

The Investment Bank Special Administration (England and Wales) Rules 2011

### Special Administrator's progress report

Name of Company AFX Markets Ltd
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Company number 07612002
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In the Business & Property Courts Insolvency & Companies List  (full name of court)
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Court case number CR-2019-005638
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(a) Insert full name(s) and address(es) of administrator(s)

I/We (a)  
Jonathan E Avery-Gee  
CG&Co  
Greg's Building  
1 Booth Street  
Manchester  
M2 4DU

Daniel Richardson  
CG&Co  
Greg's Building  
1 Booth Street  
Manchester  
M2 4DU

Special Administrators of the above company attach a progress report for the period

(b) Insert date

From (b) 27 February 2020
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To (b) 26 August 2020
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Signed



Joint Special Administrators

Dated

23 September 2020

# **Joint Special Administrators' Progress Report**

**In the High Court of Justice, Business and Property Courts of England and Wales**

**Court reference: CR-2019-005638**

**AFX Markets Ltd  
- In Special Administration**

**26 August 2020**

# **AFX MARKETS LTD - IN SPECIAL ADMINISTRATION**

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## THE JOINT SPECIAL ADMINISTRATOR'S PROGRESS REPORT

### 1 Introduction

- 1.1 I, together with my partner Daniel Richardson, were appointed Joint Special Administrators ("the Administrators") of AFX Markets Ltd (the Company) on 27 August 2019. The appointment was made in the High Court of Justice, Business and Properties Courts of England & Wales, in accordance with the provisions of The Investment Bank Special Administration Regulations 2011, following an application by the Financial Conduct Authority ("FCA").
- 1.2 This Administration is being handled by CG&Co at Greg's Building, 1 Booth Street, Manchester, M2 4DU. The Administrators' contact details are by phone on 0161 358 0210 or via email at [afxmarkets@cg-recovery.com](mailto:afxmarkets@cg-recovery.com).
- 1.3 The Administration is registered in the Business & Property Courts Insolvency & Companies List, reference number CR-2019-005638.
- 1.4 The functions of the Administrators may be exercised by any one or more of them acting jointly or alone.
- 1.5 The Administrators act as Agents of the Company without personal liability.
- 1.6 The trading address of the Company was 2nd Floor, 33 Sun Street, London, EC2M 2PY.
- 1.7 The registered office of the Company is Greg's Building, 1 Booth Street, Manchester, M2 4DU and its registered number is 07612002.
- 1.8 As Joint Special Administrators, we are required to provide a progress report covering the period of six months commencing from the date the Company entered Administration and every subsequent period of six months. This progress report covers the period from 27 February 2020 to 26 August 2020 (**the Period**) and should be read in conjunction with the Joint Special Administrators Proposals reports which are available for viewing and download at [www.cg-recovery.com/afxmarkets](http://www.cg-recovery.com/afxmarkets).
- 1.9 Information about the way that we will use, and store personal data on insolvency appointments can be found in the attached Privacy Notice at Appendix E.
- 1.10 Please note that the EU Regulation on Insolvency Proceedings (2015/848) does not apply to the Special Administration.

### 2 Progress of the Administration

- 2.1 You may recall that the Administrators have three Objectives, which are set out in the Regulations, namely
- (i) *To ensure the return of Client Money as soon as is reasonably practicable;*
  - (ii) *To ensure timely engagement with market infrastructure bodies and the Authorities; or*
  - (iii) *Either (a) rescue the Company as a going concern; or (b) to wind it up in the best interests of creditors.*
- 2.2 The Regulations require the Administrators to commence work on each Objective immediately after their appointment. No one Objective takes priority over the others, the Administrators must work towards achieving the best outcome overall for Clients and Creditors.

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- 2.3 The Administrators are pursuing Objective (i) as a priority whilst concurrently pursuing Objectives (ii) and (iii). As mentioned earlier, the Administrators are in communication with market infrastructure bodies and the Authorities. The Administrators consider it is not possible to rescue the Company as a going concern and will take the necessary steps to wind up the Company's affairs.
- 2.4 In addition to pursuing this statutory objective, the Administrators have duties imposed by insolvency and other legislation, some of which may not provide any financial benefit to creditors.
- 2.5 This section of the report provides creditors with an update on the progress made in the Period, both in terms of the achievement of the statutory objective, but also work which is required of the Administrators under other related legislation.
- 2.6 At Appendix A is our Receipts and Payments Account covering the period of this report together with a cumulative Receipts and Payments Account from the date of our appointment as Joint Special Administrators to 26 August 2020.
- 2.7 Attached at Appendix B is a time analysis outlining the time spent by the Administrators and their staff during the Period together with a cumulative time analysis covering the period since our appointment at Appendix C.
- 2.8 Further information about the basis of remuneration agreed in this case and the Administrators' fees estimate can be found in section 3 of this report, together with any relevant information about revisions to our initial estimate, where applicable.

### ***Administration (including statutory compliance & reporting)***

- 2.9 As noted above, the Administrators must comply with certain statutory obligations under the Insolvency Act 1986 and other related legislation. Details about the work that we anticipated would need to be done in this area can be summarised as follows:
- Notifying creditors of the Administrators' appointment and other associated formalities including statutory advertising and filing relevant statutory notices at Companies House
  - Formulating, monitoring and reviewing the Special Administration strategy
  - Review of Client Accounts and dealing with Client queries, details of which are provided further in this report. Receiving and responding to client emails (total emails 6,035)
  - Dealing with queries arising during the appointment
  - Reviewing matters affecting the outcome of the Special Administration
  - Consideration of foreign exchange conversion on claims
  - Setting up Special Administration bank accounts, including trust account for client monies and dealing with the Company's pre-appointment accounts.
  - Liaising and attending meetings with the FCA as regards strategy
  - Liaising and attending meetings with the FSCS as regards strategy for the payment of compensation to Clients, details of which are explained further in this report.
  - Liaising with legal advisors regarding the pursuit of monies in Switzerland and Cyprus; the lifting of the Freezing Order; and possible Director preferences.
  - Collating information from the Company's records regarding the assets and liaising with Agents regarding the uplift and sale of those assets

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- Arranging insurance cover for the assets
- Drafting and circulating our proposals to Members, Clients and Creditors for achieving the objectives of the Special Administration and thereafter providing periodic progress reports to Members, Clients and Creditors (typically every 6 months)
- Convening and preparing for the Initial Meeting of Clients and Creditors and attendance at that meeting.
- Creating and updating the list of clients and unsecured creditors as and when claims are received and responding to all enquiries by telephone; email and post.
- Lodging periodic returns with the Registrar of Companies for the Administration
- Complying with statutory duties in respect of the Administrators' specific penalty bond
- Reconciling post-appointment bank accounts to internal systems
- Creation and update of case files on the firm's insolvency software
- Documenting strategy decisions
- Redirection of the Company's mail to the Administrators' office. Reviewing and responding to letters received.
- Establishing and holding periodic meetings of the creditors' committee and associated filing formalities
- Securing the Company's books and records
- Pension regulatory reporting and auto-enrolment cancellation
- Completion and filing of the notice of the Company's insolvency to HMRC.
- Periodic case progression reviews
- Opening, maintaining and managing the Administration estate cashbook and bank accounts
- Submission of all post-appointment VAT Returns
- Dealing with employees to provide support and assistance in lodging any claims they may be entitled to make for unpaid wages, holiday pay and other statutory entitlements from the National Insurance Fund and the Company.
- Reviewing time cost data and producing analyses of time incurred which is compliant with Statement of Insolvency Practice 9
- Initial assessment required by Statement of Insolvency Practice SIP2 and the Company Directors Disqualification Act 1986 ("CDDA") including the review of the Company books and records and the identification of potential further asset realisations which may be pursued in the Administration

2.10 Where the costs of statutory compliance work or reporting to creditors exceeds the initial estimate, it will usually be because the duration of the case has taken longer than anticipated, possibly due to protracted asset realisations, which have in turn placed a further statutory reporting requirement on the Administrators. As noted in our initial fees estimate/information, this work will not necessarily bring any financial benefit to creditors but is required on every case by statute.

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### *Realisation of Assets*

#### *Client Account Monies*

- 2.11 As previously advised all figures shown have been converted from the relevant currencies into Sterling for the purposes of this report and any subsequent reports.
- 2.12 For the purpose of this Special Administration the conversion rate on the day of the Appointment of the Administrators on **27 August 2019** has been used and are listed below. It should be noted that due to exchange rate fluctuations that the conversion to GBP may differ to those stated.

Sterling	£1.00	= £1.00
Euro	€1.00	= £0.9028
US Dollar	\$1.00	= £0.8141
Swiss Franc	CHF1.00	= £0.82939

#### *Client Monies – UK*

- 2.13 As previously advised, at the date of the Administrators appointment, the Company was stated as having 603 live accounts with a value of €8.491.040,62 with a conversion rate into GBP of £7,665,711.47. This is the level of funds which the Administrators would have expected to see within the Company's bank accounts.

#### *Barclays Bank plc*

- 2.14 The balances held within the various Barclays Bank accounts are as follows:-

Currency		Conversion value in GBP
GBP	£ 131,552.01	£131,552.01
EUR	€ 309,545.49	£279,457.67
USD	\$ 16,965.13	£ 13,811.31
CHF	CHF 8,813.13	£ 7,309.52
AUD	\$ 0.00	£ 0.00
Total		£432,130.51

- 2.15 There is still currently a world-wide Freezing Order against the Company's assets which includes the client funds held at Barclays Bank plc. The Administrators' solicitors are still attempting to have that order lifted in order that those funds can be transferred to the control of the Administrators.
- 2.16 As previously reported, a Freezing Order was obtained by a number of Plaintiffs claiming to be creditors/investors of the Company. Strenuous efforts continue to be made alongside the Cypriot litigation to facilitate a negotiated settlement of the release of the Freezing Order, however this has proved unsuccessful as the Cyprus Plaintiffs continue to demand payments in respect of their claim in addition to any amounts claimed from the Financial Services Compensation Scheme ("FSCS").
- 2.17 All of the Cyprus Plaintiffs, apart from one, have now submitted claims to the Joint Administrators for onward submission to the Financial Services Compensation Scheme.
- 2.18 The hearing that had been scheduled in respect of an application to set aside the Freezing Order on 20 April 2020 was adjourned due to the Cypriot government Covid-19 restrictions when all hearings and appearances before the Courts in Cyprus were rescheduled. Those restrictions prevented any progress with the application for lifting the Freezing Order. The Cypriot courts then rescheduled the case for directions on 1 June 2020.

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- 2.19 Prior to that date the Administrators' UK solicitors and the Cypriot legal agents prepared an extensive application to set aside the Freezing Order together with a long and detailed affidavit in support of that application. Both the application and the witness statement were required to be reviewed by the Administrators' UK solicitors and the Administrators.
- 2.20 The Cypriot legal agents also requested an expert legal opinion on UK law to put before the Court with the application and a specialist UK insolvency solicitor was instructed to prepare the necessary report which was extensive and required a detailed review by both the Administrators and the Administrators' UK solicitors.
- 2.21 Included in the application to lift the Freezing Order in Cyprus was the fact that six of the Cypriot Plaintiffs had filed claims for submission to the FSCS and part of the application to the Cypriot Court included a submission that it was therefore inappropriate that the Cyprus pleadings were continued in the light of such claims.
- 2.22 The Cypriot Plaintiffs contacted the Cypriot legal agents and informed them that they were not willing to withdraw the Cyprus action unless they received a payment from the Administrators higher than the amount which was proportionate to their claim according to the relevant UK regime. They were informed this was not possible as the Cypriot Plaintiffs should not be able to take advantage or seek a priority against the rest of the clients of AFX Markets Limited simply because of the litigation or Freezing Order.
- 2.23 At the hearing on 1 June 2020, the Cypriot legal agents attended the court and gave an overview of the application to the Judge as well as the recent developments in the UK concerning six Cypriot Plaintiffs submitting Proofs of Debt and claims to the Financial Services Compensation Scheme. The Cypriot Plaintiffs' lawyers stated they needed time to review the applications in order to inform the court whether the Cypriot Plaintiffs would oppose the application or not. Our Cypriot legal agents insisted the Court should give directions for any potential opposition to the application to save time. The court then scheduled the case for directions on 30 June 2020 giving directions to the Cypriot Plaintiffs to file any opposition to the application to set aside and any ancillary application for extension of time.
- 2.24 At the hearing for directions on 30 June 2020, the Cypriot legal agents asked the Court to schedule the case for a hearing no later than July with directions to the Plaintiffs to file their opposition in the meantime. However the Cypriot Plaintiffs' lawyers said it was impossible to comply with the strict deadline as they needed to translate the application and review the exhibits and request an opinion by an expert if they were to proceed with the opposition. They requested two months for the preparation of the opposition. This was contested by the Cypriot legal agents but the court exercised its discretion and set the application for hearing on 16 September 2020 with the directions to the Cypriot Plaintiffs to file their opposition, if any, by 4 September 2020.
- 2.25 Further negotiations took place with the Cypriot Plaintiffs continuing to request, despite numerous and repeated denials of any such possibility, that the Administrators make a payment of an additional amount to them. They have also now filed an application for a further extension of time for the filing of their opposition and a request for adjournment of the hearing on 16 September 2020.
- 2.26 Discussions have taken place between the lawyers in Cyprus and in summary a common statement has been filed with the Court requesting that our application to set aside the Freezing Order is set for hearing on the 5 November 2020 with written submissions and directions to the Plaintiffs to file their opposition on 27 October 2020 along with an application for the costs of the extension application to be paid by the Plaintiffs. The situation with the Cyprus litigation is clearly very unsatisfactory but the Administrators are making every effort to progress the litigation as urgently as possible.
- 2.27 Whilst the Freezing Order remains in force, Barclays will hold the funds and not release these until the dispute is resolved.



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### ***Client Monies – Switzerland***

- 2.28 The Company operated an account with Swissquote Bank, who are based in Switzerland. To date the Bank has failed to provide any information in respect of the account. Therefore, in order to obtain this information, it will need to be by way of a Section 236 Insolvency Act 1986 Application (inquiry into Company's dealings) and Court Order.
- 2.29 Even if such an Order was obtained in the UK it would then need to be registered in Switzerland. The costs for trying to enforce such an Order in Switzerland is estimated at between £25,000 to £35,000 and the biggest part of that expense would be enforcing such an Order.
- 2.30 The Administrators are still reviewing their options and will discuss further with the FSCS as it is anticipated that they will become the largest creditor of the Company.

### ***Monies held by AFX Capital Markets Ltd ("Capital") in Cyprus***

- 2.31 Despite attempts to obtain information in respect of the funds held in the Capital account from the Cyprus Securities and Exchange Commission in Cyprus ("CySEC"), CySEC has yet to provide any tangible information in this matter to the Administrators. CySEC has disclosed publicly that there is a material amount of client funds missing but they could not reach any decisive conclusion with regards to the size of the deficit. It is unlikely that there will be any realisations from this source for the benefit of clients in this Administration, though further enquiries are being made with CySEC and consideration will be given as to whether attempts are made to force an insolvency event on Capital.

### ***NatWest Markets Account***

- 2.32 The Company operated an FX Cash Call Account with NatWest Markets. The Company had a Supply of Services Agreement with MFP Trading Limited (MFP Trading), and this bank account was utilised for this operation. At the commencement of the agreement, the Company deposited \$500,000.00 (£407,050) to fund the trading.
- 2.33 Following the closure of those accounts a sum of £531,891.58 (\$653,349.20) has been received from NatWest Markets. MFP Trading is claiming that funds in excess of \$500,000 is owed to them. The Administrators and their legal advisers have reviewed the documentation provided in support of MFP Trading's claim and consider they have an unsecured claim in the Special Administration. Irrespective of this claim, the funds are currently subject to the Freezing Order referred to at point 2.15 above, and cannot be used within the Special Administration.

### ***Furniture & Equipment***

- 2.34 The Company had a quantity of office furniture; equipment and computers which has been collected by our Agents GARC Limited of Manchester and which were estimated to realise £3,323. Following the sale of the equipment at auction a sum of £2,691.66 has been realised in this matter.

### ***Petty Cash***

- 2.35 Following the closure of the Company's office in London on 27 August 2019 a sum of £124.63 was recovered from the petty cash box.

### ***Bank Interest Gross***

- 2.36 During the course of this period a sum of £693.02 has been received by way of gross bank interest giving a total sum received within the Administration to date of £1,165.40.

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- 2.37 The work undertaken by the Administrators and their staff to date in realising the Company's assets has been necessary in order to maximise the likelihood of a return to clients/creditors being made. Where assets remain to be realised, these will be dealt with as the Administration progresses and further updates will be provided to client/creditors in our progress reports.
- 2.38 It is considered that the work undertaken by the Administrators and their staff to date in realising the Company's assets has been necessary in order to maximise the likelihood of a return to clients/creditors being made. Where assets remain to be realised, these will be dealt with as the Administration progresses and further updates will be provided to client/creditors in our progress reports.

### ***Clients & Creditors (claims and distributions)***

- 2.39 Further information on the anticipated outcome for clients and creditors in this case can be found at section 4 of this report. The Administrators are not only required to deal with correspondence and claims from clients and unsecured creditors (which may include retention of title claims), but also those of any secured and preferential creditors of the Company. This may involve separate reporting to any secured creditor and dealing with distributions from asset realisations caught under their security, most typically a debenture.
- 2.40 Claims from preferential creditors typically involve employee claims and payments made on behalf of the Company by the Redundancy Payments Office ("RPO") following dismissal.
- 2.41 The above work will not necessarily bring any financial benefit to creditors generally, however the Administrators are required by statute to undertake this work. Similarly, if a distribution is to be paid to any class of creditor, work will be required to agree those claims and process the dividend payments to each relevant class of creditor. The more clients/creditors a Company has, the more time and cost will be involved by the Administrators in dealing with those claims.
- 2.42 We consider the following matters worth noting in our report to clients and creditors at this stage:
- There are approximately 14 unsecured creditor claims in this Administration with an estimated value of £635,897.
  - HM Revenue & Customs has submitted a claim in the sum of £885 for VAT and a claim in the sum of £209,655 for Corporation Tax.
  - There were 603 clients on the list provided by the Directors showing a total sum of £7,665,711 being owed.
  - There are 316 clients on the list provided by the Directors showing that no debt was owed to them.
  - There were 4 employees who submitted claims to the RPO but, as yet, the formal claim from the RPO has not been received and therefore the Preferential creditor claim is currently unknown.
  - The Directors have not co-operated with the Administrators and have failed to provide any meaningful Company records. In addition they have failed to provide a Statement of Affairs of the Company as at 27 August 2019.

### **Investigations**

- 2.43 You may recall from our first progress report to clients and creditors that some of the work the Administrators are required to undertake is to comply with legislation such as the Company Directors' Disqualification Act 1986 (**CDDA 1986**) and Statement of Insolvency Practice 2 –

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Investigations by Office Holders in Administration and Insolvent Liquidations and may not necessarily bring any financial benefit to creditors, unless these investigations reveal potential asset recoveries that can be pursued for the benefit of creditors.

- 2.44 Our report on the conduct of the Directors of the Company to the Department for Business, Energy & Industrial Strategy under the CDDA 1986 was submitted during the first period of the Administration and is confidential.
- 2.45 Since our last progress report we would advise that no further asset realisations have come to light that may be pursued by us for the benefit of creditors.

### 3 Joint Administrators' Remuneration

- 3.1 On 7 January 2020 the basis of the Administrators' fees was fixed in the Administration by the Creditors Committee by reference to the time properly spent by them and their staff in managing the Administration with a capped limit of £177,100. This followed the approval of the Proposals and remuneration set out at the client and creditor meeting held on 5 November 2019 and sanctioned by the Creditors Committee on 7 January 2020.

- 3.2 A copy of that estimate is reproduced below:

Category of work	Estimated Number of Hours	Average blended charge out rate £	Estimated cost £
Administration (inc statutory compliance & reporting)	207.00	244.93	50,700
Realisation of assets	43.50	246.55	10,725
Creditors (claims & distributions)	466.00	175.11	81,600
Investigations	106.00	242.69	25,725
Case specific matters - Litigation	31.00	269.35	8,350
<b>Total estimated fees</b>			<b>£177,100</b>

- 3.3 Our time costs for the Period are £58,773.75. This represents 258.15 hours at an average rate of £227.67 per hour. Attached at Appendix B is a Time Analysis which provides details of the activity costs incurred by staff grade during the Period in respect of the costs fixed by reference to time properly spent in managing the Administration. To date, no fees have been drawn on account of these costs.
- 3.4 Also attached at Appendix C is a cumulative Time Analysis for the period from 27 August 2019 to 26 August 2020 which provides details of our time costs since our appointment. The cumulative time costs incurred to date are £166,169.25 and this represents 774.23 hours at an average rate of £214.63 per hour.
- 3.5 The Administrators have not drawn any fees against the total set fee agreed of £177,100 approved by creditors.
- 3.6 We now consider that the fee estimate we previously provided for the Administration is insufficient to complete our duties as a result of:
- The Company's affairs requiring more extensive investigation than previously anticipated. This is due to a lack of information supplied by the Director and limited co-operation from CySEC in respect of the transfer of monies between the Company and AFX Capital Markets Ltd.
  - The Company's asset realisations have proved more protracted that was initially anticipated. This is due to the ongoing issues surrounding the litigation in Cyprus in respect of the Freezing Order as referred to at point 2.15 above

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- Dealing with the claims of the Company's creditors has taken more time than initially anticipated as this was due to additional information in the claim procedure requested by the FSCS in March 2020 to help establish eligibility for compensation. This led to clients having to re-submit claims in a new format with additional supporting documentation which had to be cross-referenced to the information supplied by the Director and by reference to the Company's bank accounts for evidence of funds coming into the Company's bank accounts. A substantial number of claims were not submitted correctly or there were issues surrounding those claims, leading to the Administrators having to respond to those clients for either further information/evidence in support of those claims. Details on the position of client claims is shown at point 4.8 to 4.11.

- 3.7 As a result, our revised fees estimate is set out below and we will be seeking a decision to approve this from the creditors originally responsible for approving the basis of our remuneration. In this case, that is the creditors' committee.

### Joint Administrators' Revised Fee Estimate

Category of work	Estimated Number of Hours	Average blended charge out rate £	Estimated cost £
Administration (inc statutory compliance & reporting)	207.00	244.93	50,700
Realisation of assets	53.50	200.47	10,725
Creditors (claims & distributions) *	566.00	180.39	102,100
Investigations	106.00	242.69	25,725
Case specific matters (where applicable)	81.00	272.07	22,038
<b>Total estimated fees</b>			<b>£211,288</b>

- 3.8 The main increase in costs stem from dealing with the revised claims of clients following the requirements for additional information to support the acceptance of claims by the FSCS. This has led to a substantial amount of additional work having to be undertaken in reviewing and cross-referencing deposit monies to those in the Company's bank account and the follow up of any queries in relation to those claims. A copy of 'A Creditors' Guide to Administrators' Fees' is available on request or can be downloaded from

<https://www.r3.org.uk/technical-library/england-wales/technical-guidance/fees/>

- 3.9 Attached at Appendix D is additional information in relation to the Administrators' fees, expenses and disbursements, including where relevant, information on the use of subcontractors and professional advisers.

## 4 Estimated Outcome for Creditors

### Secured Creditors

- 4.1 The Company did not grant any security over its' assets and therefore there are no secured creditors. As a result, there is no floating charge assets and no requirement for a Prescribed Part calculation.

### Preferential Creditors

- 4.2 Preferential creditors encompass liabilities for employees in respect of arrears of pay, accrued but unpaid holiday pay and any unpaid pension contributions. Such claims will be paid by the Redundancy Payments Service, a department within the Department for Business, Energy and Industrial Strategy. Preferential claims in respect of outstanding wages are capped at a maximum of £800 per employee.

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- 4.3 Preferential Creditor claims were estimated at £3,200. Even though 4 claims have been submitted to the RPO no formal preferential claim has been received from the RPO to date.
- 4.4 Based on present information the Administrators do not anticipate that, after allowing for the costs and expenses of the Administration, there will be a distribution to preferential creditors in this matter.

### *Unsecured Creditors*

- 4.5 We have received claims totalling £597,954.50 from 9 creditors. We have yet to receive claims from 5 creditors whose debts are estimated at £37,942.16 as per the estimated financial statement as prepared by the Administrators as detailed in the Administrators Proposals.
- 4.6 The Company did not grant any floating charges to a secured creditor. Accordingly, there is no requirement to create a fund out of the Company's net floating charge property for unsecured creditors (known as the **Prescribed Part**), which only applies to charges created after 15 September 2003.
- 4.7 Based on present information there is no prospect of a dividend becoming payable to unsecured creditors.

### *Client Account Claims*

- 4.8 Clients and Creditors will recall that in our last progress report we advised as follows:
- There were 603 clients on the list provided by the Directors showing a total sum of £7,665,711 being owed.
  - There were 316 clients on the list provided by the Directors showing that no debt was owed to them.
- 4.9 In that Progress Report clients were given a "Bar Date" of 1 June 2020 to submit their claims, with supporting documentation to the Administrators in order that their claims could be reviewed before being submitted to the FSCS in respect of compensation. The claims have been broken down as follows:
- a) The number of clients who informed the Administrators that they had a potential claim against the Company in respect of their investments totalled 714.
  - b) 296 clients, who are estimated to be owed £1,424,095.67, have not submitted a claim to the Administrators in line with the requirements of the FSCS as set out in our previous Progress Report.
  - c) 418 clients, who claimed to be owed a combined sum of £13,774,030.74, submitted claims to the Administrators.
  - d) 187 client claims totalling £4,367,372.19 have been accepted as valid by the Administrators. This list includes clients who have had part of their claim rejected for overclaiming and have had a reduced value placed on their claims.
  - e) 75 client claims totalling £2,626,660.09 have either been rejected in full or in part. This can be attributed to a mixture of overclaiming, where only the sum owed as per their AFX statement was accepted (see comment at "d" above); where there has been no evidence of clients having had monies deposited into the Company's bank accounts; or where clients fall into the category as clients of AFX Capital Markets Ltd and not as clients of this Company.
  - f) 180 client claims, with a combined value of £6,779,998.46 are currently held pending the receipt of further information in support of those claims.

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- g) Under regulation 12A(4) of the Special Administration Regulations a person who submits a claim after the bar date but before the return of client money after that date must, as far as is reasonably practicable, be included in the distribution of client money. Therefore, we are still accepting claims notwithstanding the expiry of the "Bar Date".
- 4.10 The Administrators are currently awaiting confirmation from the FSCS as to when they will be in a position to accept the approved claims for processing for compensation. The FSCS is currently reviewing the various terms and conditions incorporated by the Company, and a sample of agreed claims to ensure a smooth claims process.
- 4.11 Unfortunately the speed of agreeing claims, and the FSCS review, has been impeded by the COVID-19 pandemic with the majority of individuals working remotely, though clients and creditors should be reassured that this is being progressed as quickly as possible. Clients are urged not to email unnecessarily, as this does take up time in order to respond. If there is an issue with your claim you will be contacted directly. General updates on the claims process will be issued to all clients in due course.
- 4.12 **Please note** that where compensation is paid, the FSCS will be entitled to subrogate your claim and claim in the Special Administration for the whole of your debt irrespective of whether it is over the threshold of £85,000. The FSCS compensation rules, as set out in the FCA Handbook, require FSCS to share recoveries made with clients whose claims exceed £85,000 such that those clients are not made worse off as a result of having claimed FSCS compensation at this time.

## 5 Ending the Administration

- 5.1 Administrations under the Insolvency Act would normally automatically end after one year. As this is a Special Administration, under the Investment Bank Special Administration Regulations the case will continue until the Administrators have completed their duties, allowing the Company's clients and creditors to prove and receive a distribution as appropriate in the Special Administration, rather than in a subsequent liquidation.
- 5.2 Once the Special Administration is concluded the Administrators can exit either by filing a notice of the Company's dissolution at Companies House; or putting forward proposals for a Company Voluntary Arrangement.
- 5.3 On present information the expected exit route will be to file a notice of the Company's dissolution once all distributions have been made and all statutory obligations completed.
- 5.4 At this stage it is not possible to provide a definitive timescale for the duration of the Special Administration.
- 5.5 The Administrators will be discharged from liability under Paragraph 98(3) of Schedule B1 to the Insolvency Act 1986 immediately upon their appointment as Administrators ceasing to have effect.

## 6 Creditors' Rights

- 6.1 Within 21 days of the receipt of this report, a secured creditor, or an unsecured creditor (with the concurrence of at least 5% in value of the unsecured creditors) may request in writing that the Administrators provide further information about their remuneration or expenses (other than pre-administration costs) which have been itemised in this progress report.
- 6.2 Any secured creditor, or an unsecured creditor (with the concurrence of at least 10% in value of the unsecured creditors) may within 8 weeks of receipt of this progress report make an application to court on the grounds that, in all the circumstances, the basis fixed for the

## AFX MARKETS LTD - IN SPECIAL ADMINISTRATION

Administrators' remuneration is inappropriate and/or the remuneration charged or the expenses incurred by the Administrators, as set out in this progress report, are excessive.

### 7 Next Report

- 7.1 The Administrators are required to provide a progress report within one month of the end of the next six months of the Administration or earlier if the Administration has been finalised or he wishes to extend it.

For and on behalf of  
AFX Markets Ltd



**Jonathan E Avery-Gee**  
Joint Special Administrator

**AFX MARKETS LTD - IN SPECIAL ADMINISTRATION**

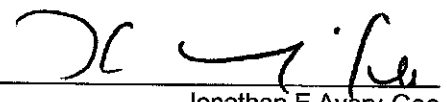
**Appendix A**

**Receipts and Payments Account from 27 February 2020 to 26 August 2020 together with a cumulative Receipts and Payments Account from 27 August 2019 to 26 August 2020**



**AFX Markets Ltd**  
**(In Administration)**  
**Joint Special Administrators' Summary of Receipts & Payments**

Statement of Affairs £	From 27/02/2020 To 26/08/2020 £	From 27/08/2019 To 26/08/2020 £
	<b>SECURED ASSETS</b>	
432,131.00	Barclays Bank - Client Monies	NIL
608,893.00	NatWest Markets - Client Monies	NIL
Uncertain	Swissquote	531,891.58
Uncertain	AFX Capital Markets Ltd	NIL
		<u>NIL</u>
		531,891.58
	<b>SECURED CREDITORS</b>	
(7,665,711.00)	Client Accounts "Open"	NIL
		<u>NIL</u>
		NIL
	<b>ASSET REALISATIONS</b>	
	Bank Interest Gross	693.02
3,323.00	Furniture & Equipment	1,165.40
	Petty Cash	2,691.66
		<u>NIL</u>
		124.63
		<u>3,384.68</u>
		3,981.69
	<b>COST OF REALISATIONS</b>	
	Agents/Valuers Fees	672.92
	Insurance of Assets	4,057.52
	Re-Direction of Mail	NIL
	Room Hire	168.00
	Special IT Provider	NIL
	Specific Bond	211.00
	Statutory Advertising	NIL
	Travel & Accomodation	360.00
	Website Agents	403.50
		2,290.60
		NIL
		300.00
		77.00
		219.00
		NIL
		1,903.70
		<u>(250.00)</u>
		NIL
		<u>(903.42)</u>
		(9,509.82)
	<b>PREFERENTIAL CREDITORS</b>	
(3,200.00)	Employee Arrears/Hol Pay	NIL
		<u>NIL</u>
		NIL
	<b>UNSECURED CREDITORS</b>	
(11,319.00)	Employees	NIL
(209,655.00)	HM Revenue & Customs - Corp Tax	NIL
(885.00)	HM Revenue & Customs - VAT	NIL
(38,356.00)	Trade & Expense Creditors	NIL
		<u>NIL</u>
		NIL
	<b>DISTRIBUTIONS</b>	
(567,470.00)	Ordinary Shareholders	NIL
		<u>NIL</u>
		NIL
<b>(7,452,249.00)</b>		<b>2,481.26</b>
	<b>REPRESENTED BY</b>	
	Bank 1 Current	1,979.86
	Client funds A/c	532,697.19
	Office	(8,313.60)
		<u>526,363.45</u>
		<u>526,363.45</u>



Jonathan E Avery-Gee  
Joint Special Administrator

**Appendix B**

**Time Analysis for the Period from 27 February 2020 to 26 August 2020**

# Appendix B - Time Entry - Detailed SIP9 Time & Cost Summary

A0065 - AFX Markets Ltd  
 From: 27/02/2020 To: 26/08/2020  
 Project Code: POST

Classification of Work Function	Partner	Manager	Other Senior Professionals	Assistants & Support Staff	Assistant Manager	Total Hours	Time Cost (£)	Average Hourly Rate (£)
700 : Formalities	0.00	1.90	0.00	0.00	0.00	1.90	427.50	225.00
<b>Admin &amp; Planning</b>	<b>0.00</b>	<b>1.90</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>1.90</b>	<b>427.50</b>	<b>225.00</b>
500 : Preferential Creditors	0.00	5.20	0.00	0.00	0.00	5.20	1,170.00	225.00
501 : Unsecured Creditors	2.20	216.05	0.00	0.00	0.00	218.25	49,271.25	225.77
503 : Committee Report & Meeting	0.00	1.20	0.00	0.00	0.00	1.20	270.00	225.00
504 : Statutory Reporting to Creditors	3.60	20.50	0.00	0.00	0.00	24.10	5,692.50	236.20
<b>Creditors</b>	<b>5.80</b>	<b>242.95</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>248.75</b>	<b>56,403.75</b>	<b>226.75</b>
201 : CDDA Reports	0.00	3.70	0.00	0.00	0.00	3.70	832.50	225.00
<b>Investigations</b>	<b>0.00</b>	<b>3.70</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>3.70</b>	<b>832.50</b>	<b>225.00</b>
304 : Plant & Machinery / Motor Vehicles	0.00	0.10	0.00	0.00	0.00	0.10	22.50	225.00
306 : Other Assets	3.40	0.30	0.00	0.00	0.00	3.70	1,087.50	293.91
<b>Realisation of Assets</b>	<b>3.40</b>	<b>0.40</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>3.80</b>	<b>1,110.00</b>	<b>292.11</b>
<b>Total Hours</b>	<b>9.20</b>	<b>248.95</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>258.15</b>	<b>58,773.75</b>	<b>227.67</b>
<b>Total Fees Claimed</b>							<b>0.00</b>	

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**Appendix C**

**Cumulative Time Analysis for the Period from 27 August 2019 to 26 August 2020**

# Appendix C - Time Entry - Cumulative Detailed SIP9 Time & Cost Summary

A0065 - AFX Markets Ltd  
 From: 27/08/2019 To: 26/08/2020  
 Project Code: POST

Classification of Work Function	Partner	Manager	Other Senior Professionals	Assistants & Support Staff	Assistant Manager	Total Hours	Time Cost (£)	Avg Hourly Rate (£)	Hours Cum (POST Only)	Time Costs Cum (POST Only)
700 : Formalities	3.90	29.83	0.00	0.00	0.00	33.73	7,681.75	233.67	33.73	7,681.75
701 : Strategy (incl Sales)	24.00	0.00	0.00	0.00	0.00	24.00	7,200.00	300.00	24.00	7,200.00
<b>Admin &amp; Planning</b>	<b>27.90</b>	<b>29.83</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>57.73</b>	<b>15,081.75</b>	<b>262.15</b>	<b>57.73</b>	<b>15,081.75</b>
600 : Case Specific	5.10	0.00	0.00	0.00	0.00	5.10	1,530.00	300.00	5.10	1,530.00
<b>Case Specific Matters</b>	<b>5.10</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>5.10</b>	<b>1,530.00</b>	<b>300.00</b>	<b>5.10</b>	<b>1,530.00</b>
500 : Preferential Creditors	0.00	5.20	0.00	0.00	0.00	5.20	1,170.00	225.00	5.20	1,170.00
501 : Unsecured Creditors	47.20	366.70	0.00	75.50	0.00	489.40	104,217.50	212.95	489.40	104,217.50
502 : Employee Matters	0.40	2.50	0.00	0.00	0.00	2.90	692.50	235.34	2.90	692.50
503 : Committee Report & Meeting	11.90	23.80	0.00	0.00	0.00	35.70	8,925.00	250.00	35.70	8,925.00
504 : Statutory Reporting to Creditors	15.40	54.70	0.00	0.00	0.00	70.10	16,927.50	241.48	70.10	16,927.50
<b>Creditors</b>	<b>74.90</b>	<b>452.90</b>	<b>0.00</b>	<b>75.50</b>	<b>0.00</b>	<b>603.30</b>	<b>131,922.50</b>	<b>218.67</b>	<b>603.30</b>	<b>131,922.50</b>
201 : CDDA Reports	1.60	45.90	0.00	56.50	0.00	104.00	16,457.50	158.25	104.00	16,457.50
<b>Investigations</b>	<b>1.60</b>	<b>45.90</b>	<b>0.00</b>	<b>56.50</b>	<b>0.00</b>	<b>104.00</b>	<b>16,457.50</b>	<b>158.25</b>	<b>104.00</b>	<b>16,457.50</b>
304 : Plant & Machinery / Motor Vehicles	0.00	0.10	0.00	0.00	0.00	0.10	22.50	225.00	0.10	22.50
306 : Other Assets	3.40	0.60	0.00	0.00	0.00	4.00	1,155.00	288.75	4.00	1,155.00
<b>Realisation of Assets</b>	<b>3.40</b>	<b>0.70</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>4.10</b>	<b>1,177.50</b>	<b>287.19</b>	<b>4.10</b>	<b>1,177.50</b>
<b>Total Hours</b>	<b>112.90</b>	<b>529.33</b>	<b>0.00</b>	<b>132.00</b>	<b>0.00</b>	<b>774.23</b>	<b>166,169.25</b>	<b>214.63</b>	<b>774.23</b>	<b>166,169.25</b>
<b>Total Fees Claimed</b>							<b>0.00</b>			

\*\* - Denotes codes included in cumulative data that are not present in the period.

**Appendix D**

**Additional Information in Relation to the Joint Administrators' Fees, Expenses & Disbursements**

**1 Staff Allocation and the Use of Sub-Contractors**

- 1.1 The general approach to resourcing our assignments is to allocate staff with the skills and experience to meet the specific requirements of the case.
- 1.2 The constitution of the case team will usually consist of a Partner, a Manager, and an Administrator or Assistant. The exact constitution of the case team will depend on the anticipated size and complexity of the assignment and the experience requirements of the assignment.
- 1.3 We are not proposing to utilise the services of any sub-contractors in this case.

**2 Professional Advisors**

- 2.1 On this assignment we have used the professional advisors listed below. We have also indicated alongside, the basis of our fee arrangement with them, which is subject to review on a regular basis.

Name of Professional Advisor	Basis of Fee Arrangement
DrydensFairfax Solicitors (legal advice)	Hourly rate and disbursements
AUA Insolvency Risk Services] (insurance)	Set Premium Costs
GARC Limited (Collection of assets & disposal advice; IT Services)	Hourly rate and disbursements
Humphrey & Gray (Property Maintenance)	Set Fee
My Tienda (Website Agents)	Set Fee

- 2.2 Our choice was based on our perception of their experience and ability to perform this type of work, the complexity and nature of the assignment and the basis of our fee arrangement with them.

**3 Joint Administrators' Expenses & Disbursements**

- 3.1 The estimate of expenses (including disbursements) which were anticipated at the outset of the Administration was provided to creditors in the Administrators' Proposals Report a copy of which is set out below:

Expense	Provider	Basis of fee arrangement	Cost to date £	Anticipated Costs £
Agent's costs in uplifting the chattel assets	Global Asset Support (GARC Ltd)	Time costs and disbursements	1,887.10	1,887.10
Agents costs as Specialist IT Supplier	Global Asset Support (GARC Ltd)	Time costs and disbursements	3,242.10	3,242.10
Agent's costs in dealing with /chattel asset sales	Global Asset Support (GARC Ltd)	25% of realisations to be charged and disbursements	0.00	825.00
Solicitor's costs in dealing with legal matters relating to the Administration	DrydensFairfax Solicitors	Time costs	76,278.63	120,000.00

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Change of Locks	Humphrey & Gray	Set Fee	142.50	142.50
Statutory Advertising	EPE Reynell Ltd	Cost = £71.00 per Advert	71.00	355.00
Administrator's bond	AUA Insolvency Risk Services	Cost = £300.00	300.00	300.00
Insurance of Assets	AUA Insolvency Risk Services	Cost = 168.00	168.00	168.00
Re- Direction of Mail	Royal Mail	Cost = £211.00	211.00	211.00

### *Current position of Joint Administrators' expenses*

- 3.2 An analysis of the expenses paid to the date of this report, together with those incurred but not paid at the date of this report is provided below:

	Paid in the period covered by this report £	Paid in the period prior to this report £	Incurred but not paid to date £	Total anticipated cost £
Agents' costs – Chattel Assets	672.92	3,384.60	0.00	4,057.52
Agents Costs – Specialist IP Supplier	403.50	1,887.10	0.00	2,290.60
Solicitors' costs subject to outcome of the hearing on 2 April 2020	0.00	0.00	76,278.63	120,000.00
Insurance	0.00	168.00	0.00	168.00
Statutory advertising	77.00	142.00	0.00	219.00
Specific penalty bond	0.00	300.00	0.00	300.00
Website Agents	0.00	0.00	500.00	1,000.00
External meeting room hire	0.00	360.00	0.00	360.00
Re-direction of the Company's mail	0.00	211.00	0.00	211.00
Change of Locks	0.00	0.00	142.00	142.00
Creditor Committee expenses	0.00	0.00	178.50	500.00
Travel & Accommodation	0.00	1,903.70	0.00	2,500.00
<b>Category 2 disbursements</b>				
N/A				

- 3.3 The Agents costs are slightly higher than anticipated as the information held on each piece of computer equipment that had been collected by them had to be backed up and then the computers wiped before they could be sold at auction. The additional costs relate to the backing up and wiping of the information held on the computers and the auction costs.
- 3.4 The solicitors costs have increased substantially from what was anticipated in the last update to clients and creditors. This is a result of the continuing proceedings in Cyprus, the costs of Cypriot agents and Counsel and the current deadlock regarding the Freezing Order obtained by Chambers & Partners' clients.
- 3.5 Category 1 disbursements do not require approval by creditors. The type of disbursements that may be charged as a Category 1 disbursement to a case generally comprise of external supplies of incidental services specifically identifiable to the case, such as postage, case advertising, invoiced travel and external printing, room hire and document storage. Also chargeable will be any properly reimbursed expenses incurred by personnel in connection with the case. These disbursements are included in the tables of expenses above.
- 3.6 Category 2 disbursements do require approval from creditors. These are costs which are directly referable to the appointment in question but are not payments which are made to an independent third party and may include shared or allocated costs that can be allocated to the appointment on a proper and reasonable basis such as internal room hire, document



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storage or business mileage. Details of Category 2 disbursements charged by this firm (where appropriate) were provided in the Administrators' Proposals Report and approved by creditors. Any Category 2 disbursements incurred are specifically highlighted in the tables of expenses above.

### 4 Charge-Out Rates

- 4.1 A schedule of CG&Co charge-out rates as agreed with the FCA in respect of this Special Administration is shown below. Please note this firm records its time in minimum units of 6 minutes

	(Per hour) £
Partner	300.00
Manager	225.00
Assistant Manager	125.00
Administrator	100.00



**AFX MARKETS LTD - IN SPECIAL ADMINISTRATION**

**Appendix E**

**Privacy Notice**

## **Appendix E - Privacy Notice**

### **Use of personal information**

We process personal information to enable us to carry out our work as insolvency practitioners which includes processing data that was held by companies/individuals before our appointment together with data collected during an insolvency procedure or a fixed charge receivership. Our legal obligation to process personal data arises from work we are required to carry out under insolvency and other related legislation.

Insolvency practitioners are Data Controllers of personal data in so far as defined by data protection legislation. CG & Co will act as Data Processor on their instructions about personal data in relation to an insolvency procedure or fixed charge receivership.

Personal data will be kept secure and processed only for matters relating to the insolvency procedure being dealt with.

### **The data we may process**

The personal data insolvency practitioners may process in most cases will be basic details that may identify an individual and will typically be sufficient to allow us to carry out our work as insolvency practitioners, for example, dealing with the claims of individuals who are owed monies by the companies/individuals over whom we have been appointed.

However, insolvency practitioners may be appointed over entities that process personal data that is considered more sensitive, for example health records and this sensitive data will usually have been created before our appointment. Although we will take appropriate steps to safeguard sensitive data (or to destroy it where it is appropriate to do so), subject to limited exceptions, for example, where we identify previous conduct and/or action that requires further investigation, we will not be processing sensitive data.

### **Sharing information**

We may share personal data with third parties where we are under a legal or regulatory duty to do so, or it is necessary for the purposes of undertaking our work as insolvency practitioners. We may also share personal data to lawfully assist the police or other law enforcement agencies with the prevention and detection of crime, where disclosure is necessary to protect the safety or security of any persons and/or otherwise as permitted by the law.

### **How long will we hold it?**

Personal data will be retained for as long as any legislative or regulatory requirement requires us to hold it. Typically, this may be up to 6 years after which it will be destroyed.

### **What are your rights?**

You have the right to receive the information contained in this document about how your personal data may be processed by us.

You also have the right to know that we may be processing your personal data and, in most circumstances, to have information about the personal data of yours that we hold, and you can ask for certain other details such as what purpose we may process your data for and how long we will hold it.

Individuals have the right to request that incorrect or incomplete data is corrected and in certain circumstances, you may request that we erase any personal data on you which may be held or processed as part of our work as insolvency practitioners. If you have any complaints about how we handle your personal data, please contact Daniel Richardson on [daniel.richardson@cg-recovery.com](mailto:daniel.richardson@cg-recovery.com) so we can resolve the issue, where possible. You also have the right to lodge a complaint about any use of your information with the Information Commissioners Office (ICO), the UK data protection regulator.