

## Custom House Capital – Appointment of Liquidator Questions and Answers

**21 October 2011**

**1. Why did the Central Bank seek the appointment of a Liquidator to Custom House Capital (CHC)?**

The appointment was sought as the firm is insolvent. A number of other options were explored but conclude that the only practical option available was to seek the appointment of the Liquidator.

**2. Why did the Central Bank wait until now to take action if the firm was insolvent?**

The Central Bank had to allow the Court appointed Inspectors time to complete a thorough investigation into the affairs of the firm, assess its financial position and submit their findings.

**3. Did a delay in taking action impact on the value of investments?**

The Central Bank imposed additional directions on the firm in July, when it first became aware of the new and previously unknown issues, which prevented it from carrying out any transactions or making payments to any clients. The directions were imposed to protect the interests of all clients, and prevent any further effect on client investments, until the impact of the issues involved was established.

**4. I am a client of CHC when can I get information on the status of my investments?**

This will be determined by the Liquidator following a thorough assessment. The Liquidator will contact all CHC clients in the coming days in relation to their investments to advise them of the process, time lines involved and deal with specific questions. The Liquidator will make a full assessment of the current position of the firm and advise clients of the outcome.

Clients will also be contacted by the Investor Compensation Company (ICCL) by the 4<sup>th</sup> November to invite them to make claims for compensation from the Investor Compensation Scheme.

[For further information you can contact \(01\) 676 0951](tel:016760951)

The ICCL's information booklet for private investors on how to claim compensation when an investment firm fails is available in the publications section of the website at <http://www.investorcompensation.ie/index.php>.

**5. Will all client investments be impacted by the appointment of the Liquidator?**

Not all CHC clients will be impacted by the appointment of the Liquidator. However, this can only be determined when the Liquidator has completed his review. This is a key priority and the Central Bank has agreed with the Liquidator that the assessment of client investments is concluded as a matter of urgency.

The board of CHC has appointed Horwath Bastow Charleton Wealth Management Limited (HBCWM) to manage the activities and business of CHC.

**6. What is the role of Horwath Bastow Charleton Wealth Management ? Has it prevented money being lost?**

The board of CHC has appointed Horwath Bastow Charleton Wealth Management Limited (HBCWM) to manage the activities and business of CHC. The Central Bank agreed to this appointment to allow every opportunity for clients' interests to be preserved.

**7. Can I get access to my investments? Will I recoup my funds? Will there be losses for investors?**

A priority of the Liquidator and HBCWM in the coming months will be to undertake a thorough reconciliation of clients' accounts and while it is hoped that a substantial recovery of client funds will be possible, the level of recovery will depend on a number of factors, including the ability of the property to generate sufficient income, property prices, timelines etc. There is a possibility that some clients may lose money.

The position in relation to investments will be determined by the Liquidator following a thorough assessment. The Liquidator will contact all CHC clients over the coming days in relation to their investments to advise them of the process, time lines involved and deal with specific questions. The Liquidator will make a full assessment of the current position of the firm and advise clients of the outcome.

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**8. None of my investments were in property/my investments were in cash – will my investments be affected?**

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**9. How much will the losses be? Is there an average loss per investor?**

It is not possible at this stage to give an indication of potential losses.

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**10. How long will the liquidation process take?**

The Liquidator must establish the current position of all client holdings. Work will begin on this immediately and the Liquidator is aware of the urgency in completing this exercise as soon as possible

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**11. Were any other options considered other than liquidation?**

The Central Bank has given increased attention to CHC since early 2009, when information was first received which gave rise to concerns on the firm's compliance with specific regulatory requirements and led to the imposition of restrictions on the firm's business.

Following the identification of these supervisory concerns, related to compliance and organisational issues, the strategy was to encourage CHC to identify and engage with potential buyers for the firm, which would be the best outcome to protect client investments and funds. Following a partial sale of the non-property business of the firm, new and previously unknown issues came to the Central Bank's attention and led to the appointment of the Inspectors. It also led to a cancellation of the sale.

Since the appointment of the Inspectors by the High Court on 15 July 2011, the Central Bank explored a range of options with a view to minimising the negative impact of CHC's actions on clients (this is set out in detail in Part 21 of the Inspectors Report).

Unfortunately, the advice the Central Bank received indicated that despite some interest no legally robust or viable options in this regard exist. It should be re-iterated that the Central Bank's reasons for considering a market solution have been at all times to ensure that clients' interests were preserved.

**12. Why did the Central Bank not take control of the firm?**

The Central Bank does not have the power to step in and take over an Investment company. The Central Bank has been actively seeking legislative amendments to grant it power to appoint administrators to such firms.

**13. Has the matter been referred to the Investor Compensation Company (ICCL)?**

The ICCL is aware of the issue and will be writing to all clients in the coming days to invite clients to claim compensation.

**14. Can investors expect some compensation from the ICCL?**

Investments that are covered by the Investor Compensation Scheme may be eligible for compensation up to 90% of the amount lost, subject to a maximum of €20,000.

The ICCL's information booklet for private investors on how to claim compensation when an investment firm fails is available in the publications section of the website at <http://www.investorcompensation.ie/index.php>.

**15. Should I take legal action to seek to recover my investments with CHC?**

The decision to take legal advice is a personal matter and one in which the Central Bank cannot advise.

**16. How many clients are affected?**

While CHC has about 1,500 clients, it will be determined by the Liquidator how many clients are directly affected. The final impact for each client will be determined by the Liquidator, who will advise individual clients of their position

**17. Where are the clients based?**

Clients are predominantly based in Ireland.

**18. Will pension funds be affected by this action? Will clients receive their pensions?**

A large number of CHC clients invested pension monies through various arrangements and a significant amount related to property investments. The impact for each client will be determined by the Liquidator.

**19. What did the Inspectors investigation find?**

The Final Report clearly sets out the Inspectors findings. The conclusions of the Investigation are set out from pages 195-198 of the Report available [here](#).

**20. Did the Inspectors discover any new information that was previously unknown?**

Yes, the Inspectors discovered a number of serious issues regarding the firm's activities. The Final Report clearly sets out these issues.

**21. Did the investigation uncover fraud at the firm?**

Please see the Final Report of the Court appointed Inspectors for further details on the inspection. The Central Bank cannot comment in relation to any possible further action

**22. Is legal action likely to be taken?**

Any proposed legal action by clients, or any other party, is entirely their own decision.

**23. What will happen to the management of the firm?**

The Liquidator will take over the management of the firm.

**24. What action has been taken against the firm to date by the Central Bank? When did concerns first arise about the firm and did they show up in any inspections?**

All previously published information, affidavits and Q&A in relation to CHC is available from the Central Bank website at - <http://www.centralbank.ie/press-area/press-releases/Pages/UpdateonCustomHouseCapital.aspx>