPP arrangement, the professional trustee/pension scheme administrator cannot be "replaced". Should a SIPP member wish to terminate their relationship, they would need to establish a suitable pension scheme which the assets can be transferred to. The cleanest way of dealing with this practically is for the distribution to be returned to the pension scheme bank account and thereafter transferred to a new provider (once the relevant transfer forms have been undertaken and checks completed on the receiving scheme) or for the assets to be registered with a new fund manager in the name of the existing pension scheme, and when a new pension scheme has been approved to receive transfer, we can liaise with the fund manager to get the assets re-registered. To date we have received no complaints or dissatisfaction from any of the 5 individuals with Brite portfolios.**



## Section 5: Distribution of funds

### Question 5A – Other

Please outline any other comments or views you have in respect of the distribution of the Client AuM which have not been addressed above.

**Should there be any decision to transfer funds directly to the SIPP members (the “Beneficiaries”) personally, we insist that we are engaged with beforehand as the tax implications would not have been understood. To confirm, we will not be liable for any tax consequences that arise from such actions.**





## **Annexure A – MC Trustees Limited (Mattioli Woods)- Trustee Survey**

### **CONFIDENTIAL**

#### **Section 1: Intended approach in relation to distribution of funds to Beneficiaries**

##### Question 1A

If the Receivers distribute the funds to you as Trustee, please outline your intended approach in respect of the distribution of funds to Beneficiaries. In particular:

- a) Will Beneficiaries be provided with options as to how their funds will be treated?
  - i. If yes, will those options include, (i) transfer of funds to a new Trustee, or (ii) reinvestment of funds with an alternative fund manager, or (iii) no preference, or (iv) some other option?
  - ii. If not, why will the Beneficiaries not be provided with options? How will the funds be treated?
- b) Will the options presented to the Beneficiaries be different depending on their personal circumstances, or will all the options be the same?
- c) Where relevant, will the alternative fund manager be selected by you, or will the decision be at the discretion of the Beneficiaries? If the decision is at the discretion of the Beneficiaries, is that discretion limited by a panel of fund managers selected by you?
- d) In the event an alternative fund manager or panel of options for an alternative fund manager is to be selected by you, please explain:
  - i. If this has already been done, which fund manager(s) have been selected?
  - ii. What due diligence has been done to select an appropriate fund manager / fund managers?

**In this scenario, the funds would have to be distributed to a designated bank account in the name of the Beneficiary. Each Beneficiary has a bank account established (from which the original monies were sent to Brite), and we confirm that the Trustees are not authorised to accept client monies directly – indeed, M C Trustees Limited is a non-trading entity. The SIPP administrator, M C Trustees (Pensions) Limited (FCA authorised and regulated) similarly cannot accept client monies. On the basis that the funds are returned to the pension scheme bank accounts, at that stage, the Beneficiaries are able to self-direct the monies (i.e. transfer funds to a new Trustee, reinvest funds with an alternative fund manager, or leave the funds as cash etc). The options available to the Beneficiaries do not differ depending on circumstances. Any decision to invest with an alternative fund manager will be at the instruction of the Beneficiary, although there are some fund managers that we would not permit due to internal concerns – we actively encourage all clients to (a) seek regulated financial advice before deciding where to reinvest monies and if they proceed with a fund manager to (b) ensure it is an FCA regulated entity that understands SIPP structures and what is allowed to be held within a UK pension scheme.**

##### Question 1B

What infrastructure, expertise and personnel do you have in place to attend to selection and reinvestment of funds with an alternative fund manager (if applicable).

**Not applicable - M C Trustees Limited and M C Trustees (Pensions) Limited are not regulated to select and reinvest funds.**

##### Question 1C



If you are proposing to provide an option to Beneficiaries, how will you:

- a) Request Beneficiaries' preferred option? Please detail in your response:
  - i. The method by which you will contact the Beneficiaries.
  - ii. The information the Beneficiaries will receive.
  - iii. When you propose to seek the views of Beneficiaries.
  - iv. The expected timeframe for this process.

**Not applicable - M C Trustees Limited and M C Trustees (Pensions) Limited will not provide options. Once distributed monies are received, the Beneficiaries will be notified and it will be confirmed that the monies will remain in a segregated account, as cash, until instruction is received for reinvestment/transfer etc.**

- b) Deal with Beneficiaries having different preferences (i.e. requesting various alternative fund managers).

**Not applicable - M C Trustees Limited and M C Trustees (Pensions) Limited will not provide options.**

#### Question 1D

How can a Beneficiary elect to replace you as pension administrator and Trustee?

**All Beneficiaries have the right to transfer at any stage, and we cannot act as a barrier to this. Whilst there is paperwork to complete by the Beneficiary and receiving scheme, we will act on instruction and the transfer is always led by the receiving scheme. Therefore, it is paramount that if there is intent to transfer, a receiving scheme is set up by the Beneficiary.**

#### Question 1E

If a Beneficiary does elect to replace you as pension administrator and Trustee:

- a) What steps will you require the Beneficiary undertake to complete this?

**See answer to 1D**

- b) What fees or charges will be imposed on the Beneficiary?

**The standard transfer out fee on a time costed basis for the hours on the transaction, as already made aware to clients.**

- c) How long will this process take?

**As the process is driven by the receiving scheme, and involves overseas clients completing forms, we are unable to answer this. It should be noted, however, that as an FCA regulated SIPP provider, there is a duty to transfer out in a timely manner. On the basis that the receiving scheme is a UK registered pension scheme, and the assets are all held in cash, the process should be undertaken in a fortnight once all completed documentation is received.**

- d) Will the above change depending on who the Beneficiary elects to be the replacement Trustee?

**The situation can become protracted with overseas pension schemes as there are rules regarding such transfers which require clarity from the receiving schemes. This will also be subject to our own verification process.**

- e) Do you consider that you have any discretion (legally or procedurally) to refuse the request? If so, please explain this with reference to supporting documentation.

**If the receiving scheme is deemed to be used for pension liberation or is not recognised by HMRC, then the pension scheme can be refused.**

#### **Section 2: Proposed structure of fees proposed to be passed on to Beneficiaries**





#### Question 2A

If the Receivers distribute the funds to you, what is the proposed structure of your fees and how you would propose your Trustee fees be paid (with reference to the relevant contractual arrangements) for the following:

- To pay a distribution to Beneficiaries; and/or
- Transfer a Beneficiaries' fund to a new Trustee; and/or
- Reinvestment of the fund and appoint alternative fund manager.

**Any fees for services would be settled from the pension scheme bank account automatically. Beneficiaries have the right to challenge fees, and as the fees are in relation to regulated activities, have the right to approach the Financial Ombudsman Service should a complaint not be resolved satisfactorily.**

**The fee structure is known to the 5 Brite clients and is a fixed fee model. It should be noted that since the Brite portfolio issue, we have not raised any fees against the 5 Brite clients as a gesture of goodwill, even if they have been contractual and due.**

#### Question 2B

Please advise if:

- a) There are current and valid contractual arrangements in place between you and each of your Beneficiaries? If there is, please provide examples of these documents. **Yes – M C Trustees (Pensions) Limited acts as the SIPP operator**
- b) There are clear contractual arrangements in place that stipulates your entitlement to deduct or claim fees from each Beneficiary (if that is different to what you already provided above) and, if so, please reference the relevant clauses or provisions of those contractual arrangements. **Yes – M C Trustees (Pensions) Limited acts as the SIPP operator**
- c) The contractual arrangements in place vary between Beneficiaries or if they are all the same? If they vary, please outline the variations by reference to supporting documentation. **Not applicable - they are all the same**
- d) The contractual arrangements in place vary over time, or if they have remained consistent? If they vary, please outline the variations by reference to supporting documentation, including an explanation as to how you have satisfied yourself that any such variation is binding and enforceable as against Beneficiary. **Not applicable – the basis of the agreement has remained throughout the relationship, although the actual amounts will have changed over time. All variations remain binding and enforceable. Should a client not wish to remain within contract, they have the right to transfer to another provider and have always had this option.**
- e) There are any terms and conditions outside the documents provided which apply to the arrangement between you and the Beneficiaries? For example, general terms and conditions, amendments to conditions etc. If there is, please provide copies of these documents and explain how these additional terms and conditions are incorporated into the contractual arrangements between you and the Beneficiaries. **Without wanting to be obstructive, we note that the 5 Brite clients have not complained about our services, and are not looking to transfer to a new provider. Whilst we acknowledge that the Receivers have had issues with Beneficiaries who are unhappy with their Trustee, we question whether the Receiver should be brought into such concerns – the Receivers have been appointed to return the monies to the “investor” (i.e. return the monies from where it came from) – if the investor is a pension scheme, the money should be returned to the pension scheme. If a Beneficiary is unhappy with the service of a SIPP operator, then they have recourse to the Financial Ombudsman Service, and the Financial Conduct Authority. We question whether the issues have arisen by the Receivers choice of definitions – “Beneficiary” and “Trustees” rather than the “Brite client” – the client in our 5 instances are pension schemes, and whilst we cannot permit monies to be returned to the “Beneficiaries” directly (due to HMRC rules) they cannot likewise be returned to the “Trustees” (due to FCA permissions) – they must be returned to the legal owner of the asset which is a UK registered pension scheme. It is unclear how the Receivers are able to adjudicate on a legal contractual position, and disregard the legal owner of an asset in this instance. To confirm, there are two contractual positions in these situations – one between the**



**Beneficiary and the Trustee (for SIPP administrative services) and one between the pension scheme and Brite Trustees. Whilst the Brite portfolios were set up so that fees due to the Trustee could be withdrawn, this was not relied upon. The Receivers have been appointed to deal with the Brite Trustee relationship, and therefore cannot and should not be involved with a separate and legal contract for services between the Trustee and the Beneficiary.**

Question 2C

If the Receivers distribute funds to you, will you deduct a fee from the funds returned to you in respect of arrears (with reference to relevant contractual arrangements)? If so, what is the total quantum of fees owed to you to date?

**Since the Brite portfolio issues, we have not charged any fees to our clients as a gesture of goodwill. To date we have not decided whether we will raise retrospective fees for basic SIPP administration, but if we do, we are legally entitled to, and any disagreement to this is between the Beneficiary and the SIPP administrator. As said before, should we proceed with any retrospective basic charges (which the clients were always told may be a possibility) then the clients have the right to complain and seek the intervention of the Financial Conduct Authority and/or the Financial Ombudsman Service.**

\*\*\*\*\*END OF SURVEY\*\*\*\*\*



## Annexure A – Praxis Pes Malta Limited - Trustee Survey

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### Section 1: Trustee contact details

Please confirm your address, the relevant contact person, email address and phone number.

**Address:** Praxis PES Malta Limited  
Avenue 77  
Block E, Floor 2  
Triq in-Negojju  
Zone 3  
Central Business District  
Malta, CBD 3010

**Contact:** James King

**Email:** [james.king@praxisgroup.com](mailto:james.king@praxisgroup.com)

**Telephone:** 00 356 25468205

### Section 2: Trustee details

#### Question 2A - Relationships

Are you a related and/or associated party of the below:

- Brite Advisors. **No**
- Any entity in the broader Brite Group, including The Aurom Group Limited (UK), Relay Group Limited (BVI), Brite Advisory Group Limited (HK). **No**
- Mr Mark Donnelly or Mr John Lymer. **No**

For the avoidance of doubt, the definition a related party is set out at Section 9 of the *Corporations Act 2001* and includes (i) directors or members (of the company, or of a related party), and (ii) relatives and spouses of the persons listed above. Associated parties refer to parties that have a relationship or connection, often in terms of ownership or control.





Question 2B – Jurisdiction

In respect of the Brite Advisors' Beneficiaries for whom you act as Trustee, what legal jurisdiction/s do you operate in? **Malta**

Question 2C – Regulators

Please advise which jurisdiction(s) your business is registered in and operates from. **Malta**

Please provide details of the Regulator(s) which provide oversight of your compliance with applicable legal and regulatory obligations. **Malta Financial Services Authority**

Please advise of any obligations imposed on you which you consider ought to be brought to our attention in the context of our consideration of methods by which the Client AuM might be distributed to Beneficiaries. **Malta Pension Rules have the following restrictions on distributions to beneficiaries:**

**QROPS:**            **Cannot pay benefits before age 55. Up to 25% lump sum and the balance can be taken at any time under flexible access rules.**

**QNUPS:**           **Benefits can commence from age 50. Up to 30% lump sum and the balance must provide income for the remainder of their life.**

**It is important that the client AUM is returned to ourselves as Trustee/Administrator and then dealt with accordingly. The Trustee/Administrator is the Brite client.**



#### Question 2D - Compliance

In your role as Trustee, have you complied with the laws and regulations applicable in the jurisdictions in which you operate at all times? **Yes**

Have you been sanctioned by any Regulator? **No**

Are you under investigation by any Regulator? **No**

Please provide a copy of your most recent set of audited financial statements. **Attached**

#### Question 2E - Brite Advisors' contractual arrangements

To the extent not already provided, please confirm if there is a written contract or agreement in place between you and Brite Advisors, and if so provide a copy. **Attached**

If there is no written contract or agreement, please outline what you understand to be the arrangements between you and Brite Advisors. Please also cite any reasons why there is no written contract or agreement available.

#### Question 2F - Pensions schemes

What type of pension schemes do you administer for the Brite Advisors Beneficiaries (i.e. SIPP, QROPS, QNUPs or other)? **QROPS and QNUPS**

#### Question 2G - Fee arrangements with Brite Advisors

Please advise the contractual arrangements which are in place (if any) between you and Brite Advisors in respect of entitlement to Trustee fees. **Our contractual arrangement for our fees is with the beneficiary. On an annual basis we would request a disinvestment from the Brite platform for our annual fee in line with the agreement with the beneficiary.**

### **Section 3: Beneficiary details**

#### Question 3A - Beneficiary details

To the extent not already provided, please provide a detailed list of the Beneficiaries for who you act as Trustee, including full name, address, jurisdiction, pension scheme/superannuation fund type, scheme or fund name, and investment value (per the latest set of data you have to hand). **Attached**

#### Question 3B Beneficiary jurisdiction

Please provide a list of the jurisdictions/countries where your Beneficiaries reside. **USA, Germany, Luxembourg, Spain, UAE**

#### Question 3C - Entitlement to act

Please provide details of the arrangements in place between you and each of the Beneficiaries demonstrating your entitlement to act on behalf of each Beneficiary with reference to the relevant written contracts or standard onboarding agreements. If there are no written contracts or agreements, please outline the reason why, and what you understand to be the arrangements between you and the relevant Beneficiaries. **Each beneficiary completes and signs an application form to join the pension scheme. Blank example form attached fyi. The assets held on the Brite platform are legally owned by the Trustee/Administrator.**

#### Question 3D – Beneficiary identification process



Please provide details of what steps have been taken to identify the Beneficiaries as required in Question 3A and what Anti Money Laundering regulations you are obliged to follow relating to customer identification/verification both from an initial onboarding and ongoing perspective. **Malta is in the EU and therefore subject to rigorous AML controls and obligations. At client take on we request proof of identity, proof of address, source of funds and source of wealth information. Clients are screened at take on and on an ongoing basis. Before benefits are paid to beneficiaries, we request additional proof of identity and address documentation.**



#### Question 3E – Trustee fees with beneficiaries

Please provide a summary of the arrangements (if any) between you and the Beneficiaries in respect of entitlement to Trustee fees. **Beneficiaries sign our application form agreeing to our fees.**

#### Question 3F – Beneficiary communication

Please provide details of how you communicate with the Beneficiaries for who you act as Trustee (i.e. post, email, portal/app)? **Email and by phone generally**

### **Section 4: Distribution of funds**

#### Question 4A – Client AuM Distribution

Do you consider that the liquidation of the Client AuM (i.e. sale of all of the investments and conversion to cash) and return of that cash to you as Trustee would have any negative implications for Beneficiaries, as opposed to the Client AuM being transitioned to a new fund manager? For example, tax, regulatory or any other implications. Please include references to local laws and regulations (where relevant). **The assets are legally owned by the Trustee/Administrator so returning the cash to the Trustee/Administrator would have no adverse tax or regulatory consequences for the beneficiary.**

#### Question 4B – Distribution methodology

Do you have any views or comments in relation to two options for distribution being either (i) distribution of the funds to the Trustees, or (ii) distribution of the funds directly to the Beneficiaries and any implications you see from either option? For example, tax, regulatory or any other implications. Please include references to local laws and regulations (where relevant). **The assets must be returned to the Trustee/Administrator as the legal owner of the assets. Returning the assets to the beneficiaries could break Malta pension regulations (as provided above) and create significant tax consequences for the beneficiaries.**

#### Question 4C – Intention of Trustee

If the Receivers distribute the funds to you, please outline your intended approach in respect of the funds. For example, will you distribute the funds to the Beneficiaries, seek to reinvest the funds with an alternative fund manager or take some other action? **We will consult each beneficiary. Some may wish to receive benefits in line with the Malta pension rules and others will wish for them to be reinvested with an alternative reputable fund manager.**

#### Question 4D – Regulator approval

If the Receivers distribute the funds to you, please confirm that you have the necessary authority, including any appropriate approvals from your regulator(s), to undertake the work required to deal with the funds, whether that is by payment to Beneficiaries, reinvestment of the funds or any other action. **Of course. We are a regulated Retirement Scheme Administrator.**

#### Question 4E – Trustee fees for distribution

If the Receivers distribute the funds to you, please advise the proposed structure of your fees and how you would propose your Trustee fees be paid (with reference to the relevant contractual arrangements) for arranging (i) to pay a distribution to Beneficiaries, (ii) reinvestment of the fund, or (iii) any other action. **Our fees are detailed on page 4 of our application form attached. We generally charge a fixed annual administration fee and additional small fees when calculating pension benefits. We would not charge a fee when the funds are returned to us and reinvested with another investment manager.**



#### Question 4F – Trustee ability to distribute funds

If the Receivers distribute the funds to you, do you currently have the capability, information, resources and appropriate systems in place to deal with the funds in a timely manner, whether by way of distribution to Beneficiaries, reinvestment or some other action. Your response should include details of your capabilities, relevant information held, available resources, systems used and estimated timeframes to deal with the funds. **Yes we have sufficient resources to ensure the above on a timely manner. There are only 37 members affected so very manageable. We will prepare in advance options for beneficiaries so once funds are received we will be able to react quickly.**

#### Question 4G – Taxation implications for Beneficiaries

Do you consider there to be any possible taxation implications for your Beneficiaries resulting from either of the two options for distribution, being either (i) distribution of the funds to the Trustees, or (ii) distribution of the funds directly to the Beneficiaries. **1) No. 2) yes. Significant tax issues for beneficiaries.**

#### Question 4H – Replacement Trustee

The Receivers have received requests from beneficiaries seeking to change their Trustee/pension scheme administrator.

If a Beneficiary wishes to replace you as their Trustee/pension scheme administrator, please confirm that you would consent to such a request or advise the terms on which you provide such consent. Please also advise of any difficulties you would consider would be encountered, including any applicable regulations. **Yes we would consent as long as the new arrangement is a regulated pension scheme as per the requirement under Malta pension rules. Under the circumstances we would not charge our standard exit penalty on these cases.**

### **Section 5: Distribution of funds**

#### Question 5A – Other

Please outline any other comments or views you have in respect of the distribution of the Client AuM which have not been addressed above. **None**





**Annexure A – Praxis PES Malta Limited formerly Trireme Pension Services (Malta) Limited**  
**- Trustee Survey**  
**CONFIDENTIAL**

**Section 1: Intended approach in relation to distribution of funds to Beneficiaries**

Question 1A

If the Receivers distribute the funds to you as Trustee, please outline your intended approach in respect of the distribution of funds to Beneficiaries. In particular:

- a) Will Beneficiaries be provided with options as to how their funds will be treated? **Yes**
- i. If yes, will those options include, (i) transfer of funds to a new Trustee, or (ii) reinvestment of funds with an alternative fund manager, or (iii) no preference, or (iv) some other option?

**We will give members the following options:**

- 1. Transfer funds to a new Trustee;**
- 2. Withdraw the funds, if eligible to do so under the Malta pension rules; or**
- 3. Appoint an alternative investment manager to manage the assets.**

- ii. If not, why will the Beneficiaries not be provided with options? How will the funds be treated?
- b) Will the options presented to the Beneficiaries be different depending on their personal circumstances, or will all the options be the same?

**We will offer all members a low-cost default investment manager, Cazenove Capital, who are part of the Schroders Group which is a well-known and respected global investment manager. They will manage the assets on a discretionary basis in line with the members attitude to risk without the need of a financial advisor. High Net Worth clients may wish to pay a more bespoke fee for a wider discretionary service but generally all members will be offered the same options. Member will be free to choose an alternative investment solution if they wish. We understand that many of the Brite US advisors have joined a US firm called Rosefinch and we have refused terms of business with them. We will not agree terms of business with any firm that has any connection to, or staff from, Brite Advisors.**

- c) Where relevant, will the alternative fund manager be selected by you, or will the decision be at the discretion of the Beneficiaries? If the decision is at the discretion of the Beneficiaries, is that discretion limited by a panel of fund managers selected by you?

**As above, we have selected a default investment manager but if a member wishes to appoint an alternative firm, then we will consider their request. If their preferred firm is one that we have terms of business with, then we will honour the member's request subject to it being permitted under Malta's pension rules. If not, we would need to assess the request on a case by case basis.**

- d) In the event an alternative fund manager or panel of options for an alternative fund manager is to be selected by you, please explain:

- i. If this has already been done, which fund manager(s) have been selected?

**As above, we have selected Cazenove Capital which is part of the Schroders Group.**

- ii. What due diligence has been done to select an appropriate fund manager / fund managers?

**Cazenove is a well-respected investment management company with which we already hold terms of business. Details can be found here <https://www.cazenovecapital.com/en-gb/uk/wealth-management/>**



#### Question 1B

What infrastructure, expertise and personnel do you have in place to attend to selection and reinvestment of funds with an alternative fund manager (if applicable).

We have a relatively small number of members that are affected by this and we are confident that our team will be able to manage the process of reinvesting funds without any issues. As Trustee/Administrator we will contact the members to provide them with the options described above. In our opinion the option we will recommend with Cazenove Capital is a good solution which will offer sound investment decisions and financial security to our members.

#### Question 1C

If you are proposing to provide an option to Beneficiaries, how will you:

a) Request Beneficiaries' preferred option? Please detail in your response:

i. The method by which you will contact the Beneficiaries.

Email

ii. The information the Beneficiaries will receive.

Full details of their fund value, a letter explaining the situation and their options. a presentation by Cazenove Capital, a form to inform us of the decision they have taken.

iii. When you propose to seek the views of Beneficiaries.

We understand that you will be releasing funds in early Q2 2025. Our aim is to contact clients with their options in Q1 2025, once we have more visibility on the likely value of each member's account

iv. The expected timeframe for this process.

We will give members time to make an informed decision; ideally at least 30 days' notice. For those members who opt to reinvest, we would like to be in a position to do so immediately after you have released the funds, so they are not 'out of the market' for any significant amount of time. Therefore the sooner we have clarity from McGrath Nicol, the sooner we will write to the affected members.

b) Deal with Beneficiaries having different preferences (i.e. requesting various alternative fund managers).

If we have terms of business in place it will be relatively simple. If not, the process will take longer whilst terms of business are set up. As advised, we will not agree terms with any company that has recruited financial advisors from Brite.

#### Question 1D

How can a Beneficiary elect to replace you as pension administrator and Trustee?

They can elect to transfer their pension to an alternative pension provider. We will waive our standard fees in this instance so there will be no additional cost to the member.

#### Question 1E

If a Beneficiary does elect to replace you as pension administrator and Trustee:

a) What steps will you require the Beneficiary undertake to complete this?





Malta pensions rules state that we can only transfer to another pension scheme. We have a standard transfer out form which they will need to complete, and which provides full details of the receiving scheme.

What fees or charges will be imposed on the Beneficiary?

No fees will be imposed by Praxis.

b) How long will this process take?

It is subject to how quick the receiving scheme is in providing documentation to us and accepting the member but it is expected to be a matter of weeks.

c) Will the above change depending on who the Beneficiary elects to be the replacement Trustee?

No. Providing it is a registered pension scheme and can accept the transfer, then there should not be any issues. Most of the affected members are in the US and it is important to note that no US Scheme will accept an overseas pension transfer.

d) Do you consider that you have any discretion (legally or procedurally) to refuse the request? If so, please explain this with reference to supporting documentation.

We have a Trustee and Regulatory responsibility to ensure that the receiving scheme is a regulated pension scheme and that the member is not being disadvantaged.

## Section 2: Proposed structure of fees proposed to be passed on to Beneficiaries

### Question 2A

If the Receivers distribute the funds to you, what is the proposed structure of your fees and how you would propose your Trustee fees be paid (with reference to the relevant contractual arrangements) for the following:

- To pay a distribution to Beneficiaries; and/or  
Zero
- Transfer a Beneficiaries' fund to a new Trustee; and/or  
Zero
- Reinvestment of the fund and appoint alternative fund manager.  
Zero

### ▪ Question 2B

Thank you for providing the documentation between yourself and the Beneficiaries.

Can you please advise if:

a) There are clear contractual arrangements in place that stipulates your entitlement to deduct or claim fees from each Beneficiary (if that is different to what you already provided) and, if so, please reference the relevant clauses or provisions of those contractual arrangements.

On our application form which you have seen.

b) The contractual arrangements in place vary between Beneficiaries or if they are all the same? If they vary, please outline the variations by reference to supporting documentation.

They are the same

c) The contractual arrangements in place vary over time, or if they have remained consistent? If they vary, please outline the variations by reference to supporting documentation, including an explanation as to how you have satisfied yourself that any such variation is binding and enforceable as against a Beneficiary.

They have remained consistent

d) There are any terms and conditions outside the documents provided which apply to the arrangement between you and the Beneficiaries? For example, general terms and conditions, amendments to conditions etc. If there is, please provide copies of these documents and explain how these additional terms and conditions are incorporated into the contractual arrangements between you and the Beneficiaries.



There is nothing outside the documents provided to you. Our fees are very straightforward and transparent.

Question 2C

If the Receivers distribute funds to you, will you deduct a fee from the funds returned to you in respect of arrears (with reference to relevant contractual arrangements)? If so, what is the total quantum of fees owed to you to date?

Yes, we are due annual fees of £10,775.78 in total across all our affected members which will be deducted when funds are received.

\*\*\*\*\*END OF SURVEY\*\*\*\*\*

17 July 2024

Linda Smith  
Level 19, 2 The Esplanade  
Perth WA 6000,  
GPO Box 9986  
Perth, WA 6848

Email: [BriteAdvisors@mcgrathnicol.com](mailto:BriteAdvisors@mcgrathnicol.com)

Dear Linda,

#### McGrathNicol Trustee Survey response

Following your request of 8 July 2024, please see the responses below for the survey from PSG SIPP Limited.

#### Section 1: Trustee Contact details

Trustees of 480Plus SIPP

[REDACTED]

Trustees of Harbour International SIPP

Trustees of Aspire SIPP

Trustees of The Heritage SIPP

Trustees of Flexi SIPP

Trustees of The Brooklands SIPP

C/o Natalie Pike (COO) or Duncan Parsons (CEO)  
PSG SIPP Limited  
Unit F1 Avonside Enterprise Park  
New Broughton Road  
Melksham  
United Kingdom  
SN12 8BT

[natalie@psgsipp.co.uk](mailto:natalie@psgsipp.co.uk)

[duncan@psgsipp.co.uk](mailto:duncan@psgsipp.co.uk)



## Section 2: Trustee details

### Question 2A - Jurisdiction

United Kingdom only

### Question 2B – Regulators

UK Financial Conduct Authority (FCA)

We are a UK Self Invested Personal Pension Operator and are required to conduct our business in accordance with the FCA's Principles for Business:

<https://www.handbook.fca.org.uk/handbook/PRIN/2/1.html>

and other applicable rules contained in the FCA's Handbook and in accordance with the Financial Services and Markets Act 2000.

In addition, in our capacity as scheme administrator to SIPPs, PSG SIPP Limited (PSG SIPP) must comply with the UK pension tax law, and in accordance with HM Revenue and Customs practice.

As we are fully compliant with the above, there are no financial services regulatory obligations imposed on us that we need to bring to your attention provided the Client AuM is returned to PSG SIPP/the appointed SIPP asset trustee of the applicable SIPP of which the client is a member. The UK pension Tax law does not permit UK pension savings to be directly distributed to the clients personally. This would constitute an unauthorised member payment with severe personal tax consequences for the client/member and the SIPP scheme administrator and a breach of the SIPP trust deed and rules which PSG SIPP cannot permit.

Please see our answers to Questions 4B and 4G below.

### Question 2C – Compliance

A bare asset trustee in a UK SIPP is not a regulated firm and does not require authorisation by the FCA, however, the trustee is directed by the SIPP operator which is an FCA-regulated activity.

We confirm that PSG SIPP is the SIPP operator for all SIPPs.

We confirm that we have complied with the laws and regulations applicable in the jurisdiction in which we operate (UK only).

We confirm that we have never been sanctioned by any Regulator.

We confirm that we are not under investigation by any Regulator.

PSG SIPP's accounts are not required to be audited under UK law and regulations, however, all its accounts are filed annually with the FCA. Attached is the latest set of accounts for PSG SIPP prepared to 31 December 2023 and we confirm that these accounts were filed with the FCA in advance of their deadline.

#### Question 2D – Pension Schemes

PSG SIPP only operates SIPPs.

#### Question 2E – Fee arrangements with Brite Advisors

PSG SIPP does not have fee arrangements between it and Brite Advisors. As the legal owner of the SIPP investments on the Brite Platform, notwithstanding the current circumstances, PSG SIPP is able to exercise its powers under the SIPP trust deed and rules and those contained within the SIPP terms and conditions entered into by its clients, such that it can instruct a sale of assets on the Brite Platform to provide the SIPP with the cash required to settle our fees.

#### Question 3A – Beneficiary details

Please find attached a detailed list of Beneficiaries for whom we act as SIPP operator/asset trustee of the SIPPs, confirming the full name, address, jurisdiction, pension scheme type, pension scheme name, and investment value based on the last available data in our possession.

#### Question 3B – Beneficiary jurisdiction

The document attached in respect of 3A above contains details of the jurisdictions/countries where our Beneficiaries reside.

#### Question 3C – Entitlement to Act

Each Beneficiary who is a member of a SIPP is subject to the trust deed and rules governing that SIPP. The Beneficiary when they become a member of the SIPP makes an application to join the SIPP and in doing so agrees to the SIPP terms and conditions. It is these documents that entitle PSG SIPP to instruct the SIPP bare asset trustee who is the legal owner of the SIPP assets including those on the Brite Platform.

Under standard operation PSG SIPP would seek investment instructions from the Beneficiary and then instruct the asset trustee accordingly provided there would be no breach of law or regulation in



the UK, and provided that there would be no breach of the trust deed and rules and terms and conditions of the SIPP if the instruction was acted on.

In this case, we note that you will consult with Beneficiaries as to the proposal for Client AuM distribution, however, the method adopted will need to be approved by PSG SIPP as FCA regulated SIPP operator and as scheme administrator as the scheme administrator is responsible for ensuring that the UK pension tax law administered by HM Revenue and Customs is complied with.

#### Question 3D – Beneficiary identification process

PSG SIPP establishes and maintains detailed records of all its clients and the investment firms that client SIPPs have invested with, so we hold comprehensive records as to which of our clients have invested on the Brite Platform.

#### Question 3E – Trustee Fees with Beneficiaries

See also 2E above. As the legal owner of the SIPP investments on the Brite Platform, notwithstanding the current circumstances, PSG SIPP is able to exercise its powers under the SIPP trust deed and rules and those contained within the SIPP terms and conditions entered into by its clients, such that it can instruct a sale of assets on the Brite Platform to provide the SIPP with the cash required to settle our fees.

Entitlement to fees arises from the SIPP terms and conditions and the services and fees document agreed upon by clients when they apply to join the SIPP.

No SIPP fees are paid by the platform, they are paid from the SIPP in accordance with our terms and conditions.

#### Question 3F – Beneficiary communication

We communicate with the beneficiaries predominately by e-mail.

#### Question 4A – Client AuM Distribution

We do not consider that the liquidation of the Client AuM and the return of the resulting cash to us would have negative implications for the Beneficiaries provided that our clients are able to swiftly provide us with new investment instructions with investment providers with which we have existing terms of business.

It is possible for funds to be transitioned to a new fund manager with a new investment provider, but that provider must have successfully passed through our investment due diligence process in

accordance with FCA requirements. The underlying investments themselves must be standard investments as defined by the FCA, be compliant with our investment policy, and are also subject to our investment due diligence process if they are to be acceptable in the SIPP.

These requirements are common among other SIPP providers in the UK.

Depending on the local jurisdiction of the client, certain investment managers and investment providers may not be suitable, or indeed the provider themselves may not be able to accommodate a particular client. Transition to a new fund manager may therefore be more complex in our view. Also, whilst we appreciate you are not suggesting a mixed methodology, we do believe it is worth pointing out that such a mixed approach would add further complexity.

#### Question 4B – Distribution methodology

A distribution must only be made to the trustee of each Beneficiary's SIPP and must not under any circumstances be made to a Beneficiary personally.

HM Revenue and Customs' Pension Tax Manual confirms that the UK tax rules set out under Section 160 of the Finance Act 2004 specify the conditions that need to be met for payments to be authorised. Any payment that does not meet these conditions is an unauthorised payment. Specifically, an unauthorised payment is a payment made to or in respect of a person who is or has been a member of a pension scheme and is not an authorised payment.

<https://www.gov.uk/hmrc-internal-manuals/pensions-tax-manual/ptm132000#:~:text=Section%20160%20Finance%20Act%202004&text=Specifically%2C%20an%20unauthorised%20payment%20is,an%20authorised%20employer%20payment.>

HM Revenue and Customs' Pension Tax Manual also sets out the definition of authorised payments:

<https://www.gov.uk/hmrc-internal-manuals/pensions-tax-manual/ptm026000>

If a distribution were to be paid to a Beneficiary personally, this would be an unauthorised member payment resulting in punitive tax charges causing significant client detriment, with financial and tax consequences for PSG SIPP as scheme administrator also, whose role is to prevent such payments. Such a payment would also be a breach of the SIPP trust deed and rules.

Please see our answer to Question 4G below for more details on the tax consequences of a distribution directly to the Beneficiaries of a UK SIPP.

#### Question 4C – Intention of Trustee

Subject to all the points made in our response to question 4A above, we will seek instructions from the client regarding reinvestment and where the client does not have an appointed adviser we will urge them to appoint a suitably qualified adviser firm to advise them. If such an adviser firm does not have adviser terms of business with us, we will conduct adviser due diligence before granting the



firm terms and before the adviser can be appointed for a particular client.

Investment instructions from clients must adhere to our SIPP terms and conditions and our investment Policy and Guide.

Some clients may choose to take pension benefits, in which case instructions received from clients will be subject to our separate benefit processes which are established in accordance with HM Revenue and Customs requirements.

#### Question 4D – Regulator approval

We confirm that PSG SIPP is authorised and regulated by the FCA and as such has all the requisite financial services authorisations. Our authority to act is contained in the SIPP trust deed and rules and our terms and conditions.

#### Question 4E – Trustee fees for distribution

Please see our response to Question 3E above. We also confirm that we do not charge investment fees, so such fees will not be applicable for funds that are reinvested following a distribution of AuM.

Our annual administration fees, our pension transfer, and pension benefit fees are fixed fees, published in our services and fees documents. No other fees will be charged.

#### Question 4F – Trustee ability to distribute funds

We confirm that if the Receivers distribute the funds to us, we have the capability, information, resources, and appropriate systems in place to deal with the funds in a timely manner regardless of the instruction received from our client.

We are a fully functioning, FCA authorised and regulated SIPP provider in regular weekly dialogue with the FCA and as such we retain our authorisation by maintaining sufficient resources and systems, including keeping detailed records, all of which enable us to act promptly to deal with the funds.

In addition, we have established and agreed service standards to which we work, governing client instructions to establish new investment provider accounts and the investment of cash with those investment providers. Note, that PSG SIPP is not itself an investment provider and will not be involved in any investment process once funds have been lodged with the relevant provider.



#### Question 4G – Taxation Implications for Beneficiaries

A distribution must only be made to the trustee of each Beneficiary's SIPP and must not under any circumstances be made to the Beneficiaries personally as explained in our answer to Question 4B above.

There will be significant and punitive tax charges imposed by HM Revenue and Customs on each Beneficiary and on PSG SIPP if any funds are distributed directly to the Beneficiaries because such a distribution will be an unauthorised member payment under the UK pension tax law as explained in our answer to Question 4B above.

HM Revenue and Customs' Pension Tax Manual confirms that under Section 208 Finance Act 2004, unauthorised payments are liable to an income tax charge known as the unauthorised payments charge. The tax charge is at a flat rate of 40%, based on the amount of the unauthorised payment (the entire amount distributed). The charge is a free-standing tax charge, which means, for example, any losses a taxpayer may have cannot be set against the tax charge.

A distribution to a Beneficiary personally would also result in the unauthorised payments surcharge under Section 209 Finance Act 2004, resulting in a further 15% based on the amount of the surchargeable unauthorised payment.

<https://www.gov.uk/hmrc-internal-manuals/pensions-tax-manual/ptm134100#:~:text=The%20unauthorised%20payments%20charge,-Section%20208%20Finance&text=The%20tax%20charge%20is%20at,set%20against%20the%20tax%20charge.>

In addition, HM Revenue and Customs' Pension Tax Manual confirms that under Sections 239 to 241 Finance Act 2004 the making of any unauthorised payment will also lead to a separate charge to income tax on the scheme administrator called the scheme sanction charge i.e. on PSG SIPP as scheme administrator of up to 40% of the total scheme chargeable payments made.

There will be no taxation implications for our Beneficiaries provided the distribution is made to the trustee of the Beneficiary's SIPP.

#### Question 4H – Replacement trustee

It is not possible for a change of trustee/SIPP provider to take place until the receiver distributes the client AuM.

A change of trustee/ SIPP provider is achieved by a recognised pension transfer in accordance with HMRC requirements, from the SIPP provider to another registered pension scheme. This process can only be undertaken by the outgoing trustee/SIPP provider.

Each Beneficiary would need to lodge a formal pension transfer request and the processing of that

transfer is subject to pension transfer due diligence and pension transfer regulations, but there is no barrier to such a pension transfer and PSG SIPP will permit transfers provided they are compliant and lawful transfers.

It is our view that an in-specie pension transfer, i.e. a transfer of client AuM from Brite to another investment provider in the course of a recognised pension transfer may be problematic in the circumstances.

Either way, the SIPP operator must retain control.

Question 5A – Other

We have nothing further to add.

Kind regards,



Duncan Parsons  
Chief Executive Officer  
PSG SIPP Limited





## Annexure A – Duncan Parsons- Trustee Survey

### CONFIDENTIAL

#### Section 1: Intended approach in relation to distribution of funds to Beneficiaries

##### Question 1A

If the Receivers distribute the funds to you as Trustee, please outline your intended approach in respect of the distribution of funds to Beneficiaries. In particular:

- a) Will Beneficiaries be provided with options as to how their funds will be treated? **When any investment provider returns investment funds to the SIPP we would seek new investment instructions from the beneficiary. The return of investment funds would not automatically mean that a beneficiary intends to change their trustee. However, transferring to a new SIPP provider/changing trustee is always an option available to beneficiaries at any time, not just in these circumstances. Equally if the beneficiary is at minimum pension age they may wish to draw benefits.**
  - i. If yes, will those options include, (i) transfer of funds to a new Trustee, or (ii) reinvestment of funds with an alternative fund manager, or (iii) no preference, or (iv) some other option? **As above**
  - ii. If not, why will the Beneficiaries not be provided with options? How will the funds be treated? **n/a**
- b) Will the options presented to the Beneficiaries be different depending on their personal circumstances, or will all the options be the same? **See above.**
- c) Where relevant, will the alternative fund manager be selected by you, or will the decision be at the discretion of the Beneficiaries? If the decision is at the discretion of the Beneficiaries, is that discretion limited by a panel of fund managers selected by you? **Following earlier answers given in an earlier questionnaire we confirm that the nature of a SIPP is that neither the SIPP provider nor the Trustees makes investment decisions. All investment decisions are made by the beneficiary and are carried out as instructed unless the investment decision breaches the SIPP trust deed and rules or pension legislation/HMRC rules or regulatory rules. We don't have investment provider panels that beneficiaries have to adhere to but agreeing to a particular investment provider or a particular investment depends on FCA requirements around investment due diligence being satisfactorily completed first and us having existing terms of business with the chosen investment provider or us successfully setting up such terms. Subject to the above control rests with the beneficiary.**
- d) In the event an alternative fund manager or panel of options for an alternative fund manager is to be selected by you, please explain:
  - i. If this has already been done, which fund manager(s) have been selected? **n/a**
  - ii. What due diligence has been done to select an appropriate fund manager / fund managers?

**n/a**

##### Question 1B

What infrastructure, expertise and personnel do you have in place to attend to selection and reinvestment of funds with an alternative fund manager (if applicable). **n/a for the reasons given above, however we have all the necessary expertise on a personal, system and controls and processes to carry out a beneficiaries instructions in line with the above as is evidence by our FCA authorization.**

##### Question 1C

If you are proposing to provide an option to Beneficiaries, how will you: **we will contact beneficiaries to confirm the distribution from the platform including the amounts received and the date.**

- a) Request Beneficiaries' preferred option? Please detail in your response:
  - i. The method by which you will contact the Beneficiaries. **email**
  - ii. The information the Beneficiaries will receive. **As above**



- iii. When you propose to seek the views of Beneficiaries. **As soon as the funds are received or earlier if we receive prior notification from you.**
  - iv. The expected timeframe for this process. **Within 5 working days we will do the above and seek investment instructions.**
- b) Deal with Beneficiaries having different preferences (i.e. requesting various alternative fund managers). **We will be able to deal with the investment straight away if the investment provider specified by the beneficiary is one for which we have terms of business. If we don't have terms of business, we will approach the investment provider seeking terms / to carry out due diligence and notify the beneficiary accordingly.**

#### Question 1D

How can a Beneficiary elect to replace you as pension administrator and Trustee?

**Replacement of the pension administration and trustee is only possible by an application to transfer out of the SIPP to alternative pension arrangement. However, a beneficiary can make this request at any time and such request is not linked to the process you are undertaking on the platform.**

#### Question 1E

If a Beneficiary does elect to replace you as pension administrator and Trustee:

- a) What steps will you require the Beneficiary undertake to complete this? **We have a standard pension transfer process which is compliant with FCA and HMRC requirements, and which operates in the same way as all other pension providers in the UK.**
- b) What fees or charges will be imposed on the Beneficiary? **Our standard cash Transfer out fee of £275 (to UK pension scheme) will apply as well as a closure fee of £250.**
- c) How long will this process take? **The process involves pension transfer due diligence by us and the receiving scheme before a transfer can take place. Although it is not possible to give a timescale because it depends on the receiving scheme and the type of scheme, it will be straight forward for most transfers, but it is important to bear in mind there are strict regulations involved which have a timescale involved in terms of compliance. Average 4 to 12 weeks.**
- d) Will the above change depending on who the Beneficiary elects to be the replacement Trustee? **As above**
- e) Do you consider that you have any discretion (legally or procedurally) to refuse the request? If so, please explain this with reference to supporting documentation. **We do have discretion but only line with transfer regulations and HMRC/FCA rules.**

### **Section 2: Proposed structure of fees proposed to be passed on to Beneficiaries**

#### Question 2A

If the Receivers distribute the funds to you, what is the proposed structure of your fees and how you would propose your Trustee fees be paid (with reference to the relevant contractual arrangements) for the following:

- To pay a distribution to Beneficiaries; and/or **the only distribution that can be made to beneficiaries is a pension or death benefits and standard fees apply as published in our services and fees attached. Our fees are already agreed to by beneficiaries in our standard terms and conditions.**
- Transfer a Beneficiaries' fund to a new Trustee; and/or **please see above 1E)b.**
- Reinvestment of the fund and appoint alternative fund manager. **No charge**





Question 2B

Please advise if:

- a) There are current and valid contractual arrangements in place between you and each of your Beneficiaries? If there is, please provide examples of these documents. **All beneficiaries have contractual arrangements in place and we attach our Terms and conditions.**
- b) There are clear contractual arrangements in place that stipulates your entitlement to deduct or claim fees from each Beneficiary (if that is different to what you already provided above) and, if so, please reference the relevant clauses or provisions of those contractual arrangements. **No additional documents, see above.**
- c) The contractual arrangements in place vary between Beneficiaries or if they are all the same? If they vary, please outline the variations by reference to supporting documentation. **Beneficiaries are invested on the platform through various PSG SIPP's we have attached the Terms and conditions for each SIPP and the Services and Fees for each SIPP.**
- d) The contractual arrangements in place vary over time, or if they have remained consistent? If they vary, please outline the variations by reference to supporting documentation, including an explanation as to how you have satisfied yourself that any such variation is binding and enforceable as against Beneficiary. **the contractual arrangements have not changed since the platform freeze and all of our SIPP's are subject to the same transaction fees as above. We cannot change contractual arrangements without first giving 30 days notice and pointing out any changes that could be detrimental to clients, which would include fees.**
- e) There are any terms and conditions outside the documents provided which apply to the arrangement between you and the Beneficiaries? For example, general terms and conditions, amendments to conditions etc. If there is, please provide copies of these documents and explain how these additional terms and conditions are incorporated into the contractual arrangements between you and the Beneficiaries. **n/a**

Question 2C

If the Receivers distribute funds to you, will you deduct a fee from the funds returned to you in respect of arrears (with reference to relevant contractual arrangements)? If so, what is the total quantum of fees owed to you to date? **Yes we will deduct fees owed, total of which is £122,082.08**

\*\*\*\*\*END OF SURVEY\*\*\*\*\*



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## SECTION 1 - TRUSTEE CONTACT DETAILS

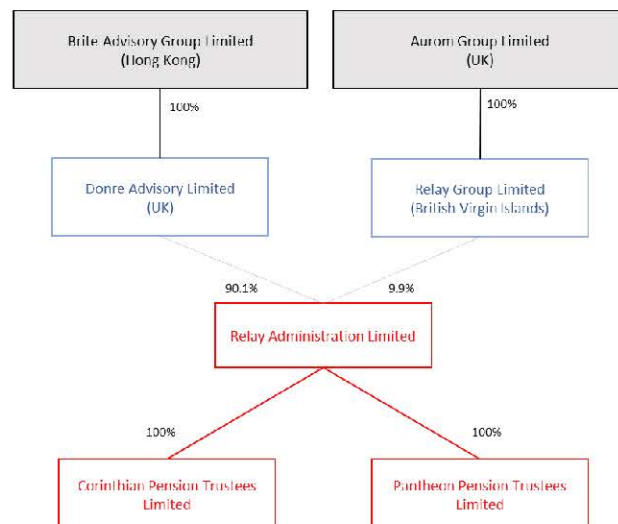
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- 1 Corinthian Pension Trustees Limited - in Administration ("Corinthian")  
Pantheon Pension Trustees Limited - in Administration ("Pantheon")  
Registered Office 1 Tuckey's Lane, Gibraltar GX11 1AA  
Contact Joanne Wild and Adrian Hyde, Joint Administrators  
Address Suite 849 Europort Building 8, Europort Road, Gibraltar GX11 1AA  
Email [Joanne.Wild@btguk.com](mailto:Joanne.Wild@btguk.com) and [Adrian.Hyde@btguk.com](mailto:Adrian.Hyde@btguk.com)  
Telephone +350 57419000 and +44 20 7516 1500
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## SECTION 2: TRUSTEE DETAILS

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- 2A Yes - see structure chart below: -



- 2B Gibraltar.
- 2C Both Corinthian and Pantheon are incorporated in Gibraltar and held permissions by the Gibraltar Financial Services Commission ("GFSC") to operate as pension scheme operators. Those permissions have been suspended following regulatory intervention.
- 2D Relay Administration Limited ("Relay"), Corinthian and Pantheon (collectively "the Firms") were operating under a restricted licence for several months, which was then suspended with Special Administrators (Adrian and I) being appointed on 8 December 2024. The remit of a Special Administrator is to manage client affairs. Upon establishing that the businesses were insolvent, we were subsequently appointed by the Supreme Court of Gibraltar as Administrators on 14 February 2024 and are empowered by statute to trade the businesses, with permission from the GFSC to do so.

Whilst we report weekly to the GFSC, we do not have visibility or specific knowledge of any investigation of the Firms or its former management, nor would we expect to.

Regarding the Audited Financial Statements, it is our understanding that the purpose of this survey is to canvass trustees' views on the appropriate method of distribution of assets. We do not believe the Firms' Audited Financial Statements will assist with that exercise however welcome any explanation to the contrary.

2E QROPS and 5 x QNUPS.

2F We are not aware of any formal arrangements in place as between Corinthian/Pantheon and Brite Advisors PTY Limited, although Trustee fees were remitted to Relay from time by Brite Advisors PTY Limited.

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### SECTION 3 - BENEFICIARY DETAILS

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3A Attached, save for the investment value. Our systems were deliberately disabled by the Brite Group and compiling what will ultimately be incorrect information will be a lengthy and costly task that will ultimately be borne by the Members.

Given that you are rebuilding Salesforce and providing each Member with their notional entitlements directly, might we suggest that we check our records if the Member or indeed your team are in doubt of any specific client following objection to the valuation you send? We can of course provide you with fund flows between the client accounts of Corinthian/Pantheon and Brite Australia PTY Limited.

3B Our Members are mainly based in South Africa, but we do have Members registered in Cyprus, Spain, Bulgaria, Gibraltar, Spain, United Kingdom, Malaysia, Kenya, Qatar, Australia, Norway, United Arab Emirates, Canada, Kuwait, Nairobi, Swaziland, Philippines, Belgium, The Grenadines, Thailand, Hong Kong, Colombia, Germany, France, Singapore and The Netherlands.

3C Corinthian and Pantheon are Trustees of three schemes, which were established by way of Trust Deed ("Master Deed"):

- Corinthian Pension Trustees Limited as Trustees of Apollo QROPS.
- Corinthian Pension Trustees Limited as Trustees of Bourse Retirement Scheme (Gibraltar).
- Pantheon Pension Trustees Limited as Trustees of Pantheon QROPS.

Members would apply to join the relevant scheme by Application Form on the advice of their Financial Advisor, and join by way of Deed of Adherence to the Master Deed.

3D Regulated entities are obliged to verify the applicant's details at onboarding stage/transfer in from another scheme pursuant to the Proceeds of Crime Act 2015 ("POCA") and are obliged to refresh this information periodically as part of ongoing transaction monitoring and always upon trigger events (e.g. change in address or bank details etc).

Both Adrian and I as licensed Insolvency Practitioners, and the Firms, are subject to the jurisdiction and supervision of the GFSC in respect of compliance with these obligations.

We would say that when the portfolio is transferred out, the acquiring trustee will also require to identify each Member pursuant to POCA. Any issues in so doing would simply result in the acquirer declining to accept the Member as a client and we, the Administrators, would take the necessary action required under POCA.

- 3E This is a matter between the relevant Scheme and its Member - it does not assist with the purpose of this Survey which is to canvass views on distribution. In any event, we shall not be charging Trustee fees.
- 3F We communicate by email and telephone, and the progress of the Administration is reported on our portal. We would however observe that we do not believe this to be relevant to the purpose of the Survey.

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#### SECTION 4 - DISTRIBUTION OF FUNDS

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- 4A The Trustee holds legal title, and the schemes are registered with the appropriate authorities in the relevant jurisdictions - the only potential adverse tax issues would lie on any amendment to either of those. As you know, upon release of the assets, we are intending to transfer the entire portfolio to another trustee, which will also be registered in Gibraltar.
- 4B Assets can only be returned to the Trustee - to do otherwise offends the basic principles of property law. Nevertheless, you have our position on the adverse tax implications upon Members, which is supported by the legal opinion of Mr Robert Ham KC of Wilberforce Chambers, which you also have.

We are pleased to note from your letter that it remains your present view that assets/cash (whichever it may be) is returned to the Trustee but if this changes due to alternative views from other trustees and you require to seek directions on those competing views, then we would request advance notice of the application (as much as possible), so that we may be heard.

In relation to our views generally on distribution, we believe that the transaction costs which may be borne by ultimate beneficiaries would be minimised by the transfer of the entire asset portfolio from IB to an alternative platform (such as Morningstar) and thereafter the distribution *in specie* of assets rather than liquidating assets and distributing cash. We make this suggestion because we note that IB does not accept QROPS Investments, hence (we believe) the management of the investments was put in omnibus accounts in the name of Brite Advisors PTY Limited; an alternative platform provider would deal with QROPS.

There is obviously an issue with bespoke clients where they maintain proprietary claims. If they are successfully to main proprietary claims then their entitlement to shares would not be restricted to the 13 December date as they would, effectively, own the shares. If there is no proprietary link then they are in no different position to the general beneficiaries.

To deal with distribution in this manner would then allow us to transfer the schemes, with clients and assets intact, to another trustee company.

- 4C This is irrelevant to the Receivers but allow us to express our views. We note you mention again distribution to the Beneficiaries, but as we have said many times, this is simply not possible in the circumstances of us acting as a QROPS pension scheme trustee.

As you know, we intend to transfer the portfolio of "Brite" clients to another trustee in Gibraltar once assets are released. We have therefore discussed the matter with a potential acquirer (a Trustee of reputation and standing) who would in turn take custody of those assets.

That acquirer has advised that whilst cash may be simpler, it would be their recommendation that the entirety of the Brite Advisors PTY Limited portfolio be transferred *in specie* to another Platform willing to accept pension monies, as explained above. The Trustees would then obtain the reconciliation documents from you and move forward with administering the trusts in accordance with the Trust Deeds.

We do however reserve our position on all matters pending greater visibility on what it is that you ultimately propose.

- 4D Yes.

- 4E Neither Corinthian nor Pantheon will be charging trustee fees to the Members.

- 4F This is not relevant for the purpose of this Survey. We operate under the jurisdiction of the Supreme Court of Gibraltar and the supervision of the GFSC. Directions and/or permission will be sought where required.

- 4G Distribution to the beneficiaries direct will result in inevitable adverse tax consequences - we refer to answer 4B above.

- 4H The Administrators' Proposals to transfer the entire portfolio (all clients, not just those affected by events surrounding the Brite Group) were approved by the Members voting at the First Meeting.

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## SECTION 5: DISTRIBUTION OF FUNDS

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- 5A We understand that there may be concerns with connected trustees and the potential risks of transmitting funds to them and their ability to accept them, for example, the enforcement action that is now been taken by the FCA against Donre Advisory Limited, parent company to PSG SIPP Limited (and of course Relay, but without power).

At the risk of suggesting alternatives that have already been considered and disregarded by the Receivers, it may be possible to:

1. Agree a plan with Member groups (with whom we have had contact) for the block movement of Members to other Trustees on terms, as a method of overcoming the apparent desire to distribute to beneficiaries in order to overcome the influence of corporate trustees connected with Brite Group (we have already discussed this with a global, reputable, provider); or



2. Obtain a declaration that a trustee acquired by pension funds is a trust asset, and appoint a new board; or
3. Subject to analysis, making demands where possible for repayment of operational cash flow and appointing Administrators or alternative officeholders, where demands lie unpaid. This would enable the intervention into and control of connected trustees, and may provide net value to the Brite Advisors PTY Limited estate through the subsequent transfer of each portfolio to a reputable trustee company – such transfers would, in our experience, yield value. It would also assuage the Receivers' concerns that the connected corporate trustees may act in breach of contract, in breach of trust, and in breach of the requirements of their local regulators in the way that they deal with the client AuM once distributed.



**Annexure A – Corinthian Pension Trustees Limited & Pantheon Pension Trustees  
Limited - Trustee Survey**

**CONFIDENTIAL**

**Section 1: Intended approach in relation to distribution of funds to Beneficiaries**

Question 1A

If the Receivers distribute the funds to you as Trustee, please outline your intended approach in respect of the distribution of funds to Beneficiaries. In particular:

- a) Will Beneficiaries be provided with options as to how their funds will be treated?
- i. If yes, will those options include, (i) transfer of funds to a new Trustee, or (ii) reinvestment of funds with an alternative fund manager, or (iii) no preference, or (iv) some other option?
  - ii. If not, why will the Beneficiaries not be provided with options? How will the funds be treated?

We do not propose giving the pension scheme Members options. At our First Meeting of Creditors, we presented the Joint Administrators' Proposals which were that the portfolio be transferred to another trustee as soon as assets were released. We received unanimous approval by those who attended (both in person and by proxy).

Moreover, those Members elected a Creditors' Committee which is made up of 5 of their number to assist the Joint Administrators with their duties.

We have done significant further work regarding the direct clients, and are currently working on establishing the legal position regarding each direct client to establish whether or not there is a subsisting trust, either constructive or by way of deed that may not be in our possession, in which case the above position will apply. The application of the procedure above will be determined upon conclusion of that analysis, and if a trust does exist, consultation and agreement with the relevant beneficiary.

- b) Will the options presented to the Beneficiaries be different depending on their personal circumstances, or will all the options be the same?

As advised above, the Joint Administrators' Proposals to transfer the portfolio to another trustee upon the release of assets received unanimous approval by those who voted at the First Meeting of Creditors.

- c) Where relevant, will the alternative fund manager be selected by you, or will the decision be at the discretion of the Beneficiaries? If the decision is at the discretion of the Beneficiaries, is that discretion limited by a panel of fund managers selected by you?
- d) In the event an alternative fund manager or panel of options for an alternative fund manager is to be selected by you, please explain:
- i. If this has already been done, which fund manager(s) have been selected?
  - ii. What due diligence has been done to select an appropriate fund manager / fund managers?

Question 1B

What infrastructure, expertise and personnel do you have in place to attend to selection and reinvestment of funds with an alternative fund manager (if applicable).

The assets will be transferred to another trustee (selected in advance) virtually upon our receipt. For those Members who do not wish to transfer to that alternative provider they will hopefully have alternative trustee arrangements already in place, but if they did not, we will consult with them on how to manage their assets on what we would expect to be a very short-term basis. In other words, we will take whatever steps we can to avoid having to hold assets.



#### Question 1C

If you are proposing to provide an option to Beneficiaries, how will you:

a) Request Beneficiaries' preferred option? Please detail in your response:

- i. The method by which you will contact the Beneficiaries.
- ii. The information the Beneficiaries will receive.
- iii. When you propose to seek the views of Beneficiaries.
- iv. The expected timeframe for this process.

b) Deal with Beneficiaries having different preferences (i.e. requesting various alternative fund managers).

As advised above, our instructions at a quorate meeting of creditors (made up in this case entirely of Members) is to transfer the portfolio to another provider. If a Member chooses an alternative provider, then steps will be taken to facilitate that transfer.

#### Question 1D

How can a Beneficiary elect to replace you as pension administrator and Trustee?

By simple notification. There will be no opposition by the Joint Administrators - the exit strategy from Administration is the liquidation of Corinthian and Pantheon.

#### Question 1E

If a Beneficiary does elect to replace you as pension administrator and Trustee:

a) What steps will you require the Beneficiary undertake to complete this?

We will provide the Receiving Scheme with all documents they require to onboard the relevant Member, and transfer out at the earliest opportunity.

b) What fees or charges will be imposed on the Beneficiary?

As previously advised, we are funded in a similar fashion to that of the Receivers, in other words, by way of *Berkeley Applegate* Order. At this juncture, the funding is originating from funds held in a client account in which only certain Members hold funds. When the assets are released, there will be an adjustment proposed to allow for a fair, pro-rata split of all costs across the entire Membership, subject to Court approval. We have already consulted with our Creditors' Committee who approve our proposals, but this would in any event require Court sanction.

c) How long will this process take?

We will action all requests as soon as is reasonably practicable upon the request of the new trustee - how long they take to onboard the Member is entirely within their gift but we will encourage early transfer to facilitate Corinthian, Pantheon and Relay to enter liquidation.

d) Will the above change depending on who the Beneficiary elects to be the replacement Trustee?

No.

e) Do you consider that you have any discretion (legally or procedurally) to refuse the request? If so, please explain this with reference to supporting documentation.

No, and as outlined above, Corinthian, Pantheon and Relay will all cease trading as soon as every Member has been transferred elsewhere.

### **Section 2: Proposed structure of fees proposed to be passed on to Beneficiaries**

#### Question 2A

If the Receivers distribute the funds to you, what is the proposed structure of your fees and how you would propose your Trustee fees be paid (with reference to the relevant contractual arrangements) for the following:

- To pay a distribution to Beneficiaries; and/or
- Transfer a Beneficiaries' fund to a new Trustee; and/or
- Reinvestment of the fund and appoint alternative fund manager.





No trustee fees will be sought. The Administration is funded pursuant to a *Berkeley Applegate* Order against certain Members' funds held in a client account, therefore when assets are returned, we will consult with our Creditors' Committee and thereafter propose to the Supreme Court of Gibraltar that an equitable *pari passu* reduction be applied across the entire Membership in accordance with that Order.

#### Question 2B

Please advise if:

- a) There are current and valid contractual arrangements in place between you and each of your Beneficiaries? If there is, please provide examples of these documents.
- b) There are clear contractual arrangements in place that stipulates your entitlement to deduct or claim fees from each Beneficiary (if that is different to what you already provided above) and, if so, please reference the relevant clauses or provisions of those contractual arrangements.
- c) The contractual arrangements in place vary between Beneficiaries or if they are all the same? If they vary, please outline the variations by reference to supporting documentation.
- d) The contractual arrangements in place vary over time, or if they have remained consistent? If they vary, please outline the variations by reference to supporting documentation, including an explanation as to how you have satisfied yourself that any such variation is binding and enforceable as against Beneficiary.
- e) There are any terms and conditions outside the documents provided which apply to the arrangement between you and the Beneficiaries? For example, general terms and conditions, amendments to conditions etc. If there is, please provide copies of these documents and explain how these additional terms and conditions are incorporated into the contractual arrangements between you and the Beneficiaries.

With the greatest respect to both the Receivers and the Australian Court, these are matters which are not relevant to the Receivership. Contractual arrangements, variations thereto and enforceability under Gibraltar law lie within the jurisdiction of the Supreme Court of Gibraltar, for which we are officers.

As fellow professionals however, we do not wish to be unhelpful but the above questions are not relevant to us - we will not charge trustee fees and will cease to trade as soon as the Receivership is resolved and the Members transferred. Allow us to outline the process: -

1. In accordance with the unanimous approval by Members voting at the First Meeting of Creditors, we shall be negotiating a transfer with an alternative trustee registered and regulated in Gibraltar to ensure that there is no disruption to the existing pension arrangements. Such agreement will require the input, if not specific approval, of the Gibraltar Financial Services Commission. As we propose to exit Administration by way of liquidation, and desirous of not holding assets for any length of time, one of the conditions of transfer will be a swift handover. Indeed, we would hope that the trustee will be in place before assets are released to us to allow for a virtually immediate transfer.
2. Given that consideration in these types of cases is usually in the form of a percentage of recurring fee income over a period of say 3 years, our current thoughts are that this would be returned to those transferring Members by way of reduced trustee fees over the like period. That will allow us to proceed to liquidation without causing the Members the additional costs of regular reconciliation.
3. Our Creditors' Committee will consider our time costs, with the Supreme Court of Gibraltar adjusting the *Berkeley Applegate* Order to permit their payment from the overall asset pool. The Court will be asked at the same time to consider the most equitable outcome in terms of attribution of those costs across the entire body of Members (including those unaffected by Brite who may remain with us, and which make up around ½ of the client base). As discussed with our Creditors' Committee, we will propose to the Court that those be determined by way of percentage deduction across every Member's assets rather than a flat cost to each Member regardless of the value.





4. Once those matters are dealt with, and every Member has been “rehomed”, we shall apply to the Court to appoint Liquidators over each of Corinthian, Pantheon and Relay.

Question 2C

If the Receivers distribute funds to you, will you deduct a fee from the funds returned to you in respect of arrears (with reference to relevant contractual arrangements)? If so, what is the total quantum of fees owed to you to date?

Our answers above offer a full explanation.

\*\*\*\*\*END OF SURVEY\*\*\*\*\*

**Annexure A - Sovereign Pension Services Limited - Trustee Survey**  
**CONFIDENTIAL**

**Section 1. Trustee contact details**

Please confirm your address, the relevant contact person, email address and phone number.

Trustee Name: Sovereign Pension Services Ltd (SPSL or the Trustee)

Address: St Julians Business Centre  
Elia Zammit Street  
St Julians STJ3153  
Malta

Relevant contact persons: Ms Cristina Cassar Difesa – Director  
[ccassardifesa@sovereigngroup.com](mailto:ccassardifesa@sovereigngroup.com)

Dr Maria Delia – Director  
[mdelia@sovereigngroup.com](mailto:mdelia@sovereigngroup.com)

Ms Louisa Savasta – Pensions Manager  
[lsavasta@sovereigngroup.com](mailto:lsavasta@sovereigngroup.com)

Phone number: +356 2788 8132

**Section 2: Trustee details**

**Question 2A: Relationships**

- Are you a related and/or associated party of the below:
  - Brite Advisors.
  - Any entity in the broader Brite Group, including The Aurom Group Limited (UK), Relay Group Limited (BVI), Brite Advisory Group Limited (HK).
  - Mr. Mark Donnelly or Mr. John Lymer.

For the avoidance of doubt, the definition of a related party is set out at Section 9 of the Corporations Act 2001 and includes (i) directors or members (of the company, or of a related party), and (ii) relatives and spouses of the persons listed above. Associated parties refer to parties that have a relationship or connection, often in terms of ownership or control.

No, the Trustees have no relation or association with any of the parties listed.

**Question 2B: Jurisdiction**

- In respect of the Brite Advisors' Beneficiaries for whom you act as Trustee, what legal jurisdiction/s do you operate in?

Malta

**Question 2C: Regulators**

- Please advise which jurisdiction(s) your business is registered in and operates from.

Malta

- Please provide details of the Regulator(s) which provide oversight of your compliance with applicable legal and regulatory obligations.

Malta Financial Services Authority (MFSA)

Triq l-Imdina, Zone 1

Central Business District, Birkirkara

CBD 1010

Malta

Financial Intelligence Analysis Unit

Triq l-Mdina, Birkirkara CBD 2010

Malta

Commissioner for Revenue

Block 4, Triq Vincenzo Dimech,

Il-Furjana, Malta

His Majesty's Revenue and Customs

Pension Schemes Services

HM Revenue and Customs

BX9 1GH

United Kingdom

- Please advise of any obligations imposed on you which you consider ought to be brought to our attention in the context of our consideration of methods by which the Client AuM might be distributed to Beneficiaries.

Funds should be returned to SPSL due to the chain of custody, as the funds are held by the trustee for the benefit of the pension member under trust. SPSL, as the trustee can only distribute the pension funds in accordance with the scheme's governing documents, particularly stipulating that benefits can only be distributed to the member upon reaching the specified retirement age. This can be either 50 or 55, depending on the source of the funds. Any payments done prior to retirement age can be considered as unauthorised payment by HMRC, which could result in tax implications and penalties. Additionally, any payments made to the members will be subject to income tax in both their country of residence and Malta, unless there is a Double Taxation Agreement in place. For some members, direct payments may have unfavourable tax consequences.

Any distributions or disinvestments from an investment of any client of SPSL should be paid into a bank account operated by SPSL for onward payment to the underlying client (Beneficiary).

## Question 2D: Compliance

- In your role as Trustee, have you complied with the laws and regulations applicable in the jurisdictions in which you operate at all times?

Yes

- Have you been sanctioned by any Regulator?

Yes, a fine was received for late financial reporting. The delay was solely due to a temporary lack of resources, which resulted in missing the stipulated deadline. Throughout this period, open communication was maintained with the regulator, who was aware that the delay was purely a matter of tardy reporting. All the required financial statements were eventually submitted in full. However, minimal fines were still issued due to the late submission.

- Are you under investigation by any Regulator?

No

- Please provide a copy of your most recent set of audited financial statements.

In order to understand and address your needs, could you please provide the rationale behind this request?

#### **Question 2E: Brite Advisors - Contractual Arrangements**

- To the extent not already provided, please confirm if there is a written contract or agreement in place between you and Brite Advisors, and if so, provide a copy.

We had terms of business in place with Brite Advisors, which were terminated in February 2024. Additionally, for each client an application form would have been completed.

Please find attached – Attachment 1.

- If there is no written contract or agreement, please outline what you understand to be the arrangements between you and Brite Advisors. Also, cite any reasons why there is no written contract or agreement available.

#### **Question 2F: Pensions Schemes**

- What type of pension schemes do you administer for the Brite Advisors' Beneficiaries (i.e., SIPP, QROPS, QNUPS, or other)?

QROPS and QNUPS Personal Pensions and International Retirement Plans.

#### **Question 2G: Fee Arrangements with Brite Advisors**

- Please advise the contractual arrangements which are in place (if any) between you and Brite Advisors in respect of entitlement to Trustee fees.

In accordance with the application form and declarations signed and undertaken by the beneficiary, SPSL has a contractual right to collect its fees as they become due and



payable from the relevant member (beneficiary) account and typically this would be arranged via a regular or ad hoc withdrawal from the investment policy.

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### **Section 3: Beneficiary Details**

#### **Question 3A: Beneficiary Details**

- To the extent not already provided, please provide a detailed list of the Beneficiaries for whom you act as Trustee, including full name, address, jurisdiction, pension scheme/superannuation fund type, scheme or fund name, and investment value (per the latest set of data you have to hand).

Please find attached – Attachment 2.

#### **Question 3B: Beneficiary Jurisdiction**

- Please provide a list of the jurisdictions/countries where your Beneficiaries reside.

Included in Attachment 2.

#### **Question 3C: Entitlement to Act**

- Please provide details of the arrangements in place between you and each of the Beneficiaries demonstrating your entitlement to act on behalf of each Beneficiary with reference to the relevant written contracts or standard onboarding agreements. If there are no written contracts or agreements, please outline the reason why, and what you understand to be the arrangements between you and the relevant Beneficiaries.

Each member applies to join the scheme by way of executed deed of adherence or application either are required to onboard a member to the scheme. Attached to the email are two signed Deed of Adherences (Attachment 3 & Attachment 4) together with the signed member declaration (Attachment 5 & Attachment 6) agreeing to be admitted upon the terms set out therein to participate in the Scheme. These documents and the scheme's Trust Deed and Rules demonstrate the trustee's entitlement to act on behalf of the member/beneficiary as the trustee in accordance with the trust deed and rules for the relevant retirement scheme.

#### **Question 3D: Beneficiary Identification Process**

- Please provide details of what steps have been taken to identify the Beneficiaries as required in Question 3A and what Anti Money Laundering regulations you are obliged to follow relating to customer identification/verification both from an initial onboarding and ongoing perspective.

SPSL has identified all clients (beneficiaries) introduced by Brite Advisors or with Brite Advisors appointed in any capacity via client system searches.

In accordance with the requirements of the FIAU Implementing Procedures in Malta, the Trustee is required to identify and verify the identity of a customer (legal name, date of birth,

residential address, place of birth, nationality) at the outset of a business relationship and subject to the specific circumstances on certain trigger events thereafter.

SPSL has policies and procedures in place taking the above into account and typically would have at least a certified copy of a proof of identification document and a certified copy of a proof of residential address document for each client.

#### **Question 3E: Trustee Fees with Beneficiaries**

- Please provide a summary of the arrangements (if any) between you and the Beneficiaries in respect of entitlement to Trustee fees.

Annual fees due in accordance with the published fee schedule, as noted in the Fee Schedule in the Scheme Application Form.

#### **Question 3F: Beneficiary Communication**

- Please provide details of how you communicate with the Beneficiaries for whom you act as Trustee (i.e., post, email, portal/app)?

Email, post and Telephone (once security questions are answered successfully) .

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### **Section 4: Distribution of Funds**

#### **Question 4A: Client AuM Distribution**

- Do you consider that the liquidation of the Client AuM (i.e., sale of all of the investments and conversion to cash) and return of that cash to you as Trustee would have any negative implications for Beneficiaries, as opposed to the Client AuM being transitioned to a new fund manager? For example, tax, regulatory or any other implications. Please include references to local laws and regulations (where relevant).

Considering the best interests of the pension members (particularly taking into account the potential for losses already incurred), SPSL considers the best course of action would be to arrange for an in-specie transfer of the assets held to an alternative investment platform at the instruction of the relevant pension trustee.

The liquidation or full surrender of investments will likely result in surrender penalty charges or redemption charges. This can have a significant detrimental impact on the overall value of the assets. This course of action would typically be avoided by pension trustees where possible to mitigate charges that would reduce the client (beneficiary) fund value.

In addition, there would be an additional cost to clients as a result of time out of the market where funds would be held in cash and as such not generating potential returns. There is no guarantee how long this process would take and as such there is a risk that significant investment return opportunities could be missed.

#### **Question 4B: Distribution Methodology**



- Do you have any views or comments in relation to two options for distribution being either (i) distribution of the funds to the Trustees, or (ii) distribution of the funds directly to the Beneficiaries and any implications you see from either option? For example, tax, regulatory or any other implications. Please include references to local laws and regulations (where relevant).

Per the above, SPSL is of the view that instructing an in-specie asset transfer (to SPSL) of the client monies held as opposed to a full withdrawal and distribution would be the most appropriate course of action and the best outcome for all parties involved.

If a full withdrawal and distribution was instructed by the Receivers, SPSL considers that option 1 would be the only potential course of action, as any distribution to the pension members (clients) directly would cause significant tax, regulatory and legal issues for pension members and pension trustees.

Pension trustees are bound by certain legislative, tax and regulatory rules and restrictions that dictate how and when “pension benefits” can be paid to a pension member (client/beneficiary).

If a pension member (client/beneficiary) is deemed to have received pension benefits in a manner outside of these rules and restrictions (which receipt of the proceeds of a full distribution or withdrawal would likely be considered), there will be penalties and charges for both the pension member (client/beneficiary) and the pension trustee. These penalties would include unauthorised member payment charges, surcharges and scheme sanction charges in accordance with Schedule 34 of the UK Finance Act and potentially any relevant local legislation. **These tax charges can be up to 55% for the pension member and 15% for the pension trustee.**

In Malta, if such payments were paid directly to pension members (clients/beneficiaries) SPSL would also be in breach of Pension Rules. Such a payment will also be liable to income tax and if there is no Double Taxation Agreement in place with the member’s country of residence, taxation may be incurred in both Malta and their country of residence. In Malta, taxation for income payments may go up to 35%.

**For the avoidance of doubt, SPSL does not consider that option 2 would be an appropriate course of action as there would be significant tax, legal, regulatory and financial consequences, potentially for all parties concerned.**

#### **Question 4C: Intention of Trustee**

- If the Receivers distribute the funds to you, please outline your intended approach in respect of the funds. For example, will you distribute the funds to the Beneficiaries, seek to reinvest the funds with an alternative fund manager, or take some other action?

If the Receivers agree to transfer the assets in-specie to a third-party alternative fund manager or investment platform, SPSL would appoint a specialist licensed and regulated investment advisory firm to reinvest the funds and would liaise with pension members to advise them of the course of action and the timeframes involved.

If the Receivers decide to distribute the funds to pension trustees, SPSL would liaise with individual pension members (clients/beneficiaries) to determine the appropriate course of action.

For some pension members it is anticipated they would wish to reinvest the funds with an alternative fund manager and subject to appropriate advice having been obtained, this would be undertaken.

For some pension members who may be entitled to receive pension benefits they may wish for some or all their pension monies to be paid to them and subject to their circumstances meeting any relevant rules and requirements, this would be undertaken.

If no instruction was received from pension members, SPSL would appoint a specialist licensed and regulated investment advisory firm to reinvest the funds.

#### **Question 4D: Regulator Approval**

- If the Receivers distribute the funds to you, please confirm that you have the necessary authority, including any appropriate approvals from your regulator(s), to undertake the work required to deal with the funds, whether that is by payment to Beneficiaries, reinvestment of the funds, or any other action.

Sovereign Pension Services Ltd is licensed as a Retirement Scheme Administrator by the MFSA and will administer the funds in accordance with the applicable rules as set out by the MFSA and the governing scheme document.

#### **Question 4E: Trustee Fees for Distribution**

- If the Receivers distribute the funds to you, please advise the proposed structure of your fees and how you would propose your Trustee fees be paid (with reference to the relevant contractual arrangements) for arranging (i) to pay a distribution to Beneficiaries, (ii) reinvestment of the fund, or (iii) any other action.

If the Receivers distribute the funds to pension trustees, ST(G)L would settle any outstanding fees in accordance with the signed Fee Schedule that each individual pension member would have signed.



#### Question 4F: Trustee Ability to Distribute Funds

- If the Receivers distribute the funds to you, do you currently have the capability, information, resources, and appropriate systems in place to deal with the funds in a timely manner, whether by way of distribution to Beneficiaries, reinvestment, or some other action. Your response should include details of your capabilities, relevant information held, available resources, systems used, and estimated timeframes to deal with the funds.

SPSL has a dedicated pension administration team and would have the necessary capacity and systems in place to ensure the funds were dealt with in a timely manner, whether that be reinvestment or onward payment to pension members.

#### Question 4G: Taxation Implications for Beneficiaries

- Do you consider there to be any possible taxation implications for your Beneficiaries resulting from either of the two options for distribution, being either (i) distribution of the funds to the Trustees, or (ii) distribution of the funds directly to the Beneficiaries.

(i) Distribution of funds to the Trustees: To the best of its knowledge, SPSL does not consider there to be any tax implications for Beneficiaries if the Receivers authorise an in-specie transfer of the assets to an alternative investment platform on the instruction of SPSL.

To the best of its knowledge SPSL does not consider there to be any tax implications for Beneficiaries if the Receivers distribute the funds to the pension trustees. There would be however potential exit charges associated with the sale or withdrawal of the funds which could potentially be avoided if the underlying assets remain invested and transferred to an alternative platform.

(ii) Distribution of funds directly to Beneficiaries: SPSL believes that distributing funds directly to Beneficiaries would have negative tax implications for both the Beneficiaries and the pension trustees. Since these funds are part of their pension, any amounts paid out to Beneficiaries are considered pension income and can only be disbursed when the member reaches the minimum retirement age, according to the rules governing our pension scheme. Such payments must be reported to both HMRC and the local tax authorities. Disbursing funds before the retirement age will incur unauthorised payment charges from HMRC. Additionally, any pension income is subject to income tax in both the Beneficiary's country of residence and Malta, unless a Double Taxation Agreement (DTA) is in place. Direct payments may result in unfavourable tax consequences.

**SPSL strongly suggests that under no circumstances should the Receivers instruct for direct distributions to be paid to the pension members (beneficiaries).**

#### Question 4H: Replacement Trustee

- The Receivers have received requests from beneficiaries seeking to change their Trustee/pension scheme administrator. If a Beneficiary wishes to replace you as their Trustee/pension scheme administrator, please confirm that you would consent to such a request or advise the terms on which you provide such consent. Please also advise of any difficulties you would consider would be encountered, including any applicable regulations.

In the event a pension member (beneficiary) wished to appoint an alternative trustee they would need to formally request a transfer from our pension scheme and this would be considered by SPSL and assuming a valid rationale existed, such request would not be unreasonably refused.

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#### Section 5: Distribution of Funds

##### Question 5A: Other

- Please outline any other comments or views you have in respect of the distribution of the Client AuM which have not been addressed above.

Members are only entitled to receive benefits from the QROPS on reaching the scheme's retirement age, or if earlier, it must be in connection with serious illness or incapacity proved to the satisfaction of the corporate trustee. There are schemes and/or jurisdictions which permit Flexible Access Draw Down, whereby members are eligible to have flexible access with respect to their benefits on retirement. Payments received by members not in line with the requirements under the Finance Act, would constitute an unauthorised payment and the member, trustee or scheme administrator can face charges as a result from HMRC. Therefore, we are of the view it is in the best interest of members for SPSL as the trustee to be involved in any plan concerning the distribution of Client AuM in these proceedings.



## Annexure A – Sovereign Pension Services Limited - Trustee Survey

### CONFIDENTIAL

#### Section 1: Intended approach in relation to distribution of funds to Beneficiaries

##### Question 1A

If the Receivers distribute the funds to you as Trustee, please outline your intended approach in respect of the distribution of funds to Beneficiaries. In particular:

- a) Will Beneficiaries be provided with options as to how their funds will be treated?
- If yes, will those options include, (i) transfer of funds to a new Trustee, or (ii) reinvestment of funds with an alternative fund manager, or (iii) no preference, or (iv) some other option?

**Yes- The Trustees have indicated that their preferred option is an in-specie transfer of assets. They will open accounts for all members on the Morningstar Wealth Platform, unless alternative instructions are received from clients. If clients engage with the trustees then there are alternative fund managers available. If members do not engage then the assets will remain in line with their previously agreed risk profile.**

- If not, why will the Beneficiaries not be provided with options? How will the funds be treated?

**N/A**

- b) Will the options presented to the Beneficiaries be different depending on their personal circumstances, or will all the options be the same?

**The Morningstar Wealth Platform is the default option. Sovereign Asset Management Trading as Sovereign Wealth (SW) will be the default adviser. SW can advise can undertake a full fact find, risk profile and suitability of each member or they will invest in a portfolio with a risk rating like the one currently in place.**

Where relevant, will the alternative fund manager be selected by you, or will the decision be at the discretion of the Beneficiaries? If the decision is at the discretion of the Beneficiaries, is that discretion limited by a panel of fund managers selected by you?

**As the trustees are not authorised to provide investment advice, any alternative fund manager will be recommended by SW who hold a MIFID Licence with the Gibraltar Financial Services Commission.**

- c) In the event an alternative fund manager or panel of options for an alternative fund manager is to be selected by you, please explain:

- If this has already been done, which fund manager(s) have been selected?

**Morningstar have been chosen as the Investment Manager and the members investments will be in their Managed Portfolios Passive Range, Cautious, Moderate or Adventurous.**

- What due diligence has been done to select an appropriate fund manager / fund managers?

**Morningstar plc are a Nasdaq listed company with a market capitalization of more than thirteen Billion US Dollars. Morningstar are a UK FCA regulated Investment Manager with more than £300 Billion of assets under management. The Managed Passive Portfolios are competitively priced and have consistently outperformed the industry benchmarks (ARC & MPI). ESG Portfolios are also available on request.**

##### Question 1B

What infrastructure, expertise and personnel do you have in place to attend to selection and reinvestment of funds with an alternative fund manager (if applicable).

**The trustees have requested the assistance of their in-house investment adviser Sovereign Wealth. Members**



can appoint a different adviser and/or fund manager.

Question 1C

If you are proposing to provide an option to Beneficiaries, how will you:

- a) Request Beneficiaries' preferred option? Please detail in your response:

**The Trustees will inform members that they intend to open an account on the Morningstar Platform. The trustees will not charge for this.**

**There is no entry or exit fees on the platform and the platform will not charge for receiving the assets in-specie.**

**Members will be provided with some information on the Morningstar Wealth Platform and the annual costs.**

**Members will be provided with information on the Managed Portfolio's Passive Range (Cautious, Moderate & Adventurous) including costs & past performance.**

**Members will be provided with the total annual costs of the Investment which is expected to be circa 1.35% per annum.**

**Trustees will communicate with the members by mid-November 2024. Members' acceptance/appointment of adviser will be at their discretion.**

- b) Deal with Beneficiaries having different preferences (i.e. requesting various alternative fund managers).

**Members will be invited to appoint an adviser of their choosing. The Trustees will restrict the initial charges payable to any new adviser and the portfolio TER must come in below 2% inclusive of any adviser fees.**

- c) Question 1D

How can a Beneficiary elect to replace you as pension administrator and Trustee?

**A beneficiary may make a request addressed to the scheme administrator or Trustee that they wish to transfer to a separate pension scheme by way of a signed transfer out application.**

Question 1E

If a Beneficiary does elect to replace you as pension administrator and Trustee:

- a) What steps will you require the Beneficiary undertake to complete this?

**A member/beneficiary of the respective scheme will be required to source an appropriate alternative provider to be able to complete a legal transfer payment. A transfer out request form will need to be completed and submitted to the respective trustee for processing. Should the receiving administrator/trustee be deemed compliant with the applicable rules, the request will then be processed by the trustee.**





b) What fees or charges will be imposed on the Beneficiary?

**Termination fees vary by product, jurisdiction and duration of membership in the respective scheme.**

**Transferring from a Gibraltar scheme will incur a fee of between £450-£1,000.**

**Transferring from a Malta Scheme will incur a fee between €500 - €3000.**

**Transferring from a Guernsey Scheme will incur a fee between £1,000 - £1,750.**

c) How long will this process take?

**This process can take up to 12 weeks once all requirements have been met, however when dealing with 3<sup>rd</sup> parties, this can take longer.**

d) Will the above change depending on who the Beneficiary elects to be the replacement Trustee?

**Yes, as mentioned in (c).**

e) Do you consider that you have any discretion (legally or procedurally) to refuse the request? If so, please explain this with reference to supporting documentation.

**A legal transfer payment is such that the transfer must be made to a QROPS or registered pension schemes if the transfer is to a UK pension scheme, failing which the transfer would be subject to unauthorised payment charges and must therefore be rejected.**

## **Section 2: Proposed structure of fees proposed to be passed on to Beneficiaries**

### Question 2A

If the Receivers distribute the funds to you, what is the proposed structure of your fees and how you would propose your Trustee fees be paid (with reference to the relevant contractual arrangements) for the following:

- To pay a distribution to Beneficiaries; and/or

**For members of our Gibraltar schemes, there is a charge of £100pa for regular income payments.**

**For Members of Malta schemes, no fees are applied to regular income payments and one ad-hoc pension benefit payment per year, subject to members meeting certain conditions like minimum retirement age, among others.**

**For Guernsey, no fees are applied to regular income payments. One-off or ad-hoc payments are charged at £150 per payment.**

- Transfer a Beneficiaries' fund to a new Trustee; and/or

See question 1E(b).

- Reinvestment of the fund and appoint alternative fund manager

**Ordinarily there would be a fee for this process, however in these**

**circumstances no fee will be charged for a member requesting a**

**reinvestment of their Brite investment proceeds.**



#### Question 2B

Thank you for providing the documentation between yourself and the Beneficiaries.

Can you please advise if:

- a) There are clear contractual arrangements in place that stipulates your entitlement to deduct or claim fees from each Beneficiary (if that is different to what you already provided) and, if so, please reference the relevant clauses or provisions of those contractual arrangements.

**Yes, there are clear contractual arrangements in place. Each membership application form contains a declaration which is signed by the member/beneficiary, two sample as follows;**

- 8. I accept responsibility for the payment of any fees due (both initial and recurring) in accordance with the trustee's published scale of fees (as amended from time to time). I am aware that the trustee or its associates may receive additional fees from the bond providers. These fees, if paid, are included in any charges deducted by the bond providers and do not affect amounts invested.
- b)
  - 8. I accept responsibility for the payment of any fees due (both initial and recurring) in accordance with the trustee's published scale of fees (as amended from time to time). I further accept that the initial fees paid, which will typically be payable up front and will comprise of the establishment fee and first year's annual trustee fee, are non-refundable and are not pro-rated. In the event that following the establishment of my plan I elect not to proceed, the full amount paid as initial fees will be retained by Sovereign.
- c) The contractual arrangements in place vary between Beneficiaries or if they are all the same? If they vary, please outline the variations by reference to supporting documentation.
- d) The contractual arrangements in place vary over time, or if they have remained consistent? If they vary, please outline the variations by reference to supporting documentation, including an explanation as to how you have satisfied yourself that any such variation is binding and enforceable as against a Beneficiary.

**Fees may be amended from time to time, as mentioned above in question 2B(a)**

- e) There are any terms and conditions outside the documents provided which apply to the arrangement between you and the Beneficiaries? For example, general terms and conditions, amendments to conditions etc. If there is, please provide copies of these documents and explain how these additional terms and conditions are incorporated into the contractual arrangements between you and the Beneficiaries.

**As mentioned in question 2B(a), a member completes an application for membership which includes a signed declaration accepting the terms and conditions applicable.**

#### Question 2C

If the Receivers distribute funds to you, will you deduct a fee from the funds returned to you in respect of arrears (with reference to relevant contractual arrangements)? If so, what is the total quantum of fees owed to you to date?

**Trustee fees are payable in accordance with the schemes' terms and conditions and have continued to accrue while proceedings were ongoing. Quantum of fees due to each trustee is as below:**



**Malta: €57,268 as at 30/09/2024.**

**Gibraltar: £118,251 as at 30/09/2024**

**Guernsey: £106,765 as at 30/09/2024**

\*\*\*\*\*END OF SURVEY\*\*\*\*\*

Our Ref:

BA01/SG 16<sup>th</sup> July 2024

McGrath Nicol  
Level 19 2 The Esplanade  
Perth WA 6000  
GPO Box 9986  
Perth WA 6848  
FAO Linda Smith Receiver and Manager

**CONFIDENTIAL**By email to: [akirkbright@mcgrathnicol.com](mailto:akirkbright@mcgrathnicol.com) [briteadvisors@mcgrathnicol.com](mailto:briteadvisors@mcgrathnicol.com)

Dear Sirs

**Re: Sovereign Trust (Guernsey) Limited – Response to Trustee Survey**

Reference is made to the correspondence dated 5th July with a request to respond to a Trustee Survey by 17<sup>th</sup> July. Responses to Annexure A - Trustee Survey in respect of Sovereign Trust (Guernsey) Limited are set out herein.

**Section 1 – Trustee Contact Details**

Sovereign Trust (Guernsey) Limited (ST(G)L)  
Suites 3A & 3B, 3<sup>rd</sup> Floor, Frances House,  
Sir William Place,  
St Peter Port,  
Guernsey,  
GY1 1GX

Contact Name: Mr Sean Gillease  
Email: [sgillease@sovereigngroup.com](mailto:sgillease@sovereigngroup.com)  
Tel No: +44 (0) 1481 811000

**Section 2 – Trustee Details****2A - Relationships**

ST(G)L is not a related or an associated party of the below:

- Brite Advisors
- Any entity in the broader Brite Advisors Group, including The Aurom Group Limited (UK), Relay Group Limited (BVI), Brite Advisory Group Limited (HK)
- Mr Mark Donnelly or Mr John Lymer

**2B - Jurisdiction**

The legal jurisdiction ST(G)L operate is Guernsey.



## 2C - Regulators

- ST(G)L is registered and operates from Guernsey.
- ST(G)L is regulated by the Guernsey Financial Services Commission (GFSC) – reference 2005109 (<https://www.gfsc.gg/commission/regulated-entities/2005109>)
- The Fiduciary Rules in Guernsey include certain requirements and obligations in respect of handling Client Money and this includes operation of bank accounts.
- Any distributions or disinvestments from an investment portfolio of any client of ST(G)L should be paid into a bank account operated by ST(G)L for onward payment to the underlying client (beneficiary).

## 2D - Compliance

To the best of its knowledge:

- ST(G)L has complied with the laws and regulations applicable in Guernsey at all times.
- ST(G)L has not been sanctioned by any Regulator.
- ST(G)L is not under investigation by any Regulator.

## 2E - Contractual Arrangements

ST(G)L has no written contract or agreement with Brite Advisors however for each client (beneficiary) a specific application form would have been completed which would include specific terms of business.

Sample copies of such application forms and terms of business have been provided and are enclosed for reference.

## 2F - Pension Schemes

ST(G)L provides professional trustee services to:

- Qualifying Non-UK Pension Schemes
- Former Qualifying Recognised Overseas Pension Schemes
- International Retirement Plans

The clients (beneficiaries) introduced by Brite Advisors are within all the above scheme types.

## 2F - Fee Arrangements with Brite Advisors

There are no contractual arrangements between ST(G)L and Brite Advisors in respect of trustee fees. In accordance with the Application Form and Declarations signed and undertaken by the client (beneficiary), ST(G)L has a contractual right to collect its fees as they become due and payable from the relevant member account of the relevant client (beneficiary) and typically this would be arranged via a regular or ad hoc withdrawal from the investment policy.

## **Section 3 – Beneficiary Details**

### 3A - Beneficiary Details

Please refer to the Excel document attached to the email.

### 3B – Beneficiary Jurisdiction

Information contained as above in 3A.

### 3C – Entitlement to Act

See enclosed copy of Application Form and Member Declarations for reference.

### 3D - Beneficiary Identification

ST(G)L has identified all clients (beneficiaries) introduced by Brite Advisors or with Brite Advisors appointed in any capacity via client system searches.

In accordance with the requirements of the GFSC Handbook on Countering Financial Crime (AML/CFT/CPF) ST(G)L is required to identify and verify the identity of a customer (legal name, date of birth, residential address, place of birth, nationality) at the outset of a business relationship and subject to the specific circumstances on certain trigger events thereafter.

ST(G)L has policies and procedures in place taking the above into account and typically would have at least a certified copy of a proof of identification document and a certified copy of a proof of residential address document for each client.

### 3F – Beneficiary Communication

ST(G)L communicates with its clients via:

- Email
- Telephone
- Post

In most instances mass client communication will be sent via email in the first instance.

## **Section 4 – Distribution of Funds**

### 4A - Client AUM Distribution

Considering the best interests of the pension members (particularly taking into account the potential for losses already incurred), ST(G)L considers the best course of action would be to arrange for an in-specie transfer of the assets held to an alternative fund manager or investment platform at the instruction of the relevant pension trustee.

The liquidation or full surrender of investments will likely result in surrender penalty charges or redemption charges. This can have a significant detrimental impact on the overall value of the assets. This course of action would typically be avoided by pension trustees where possible to mitigate charges that would reduce the client (beneficiary) fund value.



In addition, there would be an additional cost to clients as a result of time out of the market where funds would be held in cash and as such not generating potential returns. There is no guarantee how long this process would take and as such there is a risk that significant investment return opportunities could be missed.

#### 4B - Distribution Methodology

Per the above, ST(G)L is of the view that instructing an in-specie asset transfer of the client monies held as opposed to a full withdrawal and distribution would be the most appropriate course of action and the best outcome for all parties involved.

If a full withdrawal and distribution was instructed by the Receivers, ST(G)L considers that a distribution to the trustee (option 1) would be the only potential course of action, as any distribution to the pension members (clients) directly would cause significant tax, regulatory and legal issues for pension members and pension trustees.

Pension trustees are bound by certain legislative, tax and regulatory rules and restrictions that dictate how and when "pension benefits" can be paid to a pension member (client/beneficiary).

If a pension member (client/beneficiary) is deemed to have received pension benefits in a manner outside of these rules and restrictions (which receipt of the proceeds of a full distribution or withdrawal would likely be considered), there will be penalties and charges for both the pension member (client/beneficiary) and the pension trustee. These penalties would include unauthorised member payment charges, surcharges and scheme sanction charges in accordance with Schedule 34 of the UK Finance Act and potentially any relevant local legislation. These tax charges can be up to 55% for the pension member and 15% for the pension trustee.

In Guernsey, if such payments were paid directly to pension members (clients/beneficiaries) ST(G)L would also be in breach of the Guernsey Revenue Service approval conditions and specifically the Unauthorised Payment conditions.

This would cause issues not only for the pension members who have funds invested via Brite but also the thousands of other pension members invested via other third-party investment providers, as the consequence of breaching such approval conditions can include revoking of approval status of the schemes in their entirety and this would cause significant impact beyond the membership who are invested via Brite.

Such a payment would also potentially breach the Guernsey Financial Services Commission Fiduciary Rules 2021 and Pension and Gratuity Scheme Rules 2021, specifically in relation to proper handling of Client Money.

For the avoidance of doubt, ST(G)L does not consider that option 2 would be an appropriate course of action as there would be significant tax, legal, regulatory and financial consequences, potentially for all parties concerned and in addition to potentially thousands of other pension members who are not impacted by this but would be impacted as a result of any direct payment or distribution to pension members.

#### 4C - Intention of the Trustee

If the Receivers agree to transfer the assets in-specie to a third-party alternative fund manager of investment platform, ST(G)L would appoint a specialist licensed and regulated investment advisory firm to reinvest the funds and would liaise with pension members to advise them of the course of action and the timeframes involved.

If the Receivers decide to distribute the funds to pension trustees, ST(G)L would liaise with individual pension members (clients/beneficiaries) to determine the appropriate course of action.

For some pension members it is anticipated they would wish to reinvest the funds with an alternative fund manager and subject to appropriate advice having been obtained, this would be undertaken.

For some pension members who may be entitled to receive pension benefits they may wish for some or all their pension monies to be paid to them and subject to their circumstances meeting any relevant rules and requirements, this would be undertaken.

If no instruction was received from pension members, ST(G)L would appoint a specialist licensed and regulated investment advisory firm to reinvest the funds.

#### 4D – Regulator Approval

If the Receivers distribute the funds to pension trustees, in accordance with its license issued by the GFSC, ST(G)L has the necessary approvals and authority to undertake the work required to deal with the funds, whether that be reinvestment or onward payment to pension members.

#### 4E – Trustee Fees

If the Receivers distribute the funds to pension trustees, ST(G)L would settle any outstanding fees in accordance with the signed Fee Schedule that each individual pension member would have signed.

#### 4F - Trustee Ability to Distribute Funds

ST(G)L has a dedicated pension administration team and would have the necessary capacity and systems in place to ensure the funds were dealt with in a timely manner, whether that be reinvestment or onward payment to pension members.

#### 4G – Taxation Implications

To the best of its knowledge, ST(G)L does not consider there to be any tax implications for pension members if the Receivers authorise for an in-specie asset transfer to an alternative fund manager or investment platform on the instruction of ST(G)L.

To the best of its knowledge, ST(G)L does not consider there to be any tax implications for pension members if the Receivers distribute funds to pension trustees (option 1). There would however be potential surrender and exit charges associated with the sale or withdrawal of the funds which could potentially be avoided if the funds remain invested and transferred to an alternative fund manager of investment platform.





## SOVEREIGN TRUST (GUERNSEY) LIMITED

Suites 3A & 3B, Third Floor, Frances House, Sir William Place, St Peter Port, Guernsey GY1 1GX  
Tel: +44 1481 811000 ci@SovereignGroup.com www.SovereignGroup.com

ST(G)L considers there would be adverse tax consequences for pension members (beneficiaries) and pension trustees if the Receivers distribute funds directly to pension members (option 2). In addition there could be consequences for other pension members not invested via Brite but who are members of the same multi-member pension schemes if a breach is considered to have occurred, which a full distribution to pension members would likely be considered.

ST(G)L strongly suggests that under no circumstances should the Receivers instruct for direct distributions to be paid to the pension members (beneficiaries).

### 4H – Change of Trustee

In the event a pension member (beneficiary) wished to appoint an alternative trustee they would need to formally request a transfer from the multi-member pension scheme and this would be considered by ST(G)L and assuming a valid rationale existed, such request would not be unreasonably refused.

Yours sincerely

**Sovereign Trust (Guernsey) Limited**



## Annexure A – Sovereign Pension Services Limited - Trustee Survey

### CONFIDENTIAL

#### Section 1: Intended approach in relation to distribution of funds to Beneficiaries

##### Question 1A

If the Receivers distribute the funds to you as Trustee, please outline your intended approach in respect of the distribution of funds to Beneficiaries. In particular:

- a) Will Beneficiaries be provided with options as to how their funds will be treated?
- i. If yes, will those options include, (i) transfer of funds to a new Trustee, or (ii) reinvestment of funds with an alternative fund manager, or (iii) no preference, or (iv) some other option?

**Yes- The Trustees have indicated that their preferred option is an in-specie transfer of assets. They will open accounts for all members on the Morningstar Wealth Platform, unless alternative instructions are received from clients. If clients engage with the trustees then there are alternative fund managers available. If members do not engage then the assets will remain in line with their previously agreed risk profile.**

- ii. If not, why will the Beneficiaries not be provided with options? How will the funds be treated?

**N/A**

- b) Will the options presented to the Beneficiaries be different depending on their personal circumstances, or will all the options be the same?

**The Morningstar Wealth Platform is the default option. Sovereign Asset Management Trading as Sovereign Wealth (SW) will be the default adviser. SW can advise can undertake a full fact find, risk profile and suitability of each member or they will invest in a portfolio with a risk rating like the one currently in place.**

Where relevant, will the alternative fund manager be selected by you, or will the decision be at the discretion of the Beneficiaries? If the decision is at the discretion of the Beneficiaries, is that discretion limited by a panel of fund managers selected by you?

**As the trustees are not authorised to provide investment advice, any alternative fund manager will be recommended by SW who hold a MIFID Licence with the Gibraltar Financial Services Commission.**

- c) In the event an alternative fund manager or panel of options for an alternative fund manager is to be selected by you, please explain:

- i. If this has already been done, which fund manager(s) have been selected?

**Morningstar have been chosen as the Investment Manager and the members investments will be in their Managed Portfolios Passive Range, Cautious, Moderate or Adventurous.**

- ii. What due diligence has been done to select an appropriate fund manager / fund managers?

**Morningstar plc are a Nasdaq listed company with a market capitalization of more than thirteen Billion US Dollars. Morningstar are a UK FCA regulated Investment Manager with more than £300 Billion of assets under management. The Managed Passive Portfolios are competitively priced and have consistently outperformed the industry benchmarks (ARC & MPI). ESG Portfolios are also available on request.**

##### Question 1B

What infrastructure, expertise and personnel do you have in place to attend to selection and reinvestment of funds with an alternative fund manager (if applicable).

**The trustees have requested the assistance of their in-house investment adviser Sovereign Wealth. Members**



can appoint a different adviser and/or fund manager.

#### Question 1C

If you are proposing to provide an option to Beneficiaries, how will you:

- a) Request Beneficiaries' preferred option? Please detail in your response:

**The Trustees will inform members that they intend to open an account on the Morningstar Platform. The trustees will not charge for this.**

**There is no entry or exit fees on the platform and the platform will not charge for receiving the assets in-specie.**

**Members will be provided with some information on the Morningstar Wealth Platform and the annual costs.**

**Members will be provided with information on the Managed Portfolio's Passive Range (Cautious, Moderate & Adventurous) including costs & past performance.**

**Members will be provided with the total annual costs of the Investment which is expected to be circa 1.35% per annum.**

**Trustees will communicate with the members by mid-November 2024. Members' acceptance/appointment of adviser will be at their discretion.**

- b) Deal with Beneficiaries having different preferences (i.e. requesting various alternative fund managers).

**Members will be invited to appoint an adviser of their choosing. The Trustees will restrict the initial charges payable to any new adviser and the portfolio TER must come in below 2% inclusive of any adviser fees.**

- c) Question 1D

How can a Beneficiary elect to replace you as pension administrator and Trustee?

**A beneficiary may make a request addressed to the scheme administrator or Trustee that they wish to transfer to a separate pension scheme by way of a signed transfer out application.**

#### Question 1E

If a Beneficiary does elect to replace you as pension administrator and Trustee:

- a) What steps will you require the Beneficiary undertake to complete this?

**A member/beneficiary of the respective scheme will be required to source an appropriate alternative provider to be able to complete a legal transfer payment. A transfer out request form will need to be completed and submitted to the respective trustee for processing. Should the receiving administrator/trustee be deemed compliant with the applicable rules, the request will then be processed by the trustee.**



b) What fees or charges will be imposed on the Beneficiary?

**Termination fees vary by product, jurisdiction and duration of membership in the respective scheme.**

**Transferring from a Gibraltar scheme will incur a fee of between £450-£1,000.**

**Transferring from a Malta Scheme will incur a fee between €500 - €3000.**

**Transferring from a Guernsey Scheme will incur a fee between £1,000 - £1,750.**

c) How long will this process take?

**This process can take up to 12 weeks once all requirements have been met, however when dealing with 3<sup>rd</sup> parties, this can take longer.**

d) Will the above change depending on who the Beneficiary elects to be the replacement Trustee?

**Yes, as mentioned in (c).**

e) Do you consider that you have any discretion (legally or procedurally) to refuse the request? If so, please explain this with reference to supporting documentation.

**A legal transfer payment is such that the transfer must be made to a QROPS or registered pension schemes if the transfer is to a UK pension scheme, failing which the transfer would be subject to unauthorised payment charges and must therefore be rejected.**

## **Section 2: Proposed structure of fees proposed to be passed on to Beneficiaries**

### Question 2A

If the Receivers distribute the funds to you, what is the proposed structure of your fees and how you would propose your Trustee fees be paid (with reference to the relevant contractual arrangements) for the following:

- To pay a distribution to Beneficiaries; and/or

**For members of our Gibraltar schemes, there is a charge of £100pa for regular income payments.**

**For Members of Malta schemes, no fees are applied to regular income payments and one ad-hoc pension benefit payment per year, subject to members meeting certain conditions like minimum retirement age, among others.**

**For Guernsey, no fees are applied to regular income payments. One-off or ad-hoc payments are charged at £150 per payment.**

- Transfer a Beneficiaries' fund to a new Trustee; and/or

See question 1E(b).

- Reinvestment of the fund and appoint alternative fund manager

**Ordinarily there would be a fee for this process, however in these**

**circumstances no fee will be charged for a member requesting a**

**reinvestment of their Brite investment proceeds.**





#### Question 2B

Thank you for providing the documentation between yourself and the Beneficiaries.

Can you please advise if:

- a) There are clear contractual arrangements in place that stipulates your entitlement to deduct or claim fees from each Beneficiary (if that is different to what you already provided) and, if so, please reference the relevant clauses or provisions of those contractual arrangements.

**Yes, there are clear contractual arrangements in place. Each membership application form contains a declaration which is signed by the member/beneficiary, two sample as follows;**

- 8. I accept responsibility for the payment of any fees due (both initial and recurring) in accordance with the trustee's published scale of fees (as amended from time to time). I am aware that the trustee or its associates may receive additional fees from the bond providers. These fees, if paid, are included in any charges deducted by the bond providers and do not affect amounts invested.
- b)
  - 8. I accept responsibility for the payment of any fees due (both initial and recurring) in accordance with the trustee's published scale of fees (as amended from time to time). I further accept that the initial fees paid, which will typically be payable up front and will comprise of the establishment fee and first year's annual trustee fee, are non-refundable and are not pro-rated. In the event that following the establishment of my plan I elect not to proceed, the full amount paid as initial fees will be retained by Sovereign.
- c) The contractual arrangements in place vary between Beneficiaries or if they are all the same? If they vary, please outline the variations by reference to supporting documentation.

**No, the arrangement in place does not differ between beneficiaries.**

- d) The contractual arrangements in place vary over time, or if they have remained consistent? If they vary, please outline the variations by reference to supporting documentation, including an explanation as to how you have satisfied yourself that any such variation is binding and enforceable as against a Beneficiary.

**Fees may be amended from time to time, as mentioned above in question 2B(a)**

- e) There are any terms and conditions outside the documents provided which apply to the arrangement between you and the Beneficiaries? For example, general terms and conditions, amendments to conditions etc. If there is, please provide copies of these documents and explain how these additional terms and conditions are incorporated into the contractual arrangements between you and the Beneficiaries.

**As mentioned in question 2B(a), a member completes an application for membership which includes a signed declaration accepting the terms and conditions applicable.**

#### Question 2C

If the Receivers distribute funds to you, will you deduct a fee from the funds returned to you in respect of arrears (with reference to relevant contractual arrangements)? If so, what is the total quantum of fees owed to you to date?

**Trustee fees are payable in accordance with the schemes' terms and conditions and have continued to accrue while proceedings were ongoing. Quantum of fees due to each trustee is as below:**



**Malta: €57,268 as at 30/09/2024.**

**Gibraltar: £118,251 as at 30/09/2024**

**Guernsey: £106,765 as at 30/09/2024**

\*\*\*\*\*END OF SURVEY\*\*\*\*\*

16<sup>th</sup> July 2024

McGrath Nicol  
Level 19 2 The Esplanade  
Perth WA 6000  
GPO Box 9986  
Perth WA 6848  
FAO Linda Smith Receiver and Manager

**Confidential**

By email to [akirkbright@mcgrathnicol.com](mailto:akirkbright@mcgrathnicol.com) [BriteAdvisors@mcgrathnicol.com](mailto:BriteAdvisors@mcgrathnicol.com)

**Re: Sovereign Trust International Limited - Response To Trustee Survey**

Reference is made to the correspondence dated 5<sup>th</sup> July with a request to respond to a Trustee Survey by 17 July. Responses to Annexure A - Trustee Survey in respect of Sovereign Trust International Limited are set out herein.

**Section 1 - Trustee Contact details**

Sovereign Trust International Limited  
117 Main Street  
Sovereign Place  
Gibraltar GX111AA  
Contact name : Mr Darren Whitley  
E: [d.whitley@sovereigngroup.com](mailto:d.whitley@sovereigngroup.com)  
T: +35020076173

**Section 2 - Trustee Details**

**2A Relationships**

Noting your definition under the Corporation Act 2001 and we can confirm the following :-

- STIL is not a related or associated party of Brite Advisors
- STIL is not a related or associated party to any entity in the broader Brite Group, including the Aurom Group Limited (UK), Relay Group Limited (BVI), Brite Advisory Group Limited (HK)
- STIL is not a related or associated party to Mr Mark Donnelly or Mr John Lymer

**2B - Jurisdiction**

The legal jurisdiction STIL operate is Gibraltar.

**2C – Regulators**

- The business is registered and operates from Gibraltar
- The regulators which provide oversight of our compliance and legal obligations are the Gibraltar Financial Services Commission and the Commissioner of Income Tax. Our QROPS are

registered with His Majesty Revenue and Customs. Further details can be found on the GFSC website <https://www.fsc.gi/regulated-entity/sovereign-trust-international-limited-5991>

- Any distributions or disinvestments from an investment portfolio of any client of STIL should be paid into a bank account operated by STIL for onward payment to the underlying client (beneficiary) .

## 2D – Compliance

To the best of its knowledge:

- STIL has complied with the laws and regulations applicable in the jurisdiction in which STIL operate
- STIL has not been sanctioned by a Regulator
- STIL is not under investigation by a Regulator
- There is no requirement for STIL to prepare audited financial statements.

## 2E – Brite Advisors' contractual arrangements

- There is no written contract or agreement between STIL and Brite Advisors
- Brite provide investment advisory, custodian and investment platform/house services to the Member, the contract is between the member and Brite. There is no requirement for there to be a contract between Brite and STIL. Application forms and terms of business have been previously provided.

## 2F – Pension Schemes

- STIL provide professional trustee services to personal pension schemes to include QROPS and occupational pension schemes.

## 2G – Fee arrangements with Brite Advisors

There are no contractual arrangements between STIL and Brite Advisors iro Trustee Fees. In respect of the declarations the members signs as part of their application , STIL has the right to collect fees as they become due and in accordance with the fee schedule , such fees are payable from the member's account from the investment policy.

## **Section 3 - Beneficiary details**

### 3A – Beneficiary details

Please refer to the excel document attached to the email.

### 3B – Beneficiary jurisdiction

Information contained as above in 3A



### 3C – Entitlement to act

Each member applies to join the scheme by way of executed deed of adherence or application either are required to onboard a member to the scheme. Attached to the email are two signed Deed of Adherences together with the signed member declaration agreeing to be admitted upon the terms set out therein to participate in the Scheme. These documents and the scheme's Trust Deed and Rules demonstrate the trustee's entitlement to act on behalf of the member/beneficiary as the professional trustee in accordance with the trust deed and rules for the relevant retirement scheme.

### 3D – Beneficiary identification process

The Proceeds of Crime Act 2015 (as amended) Part III "Measures to prevent the use of the Financial System for purposes of Money Laundering, Terrorist Financing and Proliferation" and section 10 therein set out the customer due diligence measures financial service providers must adhere. There are onboarding and ongoing monitoring procedures in place to comply with this Act.

### 3E – Trustee fees with beneficiaries

The application members sign set out the Fees Schedule which members agree.

### 3F – Beneficiary communication

The scheme administrator communicates to member by way of post, email portal and app.

## **Section 4 – Distribution of Funds**

### 4A – Client AuM Distribution

Considering the best interests of the pension members (particularly taking into account the potential for losses already incurred), STIL considers the best course of action would be to arrange for an in-specie transfer of the assets held to an alternative fund manager or investment platform at the instruction of the relevant pension trustee. The liquidation or full surrender of investments will likely result in surrender penalty charges or redemption charges. This can have a detrimental impact on the overall value of the assets. This course of action would typically be avoided by pension trustees where possible to mitigate charges that would reduce the client (beneficiary) fund value. In addition, there would be an additional cost to clients as a result of time out of the market where funds would be held in cash and as such not generating potential returns. There is no guarantee how long this process would take and as such there is a risk that significant investment return opportunities could be missed.

### 4B – Distribution methodology

As explained in our response to 4A, STIL is of the view that instructing an in-specie asset transfer of the client monies held as opposed to a full withdrawal and distribution would be the most appropriate course of action and the best outcome for all parties involved. If a full withdrawal and distribution was

instructed by the Receivers, STIL considers that distribution of the funds to the Trustee (option 1) would be the only potential course of action, as any distribution to the pension members (clients) directly would cause significant tax, regulatory and legal issues for pension members and pension trustees. Pension trustees are bound by certain legislative, tax and regulatory rules and restrictions that dictate how and when "pension benefits" can be paid to a pension member (client/beneficiary). If a pension member (client/beneficiary) is deemed to have received pension benefits in a manner outside of these rules and restrictions (which receipt of the proceeds of a full distribution or withdrawal would likely be considered), there will be penalties and charges for both the pension member (client/beneficiary) and the pension trustee. These penalties would include unauthorised member payment charges, surcharges and scheme sanction charges in accordance with Schedule 34 of the UK Finance Act 2004 (as amended) and potentially any relevant local legislation. These tax charges can be up to 55% for the pension member and 15% for the pension trustee.

In Gibraltar, if such payments were paid directly to pension members (clients/beneficiaries) STIL would also be in breach of the Gibraltar Income Tax office approval conditions. This would cause issues not only for the pension members who have funds invested via Brite but also the thousands of other pension members invested via other third-party investment providers, as the consequence of breaching such approval conditions can include revoking of approval status of the schemes in their entirety and this would cause significant impact beyond the membership who are invested via Brite.

Option one would breach s. 14 A (3) Gibraltar Income Tax Act 2010 (as amended) which state, *"...approval will only be given by the Commissioner to a Pension Fund where the rules which irrevocably bind the Pension Fund prevent – (a) the commutation of more than 30% of the value of the assets comprising the funds or benefits entitlement for any particular person... (b) payment of any part of the benefit entitlement provided by the Pension Fund before the normal minimum retirement age of 55 save where the retirement occurs on the grounds of ill health..."* and supporting Guidance Notes of the Income Tax Office. For the avoidance of doubt, STIL does not consider that option 2 would be an appropriate course of action as there would be significant tax, legal, regulatory and financial consequences, potentially for all parties concerned and in addition to potentially thousands of other pension members who are not impacted by this but would be impacted as a result of any direct payment or distribution to pension members.

#### 4C - Intention of the Trustee

If the Receivers agree to transfer the assets in-specie to a third party alternative fund manager or investment platform, STIL would appoint a specialist regulated investment advisory firm to reinvest the funds and would liaise with pension members to advise them of the course of action and the timeframes involved. If the Receivers decide to distribute the funds to pension trustees, STIL would liaise with individual pension members (beneficiaries) to determine the appropriate course of action. For some pension members it is anticipated they would wish to reinvest the funds with an alternative fund manager and subject to appropriate advice having been obtained, this would be undertaken. For some pension members who may be entitled to receive pension benefits they may wish for some or all their pension monies to be paid to them and subject to their circumstances meeting any relevant rules and requirements, this would be undertaken. If no instruction was received from pension members, STIL would appoint a specialist licensed and regulated investment advisory firm to reinvest the funds.

#### 4D – Regulator approval

Pursuant to the license issued by the GFSC, STIL has the necessary resources, approvals and authority to undertake the work required to deal with the funds, whether that be reinvestment or onward payment to pension members.

#### 4E – Trustee fees for distribution

If the Receivers distribute the funds to the trustee, STIL would settle any outstanding fees in accordance with the signed Fee Schedule that each individual pension member would have signed.

#### 4F – Trustee ability to distribute funds

STIL has a dedicated and licenced pension administration team and would have the necessary capacity and systems in place to ensure the funds were dealt with in a timely manner, whether that be reinvestment or onward payment to pension members.

#### 4G – Taxation implications

To the best of its knowledge, STIL does not consider there to be any tax implications for pension members if the Receivers authorise for an in-specie asset transfer to an alternative fund manager or investment platform on the instruction of STIL. To the best of its knowledge, STIL does not consider there to be any tax implications for pension members if the Receivers distribute funds to pension trustees (option 1). There would however be potential surrender and exit charges associated with the sale or withdrawal of the funds which could potentially be avoided if the funds remain invested and transferred to an alternative fund manager or investment platform. STIL considers there would be adverse tax consequences for pension members (beneficiaries) and pension trustees if the Receivers distribute funds directly to pension members (option 2). In addition there could be consequences for other pension members not invested via Brite but who are members of the same multi-member pension schemes if a breach is considered to have occurred, which a full distribution to pension members would likely be considered. STIL strongly suggests that under no circumstances should the Receivers instruct for direct distributions to be paid to the pension members (beneficiaries).

#### 4H – Replacement Trustee

In the event a pension member (beneficiary) wishes to appoint an alternative trustee they would need to formally request a transfer from the pension scheme and this would be considered by STIL and assuming a valid rationale existed, such request would not be unreasonably refused.

Yours sincerely,

**Sovereign Trust International Limited**



## Annexure A – Sovereign Pension Services Limited - Trustee Survey

### CONFIDENTIAL

#### Section 1: Intended approach in relation to distribution of funds to Beneficiaries

##### Question 1A

If the Receivers distribute the funds to you as Trustee, please outline your intended approach in respect of the distribution of funds to Beneficiaries. In particular:

- a) Will Beneficiaries be provided with options as to how their funds will be treated?
- i. If yes, will those options include, (i) transfer of funds to a new Trustee, or (ii) reinvestment of funds with an alternative fund manager, or (iii) no preference, or (iv) some other option?

**Yes- The Trustees have indicated that their preferred option is an in-specie transfer of assets. They will open accounts for all members on the Morningstar Wealth Platform, unless alternative instructions are received from clients. If clients engage with the trustees then there are alternative fund managers available. If members do not engage then the assets will remain in line with their previously agreed risk profile.**

- ii. If not, why will the Beneficiaries not be provided with options? How will the funds be treated?

**N/A**

- b) Will the options presented to the Beneficiaries be different depending on their personal circumstances, or will all the options be the same?

**The Morningstar Wealth Platform is the default option. Sovereign Asset Management Trading as Sovereign Wealth (SW) will be the default adviser. SW can advise can undertake a full fact find, risk profile and suitability of each member or they will invest in a portfolio with a risk rating like the one currently in place.**

Where relevant, will the alternative fund manager be selected by you, or will the decision be at the discretion of the Beneficiaries? If the decision is at the discretion of the Beneficiaries, is that discretion limited by a panel of fund managers selected by you?

**As the trustees are not authorised to provide investment advice, any alternative fund manager will be recommended by SW who hold a MIFID Licence with the Gibraltar Financial Services Commission.**

- c) In the event an alternative fund manager or panel of options for an alternative fund manager is to be selected by you, please explain:

- i. If this has already been done, which fund manager(s) have been selected?

**Morningstar have been chosen as the Investment Manager and the members investments will be in their Managed Portfolios Passive Range, Cautious, Moderate or Adventurous.**

- ii. What due diligence has been done to select an appropriate fund manager / fund managers?

**Morningstar plc are a Nasdaq listed company with a market capitalization of more than thirteen Billion US Dollars. Morningstar are a UK FCA regulated Investment Manager with more than £300 Billion of assets under management. The Managed Passive Portfolios are competitively priced and have consistently outperformed the industry benchmarks (ARC & MPI). ESG Portfolios are also available on request.**

##### Question 1B

What infrastructure, expertise and personnel do you have in place to attend to selection and reinvestment of funds with an alternative fund manager (if applicable).

**The trustees have requested the assistance of their in-house investment adviser Sovereign Wealth. Members**





can appoint a different adviser and/or fund manager.

#### Question 1C

If you are proposing to provide an option to Beneficiaries, how will you:

- a) Request Beneficiaries' preferred option? Please detail in your response:

**The Trustees will inform members that they intend to open an account on the Morningstar Platform. The trustees will not charge for this.**

**There is no entry or exit fees on the platform and the platform will not charge for receiving the assets in-specie.**

**Members will be provided with some information on the Morningstar Wealth Platform and the annual costs.**

**Members will be provided with information on the Managed Portfolio's Passive Range (Cautious, Moderate & Adventurous) including costs & past performance.**

**Members will be provided with the total annual costs of the Investment which is expected to be circa 1.35% per annum.**

**Trustees will communicate with the members by mid-November 2024. Members' acceptance/appointment of adviser will be at their discretion.**

- b) Deal with Beneficiaries having different preferences (i.e. requesting various alternative fund managers).

**Members will be invited to appoint an adviser of their choosing. The Trustees will restrict the initial charges payable to any new adviser and the portfolio TER must come in below 2% inclusive of any adviser fees.**

- c) Question 1D

How can a Beneficiary elect to replace you as pension administrator and Trustee?

**A beneficiary may make a request addressed to the scheme administrator or Trustee that they wish to transfer to a separate pension scheme by way of a signed transfer out application.**

#### Question 1E

If a Beneficiary does elect to replace you as pension administrator and Trustee:

- a) What steps will you require the Beneficiary undertake to complete this?

**A member/beneficiary of the respective scheme will be required to source an appropriate alternative provider to be able to complete a legal transfer payment. A transfer out request form will need to be completed and submitted to the respective trustee for processing. Should the receiving administrator/trustee be deemed compliant with the applicable rules, the request will then be processed by the trustee.**



b) What fees or charges will be imposed on the Beneficiary?

**Termination fees vary by product, jurisdiction and duration of membership in the respective scheme.**

**Transferring from a Gibraltar scheme will incur a fee of between £450-£1,000.**

**Transferring from a Malta Scheme will incur a fee between €500 - €3000.**

**Transferring from a Guernsey Scheme will incur a fee between £1,000 - £1,750.**

c) How long will this process take?

**This process can take up to 12 weeks once all requirements have been met, however when dealing with 3<sup>rd</sup> parties, this can take longer.**

d) Will the above change depending on who the Beneficiary elects to be the replacement Trustee?

**Yes, as mentioned in (c).**

e) Do you consider that you have any discretion (legally or procedurally) to refuse the request? If so, please explain this with reference to supporting documentation.

**A legal transfer payment is such that the transfer must be made to a QROPS or registered pension schemes if the transfer is to a UK pension scheme, failing which the transfer would be subject to unauthorised payment charges and must therefore be rejected.**

## **Section 2: Proposed structure of fees proposed to be passed on to Beneficiaries**

### Question 2A

If the Receivers distribute the funds to you, what is the proposed structure of your fees and how you would propose your Trustee fees be paid (with reference to the relevant contractual arrangements) for the following:

- To pay a distribution to Beneficiaries; and/or

**For members of our Gibraltar schemes, there is a charge of £100pa for regular income payments.**

**For Members of Malta schemes, no fees are applied to regular income payments and one ad-hoc pension benefit payment per year, subject to members meeting certain conditions like minimum retirement age, among others.**

**For Guernsey, no fees are applied to regular income payments. One-off or ad-hoc payments are charged at £150 per payment.**

- Transfer a Beneficiaries' fund to a new Trustee; and/or

See question 1E(b).

- Reinvestment of the fund and appoint alternative fund manager

**Ordinarily there would be a fee for this process, however in these**

**circumstances no fee will be charged for a member requesting a**

**reinvestment of their Brite investment proceeds.**



#### Question 2B

Thank you for providing the documentation between yourself and the Beneficiaries.

Can you please advise if:

- a) There are clear contractual arrangements in place that stipulates your entitlement to deduct or claim fees from each Beneficiary (if that is different to what you already provided) and, if so, please reference the relevant clauses or provisions of those contractual arrangements.

**Yes, there are clear contractual arrangements in place. Each membership application form contains a declaration which is signed by the member/beneficiary, two sample as follows;**

- 8. I accept responsibility for the payment of any fees due (both initial and recurring) in accordance with the trustee's published scale of fees (as amended from time to time). I am aware that the trustee or its associates may receive additional fees from the bond providers. These fees, if paid, are included in any charges deducted by the bond providers and do not affect amounts invested.
- b)
  - 8. I accept responsibility for the payment of any fees due (both initial and recurring) in accordance with the trustee's published scale of fees (as amended from time to time). I further accept that the initial fees paid, which will typically be payable up front and will comprise of the establishment fee and first year's annual trustee fee, are non-refundable and are not pro-rated. In the event that following the establishment of my plan I elect not to proceed, the full amount paid as initial fees will be retained by Sovereign.
- c) The contractual arrangements in place vary between Beneficiaries or if they are all the same? If they vary, please outline the variations by reference to supporting documentation.
- d) The contractual arrangements in place vary over time, or if they have remained consistent? If they vary, please outline the variations by reference to supporting documentation, including an explanation as to how you have satisfied yourself that any such variation is binding and enforceable as against a Beneficiary.

**Fees may be amended from time to time, as mentioned above in question 2B(a)**

- e) There are any terms and conditions outside the documents provided which apply to the arrangement between you and the Beneficiaries? For example, general terms and conditions, amendments to conditions etc. If there is, please provide copies of these documents and explain how these additional terms and conditions are incorporated into the contractual arrangements between you and the Beneficiaries.

**As mentioned in question 2B(a), a member completes an application for membership which includes a signed declaration accepting the terms and conditions applicable.**

#### Question 2C

If the Receivers distribute funds to you, will you deduct a fee from the funds returned to you in respect of arrears (with reference to relevant contractual arrangements)? If so, what is the total quantum of fees owed to you to date?

**Trustee fees are payable in accordance with the schemes' terms and conditions and have continued to accrue while proceedings were ongoing. Quantum of fees due to each trustee is as below:**



**Malta: €57,268 as at 30/09/2024.**

**Gibraltar: £118,251 as at 30/09/2024**

**Guernsey: £106,765 as at 30/09/2024**

\*\*\*\*\*END OF SURVEY\*\*\*\*\*



# STM Malta Pension Services Limited – Trustee Survey

## Section 1: Trustee Contact Details

Please confirm your address, the relevant contact person, email address and phone number.

### Address:

STM Malta Pension Services Limited  
San Gwakkinn Building, Level 1  
Triq is-Salib tal-Imriehel  
Zone 4  
Central Business District  
Birkirkara CBD 4020  
Malta

### Relevant contact person:

Sheena Mifsud

### Email address:

sheena.mifsud@stmmalta.com

### Phone number:

+356 2226 5216

## Section 2: Trustee Details

### Question 2A - Relationships

Are you a related and/or associated party of the below:

- Brite Advisors.
- Any entity in the broader Brite Group, including The Aurom Group Limited (UK), Relay Group Limited (BVI), Brite Advisory Group Limited (HK).
- Mr Mark Donnelly or Mr John Lymer.

For the avoidance of doubt, the definition a related party is set out at Section 9 of the *Corporations Act 2001* and includes (i) directors or members (of the company, or of a related party), and (ii) relatives and spouses of the persons listed above. Associated parties refer to parties that have a relationship or connection, often in terms of ownership or control.

No – we are not a related and/or associated party of any of the mentioned entities or individuals.

### Question 2B - Jurisdiction

In respect of the Brite Advisors' Beneficiaries for whom you act as Trustee, what legal jurisdiction/s do you operate in?

STM Malta operates in Malta.

#### Question 2C - Regulators

Please advise which jurisdiction(s) your business is registered in and operates from.

Please provide details of the Regulator(s) which provide oversight of your compliance with applicable legal and regulatory obligations.

Please advise of any obligations imposed on you which you consider ought to be brought to our attention in the context of our consideration of methods by which the Client AuM might be distributed to Beneficiaries.

STM Malta is registered in Malta, and operates from Malta.

#### **Regulator(s):**

Malta Financial Services Authority (MFSA) are the financial regulator who provide oversight of our compliance with the Trust and Trustees Act, the Retirement Pensions Act, and all related regulations.

Financial Intelligence Analysis Unit (FIAU) oversee our compliance with the Prevention of Money Laundering Act (PMLA) and related regulations.

#### **Obligations:**

As Trustees of our clients ('the Beneficiaries') we must ensure that everything is done in their best interests. We thus must ensure that the proposed methods of distribution will not be at the detriment of the clients.

Additionally, since we are trustees of the assets, we are the legal owners and thus we must be the ones receiving the assets on behalf of the Beneficiaries. No assets can be sent directly to any Beneficiary and/or a third party they propose.

#### Question 2D - Compliance

In your role as Trustee, have you complied with the laws and regulations applicable in the jurisdictions in which you operate at all times?

Have you been sanctioned by any Regulator?

Are you under investigation by any Regulator?

Please provide a copy of your most recent set of audited financial statements.

Yes, in our role as Trustee, we have complied with the Maltese laws and regulations at all times.

#### **Regulatory Sanctions:**

In 2016, MFSA imposed an administrative penalty of €27,500 on STM Malta for minor breaches of the Pensions Regulation in force at the time, which has since been changed.

#### **Investigation:**

STM Malta is not under any investigation by any Regulator.

## Latest Audited Financial Statements:

Find attached the Latest Audited Financial Statements as at 2023 to the email.

### Question 2E - Pensions schemes

What type of pension schemes do you administer for the Brite Advisors Beneficiaries (i.e. SIPP, QROPS, QNUPs or other)?

STM Malta mainly administers QROPS for the Brite Advisors PTY affected Beneficiaries, whilst 4 of the affected beneficiaries have a QNUPS product.

### Question 2F - Fee arrangements with Brite Advisors

Please advise the contractual arrangements which are in place (if any) between you and Brite Advisors in respect of entitlement to Trustee fees.

No agreement between STM Malta and Brite PTY in relation to our Fees. Fee arrangements that we have is with the clients, as mentioned in the Trust Deeds, and the level of Fees is mentioned in the clients' applications & Scheme Particulars.

## Section 3: Beneficiary Details

### Question 3A - Beneficiary details

To the extent not already provided, please provide a detailed list of the Beneficiaries for who you act as Trustee, including full name, address, jurisdiction, pension scheme/superannuation fund type, scheme or fund name, and investment value (per the latest set of data you have to hand).

Refer to Tab 'Beneficiary Details' of Excel File named 'Brite Beneficiary Details'

### Question 3B Beneficiary jurisdiction

Please provide a list of the jurisdictions/countries where your Beneficiaries reside.

Refer to Tab 'Beneficiary Jurisdiction' of Excel File named 'Brite Beneficiary Details'

### Question 3C - Entitlement to act

Please provide details of the arrangements in place between you and each of the Beneficiaries demonstrating your entitlement to act on behalf of each Beneficiary with reference to the relevant written contracts or standard onboarding agreements. If there are no written contracts or agreements, please outline the reason why, and what you understand to be the arrangements between you and the relevant Beneficiaries.

In the respective Scheme Folders, the following documents have been included for your reference:

1. Template Application Form
2. Template Instrument of Adherence
3. Trust Deed

These documents are the onboarding documents and agreements in place for all the respective beneficiaries that demonstrate the entitlement of STM Malta to act on behalf of each Beneficiary as their Trustee and Retirement Scheme Administrator.

#### Question 3D – Beneficiary identification process

Please provide details of what steps have been taken to identify the Beneficiaries as required in Question 3A and what Anti Money Laundering regulations you are obliged to follow relating to customer identification/verification both from an initial onboarding and ongoing perspective.

Certified True Copies of Beneficiaries' identification documents, most generally being passports, are obtained as Proof of Identity, together with Certified True Copies of Utility Bills/Bank Statements/any other acceptable document as Proof of Address.

We must abide with the Maltese Prevention of Money Laundering and Funding of Terrorism Regulations (PMLFTR), as well as the EU AML Directives.

#### Question 3E - Trustee fees with beneficiaries

Please provide a summary of the arrangements (if any) between you and the Beneficiaries in respect of entitlement to Trustee fees.

Reference to fees can be found in the following documents in each of the Scheme folders:

1. Application Form
3. Trust Deed
4. Scheme Particulars

#### Question 3F – Beneficiary communication

Please provide details of how you communicate with the Beneficiaries for who you act as Trustee (i.e. post, email, portal/app)?

We generally communicate with the Beneficiaries via email, and whenever required via phone calls.



## Section 4: Distribution of Funds

### Question 4A – Client AuM Distribution

Do you consider that the liquidation of the Client AuM (i.e. sale of all of the investments and conversion to cash) and return of that cash to you as Trustee would have any negative implications for Beneficiaries, as opposed to the Client AuM being transitioned to a new fund manager? For example, tax, regulatory or any other implications. Please include references to local laws and regulations (where relevant).

Tax implications for US clients – part of the US Tax Code. If US regarded these pensions as Grantor Trusts, the client would be taxed on gains realised/dividends received in the year of receipt.

Some beneficiaries were quite clear on them not wanting to liquidate their positions – they are member directed funds in which the members have got a say on what happens to their assets.

### Question 4B - Distribution methodology

Do you have any views or comments in relation to two options for distribution being either (i) distribution of the funds to the Trustees, or (ii) distribution of the funds directly to the Beneficiaries and any implications you see from either option? For example, tax, regulatory or any other implications. Please include references to local laws and regulations (where relevant).

Distribution of funds to the Trustees – no issues & implications

Distribution of funds directly to the Beneficiaries – not acceptable option for us - Trust Deeds say we have the power to distribute to Beneficiaries & Pension Regulation forbids any distribution of assets to members under the age of 55.

### Question 4C - Intention of Trustee

If the Receivers distribute the funds to you, please outline your intended approach in respect of the funds. For example, will you distribute the funds to the Beneficiaries, seek to reinvest the funds with an alternative fund manager or take some other action?

We expect that the clients will continue to operate the pension fund as normal. Regulation requires them to appoint an Investment Manager/Investment Advisor, where we will then place the funds onto an Investment Platform of their choice to be reinvested. Our Pension Schemes are all Member Directed Schemes, which means that the members decide what happens with their own funds.

### Question 4D – Regulator approval

If the Receivers distribute the funds to you, please confirm that you have the necessary authority, including any appropriate approvals from your regulator(s), to undertake the work required to deal with the funds, whether that is by payment to Beneficiaries, reinvestment of the funds or any other action.

Already licensed and regulated to do this.

#### Question 4E - Trustee fees for distribution

If the Receivers distribute the funds to you, please advise the proposed structure of your fees and how you would propose your Trustee fees be paid (with reference to the relevant contractual arrangements) for arranging (i) to pay a distribution to Beneficiaries, (ii) reinvestment of the fund, or (iii) any other action.

Reference to Fee Schedules can be found in each respective Scheme Particulars. The current applicable STM Malta Fees in place are:

#### **STM Malta Charges**

|  |  |
|--|--|
| Annual Charge  | Recurring in advance<br>£887 /€1,065   |
| Additional Annual Charge where a default Investment Manager (also referred to as 'Discretionary Fund Manager' or 'DFM') is appointed | 0.75% of the assets under administration of which 0.50% may be paid to your financial advisor subject to your agreement.   |
| Married Couple Discount (where spouses each have their own Pension Plan/Fund)  | £596/€715 per spouse annual  |
| Fee on End-of-Year and/or Interim Portfolio Valuations   | £25 for every portfolio valuation sent to the Member on request or annually in accordance with the Malta Pension Rules and Regulations.  |
| Full Flexi Access  | The current level of such fees ranges from £2,500 (€3,125) to £1,500 (€1,875) if the number of years since transfer to STM Malta is between 1 to 5 respectively. The Member will still be charged the annual fees in addition to the one-off charges specified in the fee schedule. No flexi-access fee is applied if at least 25% of the pension fund remains in the Plan for a five-year period, but a normal exit fee will apply.<br>Years since transfer to STM Malta Year 1 – £2,500 / €3,125<br>Year 2 – £2,250 / €2,815<br>Year 3 – £2,000 / €2,500<br>Year 4 – £1,750 / €2,190<br>Year 5 – £1,500 / €1,875 |
| Exit fee   | Year 1 – £2,880 / €3,600 Year 2 – £2,240 / €2,800 Year 3 – £1,280 / €1,600 After 3 years – £960 / €1,200   |

#### Question 4F - Trustee ability to distribute funds

If the Receivers distribute the funds to you, do you currently have the capability, information, resources and appropriate systems in place to deal with the funds in a timely manner, whether by way of distribution to Beneficiaries, reinvestment or some other action. Your response should include details of your capabilities, relevant information held, available resources, systems used and estimated timeframes to deal with the funds.

STM Malta currently has the following resources and systems in place:

- 40 staff
- Inhouse administration system
- HSBC banking system
- Client Accounts set up for all our pension schemes

#### Question 4G - Taxation implications for Beneficiaries

Do you consider there to be any possible taxation implications for your Beneficiaries resulting from either of the two options for distribution, being either (i) distribution of the funds to the Trustees, or (ii) distribution of the funds directly to the Beneficiaries.

- (i) Distribution to Trustees - No direct tax implication because they are returning the money back to us
- (ii) Person who is not authorised as per our agreement to distribute funds – possibly penalised by UK HMRC, and pension funds paid to beneficiaries directly would be taxable in their hands

#### Question 4H – Replacement Trustee

The Receivers have received requests from beneficiaries seeking to change their Trustee/pension scheme administrator.

If a Beneficiary wishes to replace you as their Trustee/pension scheme administrator, please confirm that you would consent to such a request or advise the terms on which you provide such consent. Please also advise of any difficulties you would consider would be encountered, including any applicable regulations.

We have the power to transfer in our Deed to another Pension Scheme. Any such Pension Scheme would have to be a QROPS. Since this is a Power that we have, we follow a specific process when processing such requests. There are some fees that might become applicable, etc.

## Section 5: Distribution of Funds

#### Question 5A – Other

Please outline any other comments or views you have in respect of the distribution of the Client AuM which have not been addressed above.

We continue to hold the view that customers who transferred assets into the 'US Pool Account' after 8<sup>th</sup> June 2021 should not participate in losses attributed prior to that date. In addition, members who agreed to some margin in relation to either surrender penalties or on account of their fees should be made to refund the margin to the extent that they have benefitted from it.





## Annexure A – STM Malta Pension Services Limited - Trustee Survey

### CONFIDENTIAL

#### Section 1: Intended approach in relation to distribution of funds to Beneficiaries

##### Question 1A

If the Receivers distribute the funds to you as Trustee, please outline your intended approach in respect of the distribution of funds to Beneficiaries. In particular:

- a) Will Beneficiaries be provided with options as to how their funds will be treated? **Yes. The members' rights are unaffected by the wind up of Brite Advisors Pty Ltd, except that for the practical issues arising from the limited access to funds during the receivership.**
  - i. If yes, will those options include, (i) transfer of funds to a new Trustee, or (ii) reinvestment of funds with an alternative fund manager, or (iii) no preference, or (iv) some other option? **Options will include: (i) transfer of funds to a new Trustee of their choice, provided the new scheme is either a QROPS or UK Registered Pension Scheme, where the funds are currently held within a QROPS; (ii) reinvestment of funds with alternative investment provider and investment advisor/manager of their choice; and (iii) drawdown of some or all of the funds within the member fund where the member has reached the minimum retirement age of 55.**
  - ii. If not, why will the Beneficiaries not be provided with options? How will the funds be treated? **N/A**
- b) Will the options presented to the Beneficiaries be different depending on their personal circumstances, or will all the options be the same? **Beneficiaries that are not yet of pension age cannot have partial withdrawals/full withdrawals processed, since they cannot yet access their pension funds – thus the options or partial or full drawdown of funds will not be available to them.**
- c) Where relevant, will the alternative fund manager be selected by you, or will the decision be at the discretion of the Beneficiaries? If the decision is at the discretion of the Beneficiaries, is that discretion limited by a panel of fund managers selected by you? **The decision is primarily at the discretion of the Beneficiaries, subject to our approval (to ensure that proposed investment advisor/manager are in line with the requirements set forth in the regulations). If the client does not pick anyone themselves within the stipulated period which the Company will provide, the Company can then by default assign an investment manager of its choosing.**
- d) In the event an alternative fund manager or panel of options for an alternative fund manager is to be selected by you, please explain:
  - i. If this has already been done, which fund manager(s) have been selected? **At this point in time, the default manager has not been selected yet by STM Malta.**
  - ii. What due diligence has been done to select an appropriate fund manager/fund managers?  
**In general terms all investment managers are required to be regulated to a standard equivalent of MiFID. We will complete due diligence on the firm, including its key staff, and to include regulatory sanctions screening, etc. We also monitor the regulatory status on an ongoing basis.**

##### Question 1B

What infrastructure, expertise and personnel do you have in place to attend to selection and reinvestment of funds with an alternative fund manager (if applicable). **We currently monitor approximately 300 active advisers and managers on an ongoing basis, and any new advisers/managers will be included in the current process managed by the existing team.**





#### Question 1C

If you are proposing to provide an option to Beneficiaries, how will you:

- a) Request Beneficiaries' preferred option? Please detail in your response:
  - i. The method by which you will contact the Beneficiaries. **Typically, we will be working with our customers through their existing financial advisers, and communications will typically be with them. Where there is no such adviser we would correspond with our members over email.**
  - ii. The information the Beneficiaries will receive. **Beneficiaries will be provided with the distribution information, along with the options available to them as listed in a (i).**
  - iii. When you propose to seek the views of Beneficiaries. **We expect to start the process of understanding our members' expectations during November 2024, in order that we may be organized to receive the receivership proceeds and re-invest them with a minimum of delay.**
  - iv. The expected timeframe for this process. **To be completed before the end of the receivership.**
- b) Deal with Beneficiaries having different preferences (i.e. requesting various alternative fund managers).

**Our pension schemes are agnostic to the selection of investment manager, and it is normal for different members to appoint different investment advisors and/or managers**

#### c) Question 1D

How can a Beneficiary elect to replace you as pension administrator and Trustee? **We have a Transfer Out process which they can follow once they make the decision of wanting to transfer to another Trustee. They must be the ones who find the alternative Trustee prior to approaching us with the complete details in order for us to be able to process their request. The replacement trustee must meet certain minimum requirements, and we require to be discharged by the member from our responsibilities on release of the funds to the new trustee**

#### Question 1E

If a Beneficiary does elect to replace you as pension administrator and Trustee:

- a) What steps will you require the Beneficiary undertake to complete this? **As mentioned in the previous question, we have a formalized Transfer Out Process which the customers must follow.**
- b) What fees or charges will be imposed on the Beneficiary? **Any fees due in arrears will be deducted. If a client wants to transfer and close their account with us, they will incur an exit fee as indicated in the Scheme Particulars (copy of which is sent to clients at onboarding stage and whenever updated), depending on how long they've been a member for.**
- c) How long will this process take? **Typically, around 3 months, depending on the requirements and processes of the receiving scheme.**
- d) Will the above change depending on who the Beneficiary elects to be the replacement Trustee? **Exit fees are not charged if Beneficiary elects to transfer to another Plan within the same Group that STM Malta is part of.**
- e) Do you consider that you have any discretion (legally or procedurally) to refuse the request? If so, please explain this with reference to supporting documentation. **As Trustee, we have a duty towards the Beneficiaries of ensuring that we are always putting the beneficiary's best interests first, and if it seems to us that the proposed transfer is detrimental to the Beneficiary in any way, we have a duty**



to inform the client and halt the transfer. This is encapsulated in the fiduciary responsibilities set out in Art 21 of the Malta Trust and Trustees Act.

## Section 2: Proposed structure of fees proposed to be passed on to Beneficiaries

### Question 2A

If the Receivers distribute the funds to you, what is the proposed structure of your fees and how you would propose your Trustee fees be paid (with reference to the relevant contractual arrangements) for the following:

**Please refer to a copy of a Scheme Particulars document – this is standard across all the Schemes**

- To pay a distribution to Beneficiaries; and/or **If full withdrawal is requested (unless at least 25% of the pension fund remains in the plan for a 5-year period, in which case exit fees would apply), full flexi access fees are levied in accordance with the Scheme Particulars if beneficiary is a member for 5 years or less.**
- Transfer a Beneficiaries' fund to a new Trustee; and/or **Exit fees are levied in accordance with the Scheme Particulars, varying according to membership years.**
- Reinvestment of the fund and appoint alternative fund manager **No fees charged by STM Malta.**

### Question 2B

Thank you for providing the documentation between yourself and the Beneficiaries.

Can you please advise if:

- a) There are clear contractual arrangements in place that stipulate your entitlement to deduct or claim fees from each Beneficiary (if that is different to what you already provided) and, if so, please reference the relevant clauses or provisions of those contractual arrangements. **Refer to Sections titled 'Our Fees' and 'Settlement of Fees and Costs' in the Terms and Conditions section of the Scheme Particulars document provided.**
- b) The contractual arrangements in place vary between Beneficiaries or if they are all the same? If they vary, please outline the variations by reference to supporting documentation. **No variations.**
- c) The contractual arrangements in place vary over time, or if they have remained consistent? If they vary, please outline the variations by reference to supporting documentation, including an explanation as to how you have satisfied yourself that any such variation is binding and enforceable as against a Beneficiary. **No variations.**
- d) There are any terms and conditions outside the documents provided which apply to the arrangement between you and the Beneficiaries? For example, general terms and conditions, amendments to conditions etc. If there is, please provide copies of these documents and explain how these additional terms and conditions are incorporated into the contractual arrangements between you and the Beneficiaries. **Terms and Conditions are part of the Scheme Particulars document.**

### Question 2C

If the Receivers distribute funds to you, will you deduct a fee from the funds returned to you in respect of arrears (with reference to relevant contractual arrangements)? If so, what is the total quantum of fees owed to you to date? **Yes, STM Malta has continued to accrue its trustee fees during the receivership – till end of September 2024 amount due was £609,000 – Please refer to attached excel sheet titled 'BRITE Debtors' for full breakdown.**

\*\*\*\*\*END OF SURVEY\*\*\*\*\*

**From:** [Paul Ockleford](#)  
**To:** [Amber Kirkbright](#); [Rebecca Cox](#); [Robert Lenfestey](#)  
**Cc:** [Linda Smith](#); [Lauren Burton](#); [Ben Schuhkraft](#); [FM-McN Brite Advisors](#)  
**Subject:** RE: Brite Advisors Pty Ltd (Receivers and Managers Appointed) (In Liquidation) (Brite Advisors)  
**Date:** Wednesday, 17 July 2024 10:18:25 PM  
**Attachments:** [image001.jpg](#)  
[image002.jpg](#)  
[image003.png](#)  
[image004.jpg](#)

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You don't often get email from paul.ockleford@pensioneertrustee.com. [Learn why this is important](#)

**EXTERNAL SENDER**

Dear Amber

I refer to your email below and in particularly the Annexure A – The Pensioneer Trustee Company (Guernsey) Limited – Trustee Survey.

Please find the following responses.

Section 1:

Paul Ockleford ([paul.ockleford@pensioneertrustee.com](mailto:paul.ockleford@pensioneertrustee.com)) / Rebecca Cox ([Rebecca.cox@pensioneertrustee.com](mailto:Rebecca.cox@pensioneertrustee.com))

2<sup>nd</sup> Floor, Maison Trinity, Rue Du Pre, St Peter Port, Guernsey, Channel Islands GY1 1LT.  
Telephone +44 (0) 1481 743760

Section 2:

Q 2A. There is no relation to Brite Advisors, any entity in the broader Brite Group, including The Aurum Group Limited (UK), Relay Group Limited (BVI), Brite Advisory Group Limited (HK), Mark Donnelly or John Lymer.

Q 2B. The Pensioneer Trustee Company (Guernsey) Limited (Pensioneer) operates in Guernsey.

Q 2C. Guernsey Financial Services Commission (GFSC).

Q 2C. No obligations, that ought to be brought to your attention, have been imposed on Pensioneer.

Q 2D. In our role as Trustee, we do comply with the laws and regulations applicable. Pensioneer has not been sanctioned and Pensioneer is not under investigation by the Regulator.

Q 2D. You have requested a copy of the Pensioneer trustees own Financial Statements? Please could you advise why you need a copy of these statements as they do not form part of the members holdings?

Q 2E. Qualifying Non UK Pension Schemes (QNUPS) and International Pension Plans.

Q 2F. Brite Advisors paid Pensioneer directly a set-up fee (£600) and an annual fee (£600) per member.

#### Section 3:

Q 3A. A detailed list has been provided

Q 3B. The detailed list as provided in 3A includes the countries where the beneficiaries reside.

Q 3C. The applicant completes an application form providing their acknowledgment to act by signing section 9 of the application form – Member Declaration and Certificate.

Q 3D. The agreement was between Brite and Pensioneer with confirmation provided on the application form section 8 and signed by the applicant / member.

Q 3E. Each new applicant / beneficiary would need to provide either 1 x form of address verification and 2 x forms of identity or 2 x forms of address and 1 x form of identity. The forms were either certified by a suitable certifier or via a face to face zoom call or the via client id pal application.

Q 3F. Generally communication was via email.

#### Section 4:

Q 4A. The majority of the members are resident in South Africa so there may be negative tax implications for the members. Pensioneer are not tax advisers but would prefer the client AUM transferred to a new fund manager protecting the status quo with the approval of each member.

Q 4B. As question 4A and to reconfirm the 480plus Pension Plan Bank accounts have been withdrawn by RBSI, due to South Africa being listed on the Grey List / High Risk Jurisdictions as issued by the GFSC.

Q 4C. Pensioneer is unable to receive the funds – Pensioneer is currently considering options for the members to transfer to another trustee / provider of the members choice or Pensioneer to work with a Discretionary Fund Manager who would professionally manage the funds on behalf of the members and not need a separate bank account for the members.

Q 4D. Pensioneer is unable to accept as the bank account is closed at the request of RBSI.

Q 4E. Pensioneer is unable to accept as the bank account is closed at the request of RBSI.

Q 4F. Pensioneer is unable to accept as the bank account is closed at the request of RBSI.

Q 4G. Pensioneer would consider there to be potential tax implications.

Q 4H. Pensioneer would oblige the members to replace the trustee.



Q 5A. No further comments.

Should you have any other questions or need further information please do not hesitate to ask.

Kind regards

Paul

**Paul Ockleford TEP, Dip IOD.**  
**Director**

The Pensioneer Trustee Company (Guernsey) Limited  
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**From:** Amber Kirkbright <akirkbright@mcgrathnicol.com>

**Sent:** Monday, July 8, 2024 8:25 AM

**To:** Paul Ockleford <Paul.Ockleford@pensioneertrustee.com>; Rebecca Cox  
<Rebecca.Cox@pensioneertrustee.com>; Robert Lenfestey  
<Robert.Lenfestey@pensioneertrustee.com>

**Cc:** Linda Smith <lsmith@mcgrathnicol.com>; Lauren Burton <laburton@mcgrathnicol.com>;  
Ben Schuhkraft <bschuhkraft@mcgrathnicol.com>; FM-McN Brite Advisors  
<McNBriteAdvisors@mcgrathnicol.com>

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

Dear all

Please find attached correspondence from the Receivers of Brite Advisors.


If you have any queries, please let me know.

Kind regards

**Amber Kirkbright**

Senior Manager

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|   |   |   |
|---|---|---|
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|  |   |   |

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## Annexure A – The Pensioneer Trustee Company (Guernsey) Limited - Trustee Survey

### CONFIDENTIAL

#### Section 1: Intended approach in relation to distribution of funds to Beneficiaries

##### Question 1A

If the Receivers distribute the funds to you as Trustee, please outline your intended approach in respect of the distribution of funds to Beneficiaries. In particular:

- a) Will Beneficiaries be provided with options as to how their funds will be treated? **Yes**
- i. If yes, will those options include
- transfer of funds to a new Trustee - **Yes**
- reinvestment of funds with an alternative fund manager -yes via a new Scheme of which The Pensioneer Trustee Company (Guernsey) Limited will be the Trustee and where the Investment Manager will be Canaccord Genuity Wealth Management (Canaccord) who are regulated by the Guernsey Financial Services Commission. Canaccord are able to assist the beneficiaries with an introduced route to them and payments / contributions that would flow through a bank account held by them.
- ii. If not, why will the Beneficiaries not be provided with options? How will the funds be treated? **n/a**
- b) Will the options presented to the Beneficiaries be different depending on their personal circumstances, or will all the options be the same? **Options will be the same for all members**
- c) Where relevant, will the alternative fund manager be selected by you or will the decision be at the discretion of the Beneficiaries? **Decision of the Beneficiary**. If the decision is at the discretion of the Beneficiaries, is that discretion limited by a panel of fund managers selected by you? **no**
- d) In the event an alternative fund manager or panel of options for an alternative fund manager is to be selected by you, please explain:
- i. If this has already been done, which fund manager(s) have been selected? **n/a – decision of Beneficiary**
- ii. What due diligence has been done to select an appropriate fund manager/fund managers?

##### Question 1B

What infrastructure, expertise and personnel do you have in place to attend to selection and reinvestment of funds with an alternative fund manager (if applicable). **n/a - Third Party selected by IFA or through the above route with Canaccord.**

##### Question 1C

If you are proposing to provide an option to Beneficiaries, how will you:

- a) Request Beneficiaries' preferred option? Please detail in your response:
- i. The method by which you will contact the Beneficiaries. **Email**
- ii. The information the Beneficiaries will receive. **Options to be provided by The Pensioneer Trustee Company (Guernsey) Limited as Trustee**
- iii. When you propose to seek the views of Beneficiaries. **Jan/Feb 2025**
- iv. The expected timeframe for this process. **3 months**
- b) Deal with Beneficiaries having different preferences (i.e. requesting various alternative fund managers). **This is the beneficiary's choice - dealt with as above**

##### Question 1D

How can a Beneficiary elect to replace you as pension administrator and Trustee?





## Completion of a pension transfer form

### Question 1E

If a Beneficiary does elect to replace you as pension administrator and Trustee:

a) What steps will you require the Beneficiary undertake to complete this?

Request in writing from the Beneficiary. Up to date due diligence from the Beneficiary. We will require a copy of approval letters for the receiving Scheme and contact details /account details for the Transferee

b) What fees or charges will be imposed on the Beneficiary? £1,000 plus any outstanding fees for 2023 and 2024

c) How long will this process take? We would start the transfer process immediately upon request of the Beneficiary and receipt of funds from the Receivers

d) Will the above change depending on who the Beneficiary elects to be the replacement Trustee? No

e) Do you consider that you have any discretion (legally or procedurally) to refuse the request? If so, please explain this with reference to supporting documentation. n/a – decision of Beneficiary

### Section 2: Proposed structure of fees proposed to be passed on to Beneficiaries

Question 2A - We are currently unable to accept funds as the Scheme's bank account is closed, at the request of RBSI – as noted in our response to the Trustee Survey (Annexure A) of 17<sup>th</sup> July 2024

If the Receivers distribute the funds to you, what is the proposed structure of your fees and how you would propose your Trustee fees be paid (with reference to the relevant contractual arrangements) for the following:

- To pay a distribution to Beneficiaries; and/or
- Transfer a Beneficiaries' fund to a new Trustee; and/or
- Reinvestment of the fund and appoint alternative fund manager

### Question 2B

Please advise if:

- a) There are current and valid contractual arrangements in place between you and each of your Beneficiaries? If there is, please provide examples of these documents. The agreement was between Brite and Pensioneer with confirmation provided in the application form section 8
- b) There are clear contractual arrangements in place that stipulates your entitlement to deduct or claim fees from each Beneficiary (if that is different to what you already provided above) and, if so, please reference the relevant clauses or provisions of those contractual arrangements. – noted in section 8 of the application form
- c) The contractual arrangements in place vary between Beneficiaries or if they are all the same? If they vary, please outline the variations by reference to supporting documentation. Contractual agreement is identical for all Beneficiaries
- d) The contractual arrangements in place vary over time, or if they have remained consistent? If they vary, please outline the variations by reference to supporting documentation, including an explanation as to how you have satisfied yourself that any such variation is binding and enforceable as against Beneficiary.- remained consistent
- e) There are any terms and conditions outside the documents provided which apply to the arrangement between you and the Beneficiaries? For example, general terms and conditions, amendments to conditions etc. If there is, please provide copies of these documents and explain how these additional terms and conditions are incorporated into the contractual arrangements between you and the Beneficiaries. None

### Question 2C

If the Receivers distribute funds to you, will you deduct a fee from the funds returned to you in respect of arrears (with reference to relevant contractual arrangements)? As noted above, Pensioneer is unable to receive the funds as the Scheme has no bank account

If so, what is the total quantum of fees owed to you to date?





\*\*\*\*\*END OF SURVEY\*\*\*\*\*