

Dixon Advisory & Superannuation Services Pty Ltd
(Subject to Deed of Company Arrangement) (the Company or DASS)
ACN 103 071 665

Minutes of the Sixth Committee of Inspection Meeting
held on Thursday, 18 April 2024 at 4:00pm AEST
by Virtual Meeting Technology (the Meeting)

Opening

Ms Rebecca Gill introduced herself and other PricewaterhouseCoopers staff present before calling the Meeting to order at 4:04pm AEST.

Ms Gill acted as Chairperson of the Meeting in accordance with Section 75-50 of the Insolvency Practice Rules (Corporations) 2016 (**IPR**).

Members Present

The Chairperson confirmed that Committee of Inspection (**COI**) members were in attendance via the Microsoft Teams video conference platform. As a quorum was present, the Meeting could proceed in accordance with IPR 80-5.

Pursuant to Section 75-75 of the IPR, all persons participating in the meeting using virtual meeting technology are taken to be present in person at the meeting.

The following COI Members were in attendance at the Meeting:

- Ms Jan Smith
- Ms Kate Gorham
- Ms Vicky Antzoulatos – left the meeting at 4:25pm
- Ms Cathy Monro
- Mr Peter Freund

Minutes of Meetings

The Chairperson advised that minutes of the Meeting would be lodged with the Australian Securities and Investments Commission (**ASIC**) in accordance with IPR 75-145. The Chairperson noted that the Deed Administrators reserve the right not to disclose in the minutes commercially sensitive information that may prejudice investigations and asset realisations.

Time and Place of Meeting Convenient

The Chairperson declared that the time and place for holding the meeting was convenient in accordance with IPR 75-30.

Confidentiality

The Chairperson reminded members present that discussions in the Meeting were confidential and should not be disclosed to anyone other than COI members. Furthermore, the Chairperson confirmed that it was the Deed Administrators' intention to retain legal privilege over all matters discussed during the Meeting.

Agenda

The Chairperson referred to the agenda outlined in the Notice of the Sixth Meeting of the Committee of Inspection dated 3rd April 2024.

The Chairperson advised that the purpose of the Meeting was to:

- Provide an update on the status of the deed administration, including an update on the class action proceedings, the 'loss methodology' court application and the distribution to creditors;
- Provide an update on the Deed Administrators' dealings with the Australian Financial Complaints Authority (**AFCA**);
- Consider the Deed Administrators' remuneration report and associated resolutions;
- Provide an update on, and demonstration of, the Creditor Portal and its use with respect to the distribution process; and
- Discuss any other business.

Tabling of documents

The following documents were tabled:

- Notice of Meeting dated 3 April 2024.
- Remuneration Approval Report dated 3 April 2024.

The Chairperson confirmed these that these documents are taken to have been tabled at the Meeting as a copy of the documents had been given to the COI members prior to the Meeting.

Motions and resolutions

The Chairperson confirmed that all motions proposed at the Meeting will be determined on a show of hands vote.

Key next steps for the deed administration

The Chairperson provided the following update on the key workstreams since the last COI meeting.

Class Action Proceedings

- The Chairperson reminded the COI members that in November 2023, a Deed of Settlement (**Deed**) was entered into by the parties to the *Watson & Co Superannuation Pty Ltd v Dixon Advisory & Superannuation Services Pty Ltd & Ors* proceeding (**Class Action Proceedings**). Amongst other things, the Deed required the settlement to be approved by the Federal Court of Australia (**Court**).
- The Chairperson advised that a significant amount of work had been undertaken by the parties to the Class Action Proceedings over the proceeding few months in preparation for a Court hearing, during which approval of the Class Action Proceedings would be considered (the **settlement hearing**).
- The Chairperson advised that the settlement hearing began on 3 April 2024 and was adjourned until 17 April 2024 to provide the Applicant's solicitors with additional time to seek confirmation from the AFCA in relation to whether the settlement of the Class Action Proceedings would impact the ability for Class Action Proceeding Group Members to make a claim for the Compensation Scheme of Last Resort (**CSLR**).
- The Chairperson advised that the adjourned settlement hearing was held yesterday, during which the Court heard that a sufficient response had been received by AFCA. As such, Justice Thawley made orders which effectively approved the settlement of the Class Action Proceedings.
- The Chairperson reminded the COI that settlement of the Class Action Proceedings triggers the following payments:
 - \$4m from E&P Financial Group Limited (**E&P**) (which forms part of the Tranche B payment required under the terms of the Deed of Company Arrangement (**DOCA**)) payable within five business days of the date of the settlement of the Class Action Proceedings; and
 - Net insurance proceeds of \$9,071,648 (\$12m less \$2,928,352, being the costs of the Class Action Proceedings approved by the Court), payable within five business days of the settlement of the Class Action Proceedings.
- The Chairperson reminded the COI that the settlement approval process includes a 49-day appeal period (during which a person can seek to appeal against the approval orders). Accordingly, it is likely that the above amounts will not be received by the Deed Administration until mid-June 2024, assuming no appeals against the settlement approval are made.
- *This section of the minutes has been redacted for legal and commercial-in-confidence reasons.*
- The Chairperson advised a number of queries were received from creditors during the registration period for the Class Action Proceedings settlement. Enquiries typically related to the following topics:
 - The conduct of the Class Action Proceedings and the registration process.
 - Confirmation of registration in the Class Action Proceedings.

- The impact of amendments made to the DOCA discussed at the Fifth DOCA COI meeting.
- Implications the Class Action Proceedings have on the Deed Administration and its upcoming distribution to creditors.

Court Application for Loss Methodology

- The Chairperson noted that since the last COI meeting, a significant amount of work had been undertaken to finalise and file the application to Court in respect of the loss calculation and distribution to creditors. Furthermore, the application to Court in respect of the loss calculation and distribution to creditors has formed part of the aforementioned application to Court in respect of the Class Action Proceedings.
- The Chairperson advised that as outlined in the Remuneration Approval Report dated 3 April 2024, making this application had resulted in the following key tasks being undertaken:
 - Finalising a detailed review of the data used to quantify losses to confirm the assumptions made in applying the Deed Administrators' loss calculation methodology, types of URF Equity security transactions, and the treatment of perceived duplicates creditors.
 - Liaising with the Deed Administrators' legal advisers, including Counsel, in relation to the treatment of creditors who have commenced or finalised the winding up of their investment vehicle (i.e. Trust or Self Managed Superannuation Fund (SMSF)).
 - Updating the Loss Calculation report prepared by Mr Campbell Jaski to reflect additional investigations undertaken since the initial version was issued. The update has resulted in the total loss reducing from \$367m in the initial report to \$350m (4,476 creditors instead of 4,606) which is largely a result of offsetting duplicate accounts.
 - Preparing for the distribution process, including assessing timeframes, documents required, updating the Creditor Portal.
 - Preparation of multiple affidavits to support the application to Court, including liaising with legal advisers to complete affidavits for the Deed Administrators and valuation advisers, and liaising with E&P to complete an affidavit documenting the process undertaken to prepare the loss calculation data used to quantify creditor losses.
- The Chairperson advised that the affidavits and orders sought by the Deed Administrators were lengthy and complex, but covered a number of key topics the Deed Administrators needed the Court to endorse before the planned distribution could take place.
- The Chairperson advised that the Deed Administrators requested the Court endorse the following:
 - Application of the loss calculation methodology outlined in the Administrators' Report to creditors dated 29 November 2022 (**Loss Methodology**) including:
 - That the adjudication of losses, and subsequent dividend paid, will be based on the Actual Loss Approach and associated calculation; and
 - Endorsement of the definition of Former Client Claimants, to be only those former DASS clients who have suffered losses by reference to the Loss Methodology.
 - Use of the Creditor Portal to administer the adjudication and distribution process.
 - The proof of debt process timeframes be extended to those timeframes normally allowed under the Corporations Act, such that:
 - The Deed Administrators give notice of their intention to declare a dividend not more than 8 months before

- the intended date (usually 2 months under the Corporations Regulations).
 - Notice will be given via email or in writing where no email exists, and will be published on ASIC's website. The Deed Administrators may also take out notices in national and local newspapers, if necessary.
 - Claimants will have 60 days to complete a formal Proof of Debt form (**POD**) (usually 21 days under the Corporations Regulations).
 - The Deed Administrators will have 5 months after the date the last POD is due to review and provide an outcome on the POD (usually 14 days under the Corporations Regulations).
- The Deed Administrators are required to give notice of their intention to declare a dividend only to those former clients who meet the definition of a Former Client Creditor and to any other person that the Deed Administrators consider may have a claim against DASS (such as trade creditors). Accordingly, going forward, the Deed Administrators will issue updates and distribution information to these cohorts of creditors only.
- The classes of documents that will be considered for any creditors who do not agree with the Deed Administrators' calculation of their claim.
- *This section of the minutes has been redacted for legal and commercial-in-confidence reasons.*
- That the assessment of claims is made in line with the scenarios outlined in the affidavit regarding aligning the claimant entity with the former client entity (refer to the below section *Assessment of claims where the claimant entity may not align with former client entity* for further details).
- The Deed Administrators are also required to provide a summary of the orders (and provide a copy) to creditors in writing within five business days of the orders being received.
- Ms Kate Gorham asked whether creditors would be provided with a breakdown of how their loss amount has been calculated when submitting a claim for the distribution.
- The Chairperson advised that creditors would be provided with the calculation of their loss amount under the Loss Methodology. Furthermore, if creditors do not agree with the calculation of their loss they will be afforded the opportunity to submit an amended claim.
- Ms Cathy Monro asked when the Chairperson anticipates the distribution process will begin.
- The Chairperson advised that the settlement approval process for the Class Action Proceedings includes a 49-day appeal period. To provide time for the Creditor Portal to be finalised for distribution purposes and for the payment of the settlement amounts following the appeal period, the Deed Administrators do not anticipate issuing a Notice of Intention to Declare a Dividend before July 2024.
- Ms Smith asked what recourse claimants would have if they disagreed with definition of a Former Client Creditor under the Loss Calculation Methodology.
- The Chairperson advised that they will have the ability to submit a claim against the Company and provide evidence to support their claim. The Deed Administrators would then adjudicate on their claim and, if rejected, they will have the ability to challenge any rejection in court.

Assessment of claims where the claimant entity may not align with former client entity

The Chairperson advised that a number of former clients have queried what their rights are as a creditor of DASS in circumstances where the investment vehicle that held URF Equities (e.g., trust or SMSF) has been dissolved or where the creditor is a deceased estate. As outlined above, the Deed Administrators sought

directions from the Court in this respect and a summary of the outcome is set out below:

- From a legal perspective, a claim against DASS for losses suffered as a result of advice received to invest in URF Equities is a “cause of action” and can be defined as “property”.
- A former client that submits a claim against DASS must hold the “cause of action” in order to have a valid claim.
- When a former client takes steps to wind-up or dissolve the investment vehicle that held URF Equities, this may compromise their claim against DASS.

Trusts / SMSFs with individual trustees

- If a trustee has taken steps to dissolve (or actually dissolved) their trust or SMSF, but has not assigned the “cause of action” to a third party, then the property may still technically be held on trust and the former trustee / beneficiary may be able to make a claim against DASS.
- However, if a trustee has taken steps to dissolve (or actually dissolved) their trust or SMSF but has assigned the “cause of action” to a third party, then to the extent the assignment is valid, it is likely that the assignee is the claimant who now holds the cause of action and is a creditor of DASS.

The Chairperson note that in a scenario where a trust or SMSF with an individual trustee has been dissolved (or “wound up”) the claim against DASS is unlikely to have been compromised.

Trusts / SMSFs with corporate trustees

- If the director of a trustee company has deregistered the corporate trustee and dissolved the trust or SMSF, then they may have compromised their claim against DASS in the absence of a reinstatement of the corporate trustee or valid assignment of the “cause of action” to a third party. Claimants should obtain their own independent legal advice in order to ascertain their options. For the avoidance of doubt, any costs incurred in obtaining such advice will not be a cost claimants will be able to include in the claim against DASS.
- If the trustee of the trust / SMSF has undertaken a valid assignment of the “cause of action” then the claimant should be updated to reflect the correct assignee and the claim against DASS should not be compromised, regardless of whether the trust / SMSF that suffered the loss has been deregistered or dissolved.

The Chairperson advised that if a claimant has taken steps to dissolve their trust / SMSF and deregistered the corporate trustee without a valid assignment, then it is likely the right to make a claim against DASS has been compromised. If a valid assignment has been made, the claim should transfer to the assignee, regardless of the status of the entity that held the URF Equities (active or dissolved/deregistered) and suffered a loss.

The Chairperson noted the above is merely a guide to the way in which the Deed Administrators will approach the assessment of creditors' claims. Each claim is to be assessed on its own merits, and there may be additional factors weighing for and against a particular claim.

Estimated distribution to creditors

- The Chairperson advised that an updated estimate of the distribution to creditors was included in the aforementioned application to the Court.
- The Chairperson presented the estimated distribution provided in the application to the Court, which indicates the expected distribution to creditors will be around five cents in the dollar.
- The Chairperson noted that a copy of the estimated distribution will be made available to the COI members after the Meeting.

- The Chairperson advised that given the uncertainties around various matters, including the level of assistance required by AFCA with respect to making determinations in relation to the CSLR, and the number of creditors whom may seek to engage in the distribution, the estimate shown is subject to change.
- The Chairperson noted that at this stage, the Deed Administrators do not anticipate being in a position to issue a notice of intention to declare a dividend before July 2024.
- The Chairperson noted that the Deed Administrators only intend to make a distribution to those creditors who actively participate in the distribution process. Therefore, there is a possibility the return to creditors could be higher, subject to claims received.

Dealings with AFCA

The Chairperson provided the following update in respect of the Deed Administrators assistance provided to AFCA in support of assessing complaints made against DASS.

- The Chairperson advised that AFCA had commenced assessing complaints made against DASS to determine whether the former DASS clients who have made complaints are eligible for compensation under the CSLR.
- The Chairperson advised that AFCA has begun seeking various documentation from the Deed Administrators with respect to complaints made by the former DASS clients.
- The Chairperson noted that the AFCA documentation requests are extensive, and the records are not specific records required by the Deed Administrators to conduct the Deed Administration. Therefore, the Deed Administrators are not in possession of such records.
- *This section of the minutes has been redacted for legal and commercial-in-confidence reasons.*

The Chairperson provided the following update with respect to DASS' AFCA membership.

- The Chairperson advised the COI that AFCA has informed the Deed Administrators that in order to preserve a pathway for former clients to submit claims to AFCA with respect to the CSLR, DASS must remain an active member of AFCA. Therefore, its annual fixed AFCA membership fees must be paid.
- The Chairperson noted that the payment of DASS' AFCA fixed membership fees was made in the best interest of creditors, as it provided a pathway to compensation under the CSRL.
- Therefore, the Deed Administrators took the decision to make payment of the AFCA annual membership fees for the financial years ended 30 June 2023 and 30 June 2024 (c.\$700) and intend on making payment of DASS' AFCA membership fee for the financial year ended 30 June 2025 once billed.
- The Chairperson advised the Deed Administrators are seeking the COI to endorse this position.

The Chairperson asked whether the COI had anything comments regarding DASS' AFCA membership.

The Chairperson proposed the following resolution with respect to the payment of DASS' AFCA membership for the financial years ending 30 June 2023 and 30 June 2024:

Resolution:

"That the Committee of Inspection endorse the Deed Administrators' decision to make payment of Dixon Advisory & Superannuation Services Pty Ltd (Subject to Deed of Company Arrangement)'s ("DASS") annual Australian

Financial Complaints Authority (“AFCA”) membership fees for the financial years ended 30 June 2023 and 30 June 2024 for the purpose of ensuring the former clients of DASS retain the ability to submit claims to AFCA with respect to the Commonwealth Compensation Scheme of Last Resort for that period.”

In accordance with IPR 75-70, the Chairperson allowed time for creditors presiding at the meeting to debate the proposed resolution.

No creditor wished to debate the proposed resolution, and the Chairperson put the proposed resolution to a vote.

The Chairperson declared that the resolution was passed unanimously on a show of hands.

The Chairperson proposed the following resolution with respect to the proposed payment of DASS’ AFCA membership for the financial year ending 30 June 2025:

Resolution:

“That the Committee of Inspection consider it reasonable for the Deed Administrators to pay Dixon Advisory & Superannuation Services Pty Ltd (Subject to Deed of Company Arrangement)’s (“DASS”) annual Australian Financial Complaints Authority (“AFCA”) membership fee for the financial year ended 30 June 2025, when billed, to ensure the former clients of DASS retain the ability to submit claims to AFCA with respect to the Commonwealth Compensation Scheme of Last Resort for that period.”

In accordance with IPR 75-70, the Chairperson allowed time for creditors presiding at the meeting to debate the proposed resolution.

No creditor wished to debate the proposed resolution, and the Chairperson put the proposed resolution to a vote.

The Chairperson declared that the resolution was passed unanimously on a show of hands.

Deed Administrators’ remuneration

The Chairperson introduced the topic of Deed Administrators’ remuneration and referred to the Remuneration Approval Report dated 3 April 2024, in particular Section 3.3, which outlined the key workstreams over the 1 July 2023 to 29 February 2024 period.

- The Chairperson reminded the COI that the previously estimated Deed Administrators’ remuneration from the commencement of the Deed Administration to 31 December 2023 was in the range of \$1.6m – \$1.75m (excluding Creditor Portal development costs and GST).
- The Chairperson advised that the Deed Administrators’ actual remuneration from the commencement of the Deed Administration to 31 December 2023 was \$1,582,935, lower than the estimate provided.
- The Chairperson advised that it is difficult to estimate the cost of the Deed Administration from now to completion as this is largely contingent upon the level assistance required by AFCA with respect to making determinations under the CSLR, and the number of creditors whom may seek to engage in the distribution.
- The Chairperson noted that the Deed Administrators are only in a position to estimate the cost of the Deed Administration for the period from 1 March 2024 to 30 June 2024 as they anticipate that the implications of the Court application and remaining actions needed to

finalise the distribution to creditors will be known within this timeframe.

- The Chairperson advised that the estimated cost of the Deed Administration for the period from 1 March 2024 to 30 June 2024 is anticipated to be in the range of \$400,000 to \$600,000 (excluding development of the Creditor Portal and GST).

The Chairperson proposed the following resolution with respect to the Deed Administrators' remuneration:

Resolution:

"That the remuneration of the Deed Administrators is approved for the period from 1 July 2023 to 29 February 2023 totalling \$965,791.00 (plus GST) as set out in the Remuneration Approval Report dated 3 April 2024 to be paid immediately or as funds become available."

In accordance with IPR 75-70, the Chairperson allowed time for creditors presiding at the meeting to debate the proposed resolution.

No creditor wished to debate the proposed resolution, and the Chairperson put the proposed resolution to a vote.

The Chairperson declared that the resolution was passed unanimously on a show of hands.

**Creditor Portal
update and
demonstration**

- The Chairperson introduced PwC staff Ms Leah Campbell, Ms Mayra Rabines Lara and Ms Sarah Gibson who were in attendance for the purpose of providing a demonstration of the updates made to the Creditor Portal.
- Ms Campbell used a PowerPoint presentation to outline the functionalities of the updated Creditor Portal including:
 - Improved user experience and design.
 - Inclusion of a messaging module.
 - Revision of the loss calculation and claim process.
- Ms Campbell presented a demonstration of the updated Creditor Portal, including stepping the COI through the various new modules.
- Ms Campbell and the COI members then had general discussions regarding the updates to the Creditor Portal. Ms Smith thanked Ms Campbell, Ms Rabines Lara and Ms Gibson and noted for the noticeable improvements had been made to the Creditor Portal.

Any other business

The Chairperson asked whether the COI had anything further they would like to discuss.

Closure:

The Chairperson thanked the committee members for their attendance and declared the meeting closed at 6:02 pm AEST.

Signed as a correct record

DATED this 6th day of May 2024



Rebecca Gill
Chairperson

Meeting Attendance Register - Committee of Inspection

Dixon Advisory & Superannuation Services Pty Ltd (Subject to Deed of Company Arrangement)

Committee of Inspection Meeting held by Virtual Meeting Technology at 4:00pm AEST on 18th April 2024

Chairperson: Rebecca Gill

Committee of Inspection Member	Related Party?	Name of Proxy or Attorney	Type of Proxy (General / Specific)	Signature of Person Attending
Jan Smith	No	N/A	N/A	Attended via virtual meeting technology
Kate Gorham	No	N/A	N/A	Attended via virtual meeting technology
Cathy Monro	No	N/A	N/A	Attended via virtual meeting technology
Peter Freund	No	N/A	N/A	Attended via virtual meeting technology
Vicky Antzoulatos	No	N/A	N/A	Attended via virtual meeting technology