

Mitteilung an alle Anteilseigner der Primeo Select Fonds:

Anbei finden Sie die Information der Gesellschaft, folgende Wertpapiere sind betroffen:

KYG7242V1077 Primeo Select - USD in liquidation DIS

KYG7243U1085 Primeo Select - in liquidation EUR CAP

Details können Sie der beigefügten Anlage entnehmen.



Primeo Fund – in official liquidation (the Fund)

Summary of minutes of the 5 May 2022 meeting of the Fund’s creditors and investors of record (the Stakeholders) held virtually

5 May 2022, 9:00 a.m. (GMT-5)/ 4:00 p.m. Central European Time (GMT+2)

In attendance:

Gordon MacRae – Joint Official Liquidator (the **Liquidator**), Kalo (Cayman) Limited (**Kalo**) (the **Chairman**)

Cassandra Ronaldson – Kalo, the Liquidators’ office (**CR**)

Niall Freeman – Kalo, the Liquidators’ office

Peter Hayden of Maurant – Cayman counsel to the Joint Official Liquidators (the **Liquidators**) (**PH**)

Luke Burgess-Shannon of Maurant – Cayman counsel to the Liquidators

Introduction

The Chairman formally opened the meeting at 9:00 am.

The Chairman noted the meeting is going to be recorded for the purpose of the preparation of the minutes.

The Chairman confirmed that notice of the meeting was provided to the Fund’s Stakeholders on 12 April 2022 (**Notice**) and that notice of the meeting was also posted on the Liquidators’ website (www.primeofund-liquidation.com). Notice was provided in accordance with Order 8, rule 4 of the Companies Winding Up Rules.

The Chairman then tabled the report for the period from 1 September 2021 to 28 February 2022 (the **Period**) which had been circulated to the Stakeholders on 12 April 2022 (the **Report**). Capitalised terms in these minutes, not otherwise defined, shall bear the meanings ascribed to them in the Report.

The Chairman advised that the meeting’s agenda would follow the Report.

The Chairman advised that at the end of the presentation, questions that were received in advance of the meeting would be addressed. These questions would be presented in the form in which they were received. Once these questions had been addressed, the telephone line would then be unmuted to allow Stakeholders to raise

any queries they may have. It was noted that the questions might be paraphrased for clarity for the purposes of the minutes.

The Chairman thanked the Stakeholders for their attendance and advised that comparatively, there were fewer substantive matters to deal with in respect of this Period and therefore, in order to reduce costs, a decision was made to hold the meeting virtually.

The Chairman referred to the Notice and confirmed that the purpose of the meeting was to provide the Stakeholders with an update on the Fund's liquidation during the Period. He confirmed that there were no formal resolutions to attend to.

The Chairman noted that a meeting took place with the Liquidation Committee (the **Committee**) on the 4 May 2022.

Distributions

The Chairman started by addressing the distributions section of the Report.

The Chairman provided an overview of the declared and paid distributions. The Chairman summarised that in accordance with the statutory distribution regime, the Fund has declared distributions of 100% of Ordinary Creditors' principal claims and 100% of Redemption Creditors' principal claims.

The Chairman informed the Stakeholders that, as at the Period end, a total of US\$152,566,906 had been paid to the Ordinary and Redemption Creditors in respect of their principal claims submitted. The total outstanding to be paid is approximately US\$921,000. In addition, US\$36,564,956 has been paid to these categories of claimants in respect of their statutory interest entitlements. The total outstanding amount in relation to statutory interest is approximately US\$1,000,000.

The Chairman encouraged any creditors that have not received any distributions to get in touch directly.

The Chairman then set out the distribution position in relation to the Fund's investors. The Chairman reminded the Stakeholders that US\$40m was declared in January 2021 (the **First Interim Distribution**) with a further US\$12m declared in December 2021 (the **Second Interim Distribution**) (together the **Declared Distributions**).

The Chairman noted that all investors who have submitted the requisite KYC information have now been paid in relation to the Declared Distributions. He further noted that since 28 February 2022, there has been focus on following up with investors to obtain their KYC information.

The Chairman confirmed that as a result of these efforts, as at the date of this meeting, approx. 96% of investors' distributions, in value, have been paid in relation to the First Interim Distribution equating to approximately US\$38.5m. Similarly, in relation to the Second Interim Distribution, 96% of investors, in value, have been paid their distributions, which equates to approximately US\$11.4m.

The Chairman noted that the numbers quoted above are slightly higher than the figures contained in the Report. The reason for this is since the Period's end, almost US\$9m has been distributed to investors.

The Chairman noted that the Fund is due to receive US\$2.5m from Herald. CR advised that once the payment is received and an assessment is completed, a decision will be made to see whether it would be cost effective to distribute these funds to investors or else wait for the outcome of the HSBC Proceedings.

The Chairman noted that the Committee had requested this analysis to be conducted ahead of any distribution.

With distributions covered, the Chairman moved on to the next topic.

The HSBC Proceedings

The Chairman introduced the next topic. He drew the Stakeholders' attention to section 3 of the Report which provided an update on the HSBC Proceedings. The Chairman invited PH to provide further detail in respect of the HSBC Proceedings.

PH advised that since the last Stakeholder meeting the reflective loss matter was heard by the Privy Council (**PC**) in April 2021. In its judgment on 9 August 2021, the PC allowed the Fund's appeal on reflective loss in relation to all of its claims. As a result, the Fund succeeded on establishing liability, subject to HSBC's cross-appeal of various liability issues, which was heard by the PC at a second hearing in October 2021. That hearing also dealt with further issues raised by the Fund which may affect quantum.

HSBC's cross appeal primarily focused on two main issues:

- The first issue was in relation to the Fund's strict liability claim where HSBC argued the Cayman Islands Court of Appeal (**CICA**) erred in finding, and overturning the Grand Court's findings, that HSSL owed and breached a duty of safekeeping of the cash transferred to BLMIS. Further, that the CICA erred in allowing the assessment of the damages to be remitted back to the Grand Court. Essentially, HSBC argued that the issue had been effectively dealt with at trial and the trial judge had found that there was no loss.
- For the second issue, HSBC said that causation should not be established and if they have not caused the loss, they should not be liable for the loss.

PH confirmed that the Fund's appeal and HSBC's cross appeal were heard over a four-day hearing. The panel of judges raised a lot of questions and were engaged during the hearing.

PH noted that the Liquidators are awaiting the judgment. There is no stipulated timeframe for the delivery of the judgment.

PH noted that he was hopeful the judgment will be received soon, however, no guarantees can be made. PH reiterated that the judgment will finally determine HSBC's liability. Depending on the outcome, there may be a further court hearing in the Grand Court to confirm the amount of damages that have to be paid by HSBC.

The Chairman thanked PH for the update on the HSBC Proceeding and confirmed that once the decision is known, the Stakeholder group will be informed of the outcome.

The liquidation of Herald

The Chairman proceeded to update the Stakeholders in relation to matters concerning the Fund's interest in Herald.

The Chairman reiterated that Herald has announced it would be making further distributions to its investors, of which the Fund is due to receive approximately US\$2.5m.

The Chairman confirmed that all the issues relating to the Fund's shareholding in Herald have now been finally resolved as a result of the various court proceedings.

The Chairman noted there was an outstanding creditor claim with Herald in respect of unpaid performance fee rebate. The Fund's claim was disputed by the Additional Liquidator of Herald. A settlement was reached, and a payment was made in respect of the outstanding fees which is reflected in the receipts and payments appended to the Report.

The Chairman confirmed that the Additional Liquidator has now been discharged from his duties and the Principal Liquidators remain in place as the liquidators of Herald.

The Chairman reminded the Stakeholders that Herald is engaged in its own litigation in Luxembourg against certain HSBC entities and the litigation is currently ongoing. The claim currently being litigated in Luxembourg is Herald's restitutionary claim. Herald has lost in the first instance, and is waiting for the appeal to be listed, with evidence continuing to be filed by the parties.

The Chairman highlighted that Herald has other claims against the HSBC entities, more akin to the type of claims litigated by the Fund in the Cayman Islands. These claims have been stayed pending the outcome of the restitutionary claim. The Liquidators will continue to monitor the situation.

The Chairman noted that if the Fund is not successful in its claims against HSBC, there is a possibility of Herald succeeding in its Luxembourg proceedings, noting that the Fund is entitled to receive approx. 30% of distributions from Herald.

Alpha

The Chairman then proceeded to explain the Fund's position in respect of its claim in Alpha.

The Chairman noted that the Liquidators continue to engage with Alpha and are pushing to receive a distribution from Alpha.

The Chairman referred the Stakeholders to section 5 of the Report and other than the information contained in the Report, the status of Alpha's proceedings with the BLMIS Trustee is unclear. The Chairman stated that although the Liquidators continue to pursue Alpha for information, they have no current update on this matter.

The Chairman stressed that Alpha is not in any formal liquidation proceedings and continues to be run by its directors.

Matters relating to the MVF

The Chairman then moved to provide an update on the MVF.

The Chairman confirmed that the MVF has determined its position in relation to the claimants that are also the Fund's investors. The MVF has made a determination that it has deemed the Fund's investors to have received a certain amount of recoveries from the Fund and have used that deemed receipt as a base mark of what these claimants have recovered to date. The Liquidators have been advised by a certain number of the Fund's investors that they have now received a payment from the MVF.

The Chairman noted that some of the Fund's investors have voiced some frustration that the amounts that the MVF have deemed to be received from the Fund bears no relation to what has actually been received.

The Chairman advised that this discrepancy is because the MVF's determination does not take into account the Cayman Islands statutory regime in relation to the priority of parties in a liquidation and the distribution basis.

The Chairman reiterated that neither the Fund, nor its Liquidators, has any standing to bring any claims against the MVF and the Fund's investors need to deal with the MVF directly.

Compliance

The Chairman moved on to compliance matters.

The Chairman noted that the Fund's KYC obligations have increased due to the increased wave of global sanctions that have been implemented by various institutions around the world.

The Chairman noted that Stakeholders may have received multiple requests for information, and this is as a result of the strict obligations imposed on the Fund. The Chairman confirmed that the information requests are to ensure the Fund's compliance with Cayman Islands laws and regulations.

The Chairman advised that Kalo is subject to audit by the relevant supervisory body.

Questions submitted in advance of the meeting

CR dealt with the questions received in advance of the meeting. CR advised that frequently asked questions are available on the Fund's website <https://primeofund-liquidation.com/forms/>.

Question 1. The status of the pending court proceedings and any other litigation pending against HSBC, Herald, Alpha (any steps taken?) and others ("Proceedings") in particular, info on developments since the last report as circulated.

CR advised that many of these points have been discussed in the Report and have been generally discussed at the Stakeholder meeting. CR summarised the position:

- **HSBC:** The Fund still awaits the judgment from the PC following the hearing in October 2021. There has been no indication of a likely timescale from the PC. By way of reminder, the prior reflective loss judgment took around 6 months to be handed down (heard in April 2021, delivered in October 2021).
- **Herald:** The Fund's litigation with Herald has been concluded. The Fund's interest in Herald as a shareholder has been finally determined. The Liquidators await further recoveries from Herald from two potential sources (through

distributions from the BLMIS Trustee and any recoveries from Herald's litigation with certain HSBC entities). The Fund is due to receive approximately US\$2.5m from Herald in relation to Herald's sixth distribution tranche, due to the receipt of further funds from the BLMIS Trustee.

- **Alpha:** We will continue to monitor the litigation against the BLMIS Trustee and the relevant HSBC entities, however there is currently no substantive update in respect of either set of proceedings.

Question 2. Confirmation that Investors received 2 dividend payments (the 2nd one in 2 tranches).

CR confirmed this to be correct. CR confirmed that there have been two dividends declared which have been paid in tranches. This week, the Liquidators will be paying another tranche which is the eighth tranche for the first declared dividend and the third tranche for the second dividend.

CR advised that distribution payments have been made to investors that have provided sufficient KYC information. Approx. 96% of the declared distributions, in value, has been distributed to investors.

CR commented that many of the smaller positions have not yet been paid, primarily due to investors' lack of engagement. The Liquidators would encourage such investors to get in contact with the Liquidators. In the meantime, the Liquidators will continue to reserve for the declared but undistributed amounts.

CR noted that the Liquidators have received a large number of information requests from the underlying investors of the Fund, who invested through nominees, who suggest that they are not receiving information / distributions from their nominees.

CR advised that the Liquidators are unable to release information relating to nominees to underlying investors without the express authorisation of the nominee. CR encouraged the underlying investors to speak directly with their nominees and obtain that authorisation in the first instance.

Question 3. Part A. The implications of the Proceedings on the funds available to investors (for distribution), in particular

CR referred to the Chairman's earlier comments in the main presentation. CR confirmed that the Committee has asked the Liquidators to undertake an assessment following receipt of the further distribution from Herald as to whether any provisions can be released that would justify a third interim distribution to the Fund's investors.

Question 3. Part B. Will there be additional distributions to investors?

CR highlighted that any judgment in the HSBC Proceedings will result in further distributions to the Fund's investors.

CR advised that the Liquidators will keep investors updated in respect of the judgment.

Questions 4. Status of Negotiations with the MVF (why does the MVF still object to payments to investors in the Primeo Fund?).

CR referred the investors to the Report and the matters already dealt with by the Chairman. CR reiterated, on a positive note, that the Liquidators were made aware from certain investors in the Fund that they have now received payments from the MVF. The MVF's website notes that significant catch-up payments were paid to investors who had interests through held vehicles. The Fund was deemed to be one of these held vehicles.

CR encouraged investors with claims to reach out to the MVF directly (administered by RBC Fund Services) at:

US1-866-624-3670 or else info@madoffvictimfund.com

Question 5. Costs and anticipated costs and expenses of the (e.g. liquidators, attorneys, committee) Primeo Fund until liquidation?

CR advised that the future costs and expenses of the liquidation will depend on the outcome of the HSBC Proceedings, and it is not possible to provide meaningful estimates at this stage.

The Chairman added that the Liquidators are accountable to the Committee who formally vote on the approval of the Liquidators' fees every six months. Following the Committee's approval, the Liquidators are required to apply to the Court for approval prior to fully drawing down on their fees.

Questions 6. Will the costs of the Proceedings be reimbursed by the opponents in the Proceedings (in whole or in parts)?

CR confirmed that, ordinarily, the losing party will pay the successful party's costs. However, the Court retains ultimate discretion in relation to costs, including the ability to make partial awards if appropriate.

CR further advised that once costs are awarded, unless agreed between the parties, the actual level of costs will be subject to a process called 'taxation', where the taxing officer will assess and determine the amount of costs payable. As a rule of thumb, a winning party can expect to recover approx. 60% of their costs.

Question 7. Will any other payments made, in particular the USD 28.274 paid in connection with the HSBC proceedings be repaid to Primeo (See e.g. Appendix A, Other lines 1 and 2)?

CR confirmed that, in the event the Fund is successful in its appeal to the PC, the Liquidators will seek that any costs award includes the repayment of these costs.

Question 8. When will Primeo Fund be liquidated (end of liquidation process)?

CR advised that the timing of the dissolution of the Fund and the discharge of the Liquidators is mainly dependent on the outcome of the HSBC litigation, as it will also drive the recovery strategies for Alpha and Herald. Once the PC delivers the judgment the Liquidators will be better placed to assess.

Questions raised during the meeting

CR then invited those in attendance to raise any questions they may have as the line would be unmuted.

Question: Was the second distribution to investors paid out in tranches?

The Chairman confirmed that this is correct as not all investors provided the required distribution information at the same time.

The Chairman advised that the Liquidators do not wait until the entire investor group has their distribution in order, for example, if 40 investors provided the requisite information, then they will receive the distribution. The next tranche takes place once the next batch of investors have provided the required information and it is determined that it is efficient to undertake a further payment tranche.

Question: What is the timeline for the next steps in the HSBC Proceedings?

The Chairman advised that this is dependent on the outcome of the PC appeal. If the Fund was unsuccessful, it is unlikely that there will be further proceedings. If the Fund was successful, the matter of quantification of damages will be remitted to the Grand Court. By way of a timeline, the PC ordinarily issues its judgments in about 3-4 months. Whilst this is speculation, the Liquidators are hopeful of receiving the judgment by the end of Summer. However, the Liquidators have no control over when the judgment will be received.

Question: Some of my clients received about 90 cents per shares, some only received 25c per share. Is there any chance that the distributions for registered shareholders could be so different? Instead of a lump sum distribution, can distributions be an amount per share to make it easier to assess?

The Chairman advised that distributions are presented as both a lump sum amount and amount per share. The Chairman advised that each share class has different distribution amounts as each share class has a specific pool of assets allocable to it. In accordance with the Fund's constitutional documents, investors only have recourse to, and would be able to receive distributions from, the separate share class in which they hold participating shares. Within the separate share classes distributions are paid *pari passu*. This approach has also been sanctioned by the Grand Court.

The Chairman highlighted as an example, that the Executive share classes have an exposure to Alpha, and given there have been no recoveries to date from Alpha, relatively these share classes have a lower distribution rate per share than the share classes with only an exposure to Herald.

Question: Will the final outcome of the HSBC Proceedings be communicated to the investors?

The Chairman confirmed that the Stakeholders would be updated in relation to the PC judgment. The Chairman noted in the first instance that the Liquidators will have a discussion with the Committee to discuss the Fund's litigation strategy.

The Chairman advised however that there was no issue letting the Stakeholders group know the result straight away. Once next steps have been decided with the Committee, this information can also be shared with the Stakeholder group.

Question: What is the expected return from Alpha?

The Chairman advised that he is hopeful to receive the unpaid redemption proceeds in full, which is approx. US\$2.5m. The remaining equity position is valued, on a last statement basis, at approx. US\$14m.

The Chairman reiterated that the Liquidators have no insight into Alpha's current financial position and its ongoing litigation.

Question: Can the Chairman confirm that the Fund has a creditor claim in Alpha equating to US\$2.5m?

The Chairman advised that the Fund's claim for unpaid redemption proceeds has not been adjudicated upon yet and there is currently no formal process for Alpha in Bermuda by which claims are being adjudicated

The Chairman noted that the treatment of the Fund's "creditor" claim is based on assumptions as to how the claim would be treated in the Cayman Islands, noting the similarities between the laws of Bermuda and the Cayman Islands.

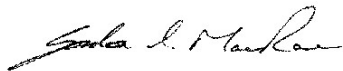
Question: In order to expedite a recovery from Alpha should the Fund take steps to wind up Alpha?

The Chairman advised that the Liquidators had previously sought to wind up Alpha which was unsuccessful. The Chairman is unaware of whether any other stakeholders in Alpha are considering such an application.

PH advised that the Liquidators are trying to resolve matters with Alpha without having to take adverse action. If it becomes apparent that the current informal/ consensual approach is not working, the Liquidators will consider all options.

PH advised that the Liquidators are conscious of taking a commercial approach to Alpha and are therefore pursuing this strategy, instead of incurring the considerable costs of making a winding up petition.

The Chairman invited any other business or questions. There being no further business, the meeting was closed at 9:57 a.m. (GMT-5)/ 4:57 p.m. Central European Time (GMT+2).

A handwritten signature in black ink, appearing to read 'Gordon I. MacRae', written in a cursive style.

Gordon I. MacRae
Chairman

