



CBL Insurance Limited (In Liquidation)

Company Number: 27582

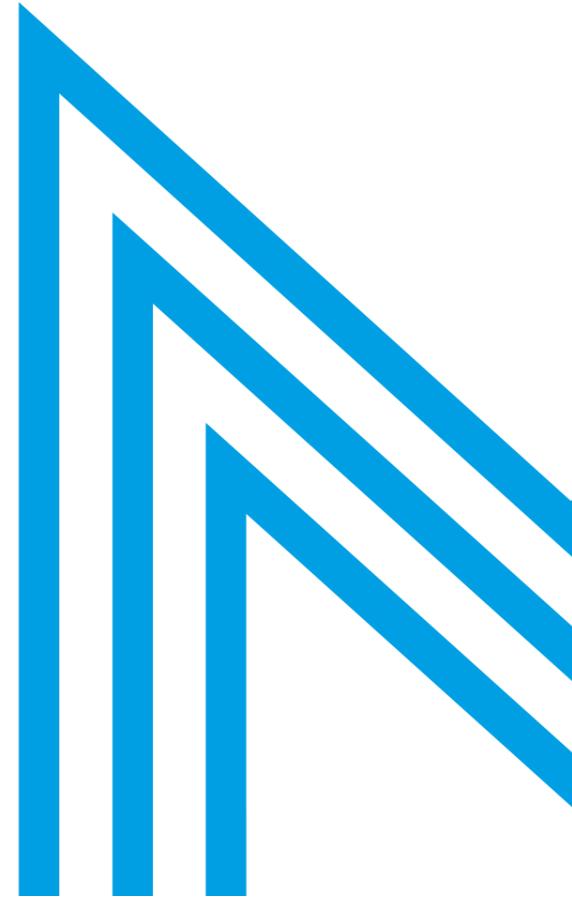
New Zealand Business Number: 9429040858852

Liquidators' six monthly statutory report
for the period 12 November 2020 to 11 May 2021

10 June 2021



McGrathNicol



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Appointment

- Pursuant to an application under section 246 of the Companies Act 1993 (**Companies Act**) by CBL Insurance Limited's (**CBLI** or the **Company**) prudential supervisor, the Reserve Bank of New Zealand (**RBNZ**), the Company was placed into interim liquidation by an Order of the High Court dated 23 February 2018, pending the determination of the RBNZ's liquidation application. Kare Johnstone and Andrew Grenfell were appointed joint and several interim liquidators.
- Following a number of adjournments, the RBNZ's application to appoint liquidators to CBLI was heard in the Auckland High Court on 12 November 2018, which resulted in an Order by the High Court placing the Company into liquidation and the appointment of Kare Johnstone and Andrew Grenfell (**Liquidators**) as joint and several liquidators.
- A copy of the High Court Order dated 12 November 2018 and the Judgment of Justice Courtney were attached as Appendix 1 to our first report dated 17 December 2018 (**Liquidators' First Report**). A copy of the Liquidators' First Report, together with all statutory reports, is available at www.mcgrathnicol.com/creditors/cbl-insurance-limited.
- Kare Johnstone (registration number IP29) and Andrew Grenfell (registration number IP24) are Licensed Insolvency Practitioners pursuant to the Insolvency Practitioners Regulation Act 2019. Further information on the regulation of insolvency practitioners can be obtained from the Registrar of Companies.
- As members of the Restructuring Insolvency and Turnaround Association of New Zealand (**RITANZ**), the Liquidators are bound by the Code of Professional Conduct, a copy of which can be located on RITANZ's website (www.ritanz.org.nz).

Disclaimer

- The purpose of this report is to report to CBLI's creditors and shareholder in accordance with section 255 of the Companies Act and covers the six month reporting period 12 November 2020 to 11 May 2021.
- This report has been prepared based on the information known to the Liquidators as at the date of this report. We reserve the right (but will be under no obligation) to review this report and if we consider it necessary to revise the report in light of any information existing at the date of this report that becomes known to us after that date. We have not independently verified the accuracy of information provided to us, nor have we conducted an audit in respect of the Company. We express no opinion on the reliability, accuracy, or completeness of information provided to us and upon which we have relied.

- The Liquidators do not accept responsibility or liability for any losses occasioned to any party as a result of the circulation, publication, reproduction, or use of this report.
- Certain numbers included in tables in the report have been rounded and therefore may not add exactly. Unless otherwise stated all amounts are stated in New Zealand dollars.

Company information

- Company number: 27582
- Date of incorporation: 19 April 1973
- Previous trading address: Level 8, CBL House, 51 Shortland Street, Auckland
- Type of business: Provision of insurance and reinsurance
- Date ceased trading: 23 February 2018
- Shareholder: LBC Holdings New Zealand Limited (Subject to Deed of Company Arrangement)
- Ultimate parent: CBL Corporation Limited (In Liquidation)
- Directors at date of liquidation: Peter Alan Harris
Alistair Leighton Hutchison
- Director resignations since the date of interim liquidation: Sir John Wells
Ian Kelvin Marsh
Anthony Charles Russell Hannon
Norman Gerald Paul Donaldson

Events leading to the appointment of liquidators

- The events leading to the appointment of liquidators are set out in the Liquidators' First Report.

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Conduct of the liquidation during the preceding six months

- The Liquidators have continued their efforts to reduce the Company's balance sheet risk and liabilities, where possible, through appropriate transfers, commutations or other mechanisms, together with the continued run-off of policies and bonds to enhance recoveries to creditors.
- Two matters with one of CBLI's major ceding insurers remain ongoing:
 - Continuing to pursue recovery in respect of potential voidable payments made by CBLI prior to the interim liquidation. Objections to our voidable notices have been received and the matter is before the New Zealand High Court.
 - Reconciling the premium receivables and outstanding claims liabilities with a view to potentially entering into a commutation agreement to remove the risk from CBLI's balance sheet.
- Our review of other potential voidable payments is ongoing.
- As previously reported, the Liquidators filed a Statement of Claim against CBLI's directors and other parties on 20 December 2019. Statement of Defences have been filed by all of the directors. The parties are presently dealing with the discovery and interlocutory requirements in respect of the proceedings. Given the matter is before the Court, we are unable to provide details of the specific claim as doing so could prejudice the proceedings.
- We are nearing completion of our investigation in respect of other parties and our findings are presently being reviewed and assessed by our legal advisors. We do not want to prejudice any settlements or proceedings by reporting our findings to date until the outcome of the legal review is concluded. We expect to be in a position to update creditors in our next statutory report.
- We continued to provide further information to progress and support the Tax Administration Act 1994 section 113 notice lodged with the Inland Revenue with a view to obtaining a recovery of income taxes paid.

- In addition, during the six month reporting period, the Liquidators have attended to the following:
 - Ongoing assessment and processing of insurance claims (note while valid claims are being recorded they are not yet being paid);
 - Ongoing management of a number of disputed major claims, including dealing with foreign entities, jurisdictions and legal systems;
 - Overview of CBLI's claims and finance functions. CBLI currently has three employees (plus one on maternity leave) undertaking claims management and financial reporting functions;
 - Ongoing liaison with various parties relating to the different proceedings issued against the directors of entities in the CBL Group; and
 - Compliance with Insurance (Prudential Supervision) Act 2010 (**IPSA**) statutory requirements.

Receipts and payments

- A summary of receipts and payments for the period 12 November 2020 to 11 May 2021 is attached as Appendix 1.

Liquidators' remuneration

- Our remuneration is charged on an hourly basis at hourly rates approved by the High Court. The Court approval is subject to the power of the Court to review the overall remuneration under section 284(1)(e) of the Companies Act.
- As noted in our previous statutory report, an application was lodged with the High Court in September 2020 to review the remuneration paid in the period 12 November 2018 to 31 March 2020 and to fix new hourly rates. On 30 March 2021 the High Court approved the remuneration paid in the period 12 November 2018 to 31 March 2020 and also approved the increase in hourly rates applicable from 1 July 2020.
- The Liquidators' remuneration received for the period 12 November 2020 to 11 May 2021 totalled \$0.6m, exclusive of GST. All time and expenses incurred and billed in the liquidation are reasonable and necessary.
- A detailed breakdown of the Liquidators' remuneration and disbursements for the six month period is attached as Appendix 2. This includes a one-off incremental fee for hours incurred at the new rate effective from 1 July 2020.

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Liquidators' remuneration (continued)

- The Liquidators' rates, together with the qualifications and experience of staff at each level, were set out in the Liquidators' First Report. There have been no changes since the Liquidators' First Report was issued.
- A schedule of the work undertaken during the six month reporting period is summarised in Appendix 3.

Creditors' claims

- While the Liquidators have not yet formally called for creditor claims, claims that are received in the normal course of business are being reviewed and either accepted (but not paid) or declined by the Liquidators with these decisions being communicated to claimants. However, given that the majority of potential claims in the liquidation are contingent and based on actuarial estimates, which could take in excess of 10 years to materialise or for CBLI to come off risk, it is too early at this stage of the liquidation to formally call for claims.
- Once we have ascertained if a commutation agreement can be entered into with one of the largest ceding insurers, we expect to be in a position to provide creditors with the initial estimated range based on an updated actuarial valuation.
- In the event the Liquidators consider a scheme of arrangement is in the best interests of creditors, we would also expect to convene a meeting of creditors to allow creditors to consider and vote on any proposed scheme.

Proposals for completing the liquidation

- Given the ongoing level of uncertainty remaining in respect of the outcome of a number of significant claims and contingent long-tail insurance liabilities, combined with the various investigations and legal proceedings being conducted, it is not practicable to estimate the date of the completion of the liquidation at this stage.

Further information

- If you have any information you consider would lead to realisations for the benefit of creditors, please set it out in writing, attaching copies of all documentary evidence, and send it to the Liquidators. Please note that the Liquidators may only act on written information as telephone, or other conversations may be regarded as hearsay by the Court.

Contact details

- The Liquidators can be contacted at:
 - PO Box 106-733, Auckland 1143; or
 - Level 17, AIG Building, 41 Shortland Street, Auckland.
- Telephone enquiries should be directed to Helen Gair, direct dial +64 (09) 926 5111.

Dated: 10 June 2021



Kare Johnstone
Liquidator



Andrew Grenfell
Liquidator

Appendix 1

Summary of receipts and payments for the period 12 November 2020 to 11 May 2021 (GST inclusive)

(in thousands)	AUD	EUR	GBP	NOK	USD	NZD	Total NZD
Cash held 11 November 2020 brought forward	438	345	37	217	194	122,165	
Receipts							
GST refunds	-	-	-	-	-	726	
Interest received	-	-	-	-	-	511	
Profit commission	-	117	-	-	-	-	
Funds transferred from NZ bank account	-	-	-	301	-	-	
Total receipts	-	117	-	301	-	1,237	
Payments							
Actuarial fees	-	-	-	-	-	(39)	
Claims expenses	(16)	(22)	-	(400)	(89)	(29)	
Liquidators' fees	-	-	-	-	-	(731)	
Liquidators' disbursements	-	-	-	-	-	(22)	
Legal/litigation fees and disbursements	-	-	-	-	-	(872)	
Operating and occupancy expenses	-	-	-	-	(0)	(122)	
Salaries	-	-	-	-	-	(225)	
Settlements	-	-	-	-	-	(6)	
Tax advisory fees	-	-	-	-	-	(17)	
Funds transferred to foreign bank accounts	-	-	-	-	-	(50)	
Total payments	(16)	(22)	-	(400)	(89)	(2,113)	
Cash held as at 11 May 2021 in foreign currency	422	441	37	118	105	121,289	
Conversion rate	1.0786	1.6714	1.9440	0.1669	1.3770	1.0000	
Cash held as at 11 May 2021 in NZ dollars	455	737	72	20	144	121,289	122,717

Note 1: Amounts displayed above may not add to the total shown due to rounding.

Appendix 2

Liquidators' remuneration and disbursements for the period 12 November 2020 to 11 May 2021

Charged on an hourly basis at the hourly rates approved by the High Court on 12 November 2018 and 30 March 2021

Liquidators' remuneration for the period 12 November 2020 to 11 May 2021

Position	\$/hour (excl GST)	Asset realisation/transfer		Creditors/policyholders		Investigations		Operational		Reporting		Total		Note
		Hours	\$'000	Hours	\$'000	Hours	\$'000	Hours	\$'000	Hours	\$'000	Hours	\$'000	
Partners	640	6.2	4	71.3	46	117.3	75	12.1	8	8.4	5	215.3	138	
Directors	545	11.9	6	151.9	83	118.9	65	105.0	57	35.0	19	422.7	230	
Senior Managers	475	0.4	0	90.3	43	18.9	9	26.7	13	13.5	6	149.8	71	
Managers	415	62.9	26	36.9	15	272.0	113	3.9	2	-	-	375.7	156	
Assistant Manager	365	-	-	4.3	2	-	-	-	-	-	-	4.3	2	
Senior Analysts	295	-	-	1.0	0	-	-	50.1	15	-	-	51.1	15	
Administrators	275	-	-	-	-	-	-	-	-	-	-	-	-	
Secretary	170	-	-	-	-	-	-	7.3	1	-	-	7.3	1	
Manager (Special rate)	100	-	-	-	-	70.9	7	-	-	-	-	70.9	7	
Subtotal (excl GST)		81.4	37	355.7	188	598.0	269	205.1	95	56.9	31	1,297.1	620	
Incremental fee													15	1
Total fees (excl GST)													636	

Liquidators' disbursements for the period 12 November 2020 to 11 May 2021

\$'000	Total
Office service charge	19.1
International couriers	0.3
Sundry	0.1
Total (excl GST)	19.5

The Liquidators declare that all disbursements were necessary and proper.

Note 1: The incremental fee of \$15,410, represents the additional payment for hours incurred at the new rate approved by the High Court, which applied from 1 July 2020.

Note 2: Amounts displayed above may not add to the total shown due to rounding.

Appendix 3

Summary of work performed in relation to the Liquidators' remuneration for the period 12 November 2020 to 11 May 2021

Summary of work performed		Summary of work performed	
Task area	General description	Task area	General description
Asset realisation / Transfers	<ul style="list-style-type: none"> Dealing with residual issues in respect of one of the earlier commutations. Ongoing liaison with one of the largest ceding insurers regarding a potential commutation to reduce significant exposures from CBLI's balance sheet. Continuing with the realisation process of the shares in an offshore entity. Assessing and implementing de-risking strategies across various books of business. 	Investigations	<ul style="list-style-type: none"> Ongoing investigation into the affairs of the Company and its directors, officers and other parties in the period leading up to the appointment of interim liquidators in respect of the Statement of Claim filed against various parties in December 2019. Responding to the Statements of Defences filed by the various defendants. Attending to ongoing litigation requirements including discovery and the provision of data held on the CBLI server. Continuing to pursue voidable transactions, transfers of assets and payments made by the Company in the period leading up to the RBNZ's liquidation application. Ongoing forensic investigation and analysis of the affairs of the Company in respect of other potential claims.
Creditors / Policyholders	<ul style="list-style-type: none"> Managing the claims assessment and processes to record and approve claims for liquidation purposes. Ongoing liaison with brokers and various parties holding offshore reinsurance collateral funds. Monitoring claims administration outsourced to external claims managers in Norway and Sweden. Overseeing and managing progress on complex litigation in Philippines, Romania, Mexico and Luxembourg. Working with outwards reinsurers to ensure ongoing coverage and recovery of CBLI exposures. Managing complex high value claims in multiple jurisdictions. Recovery actions under Deposit Power bonds and assessment of claim lodged by the Administrators of Deposit Power. Review reconciliations and deal with matters arising from claims bordereaux. Investigating the history and transactions in respect of various claims and bonds. 	Operational	<ul style="list-style-type: none"> Undertaking the Treasury function for the Company including operational payments, payroll and funds investment. Attendance to both pre and post appointment tax (corporation tax, PAYE, GST) matters, including pursuing a potential tax recovery. Ongoing review and monitoring of IT and record retention requirements. Updating the CBLI website, including uploading statutory reports. Dealing with the lease renewal and downsizing of office space.
		Reporting	<ul style="list-style-type: none"> Attendance to all IPSA licence and statutory reporting requirements, including but not limited to the preparation of monthly management accounts, insurer solvency returns, report on progress of the liquidation, etc. Complying with the reporting/filing requirements of the Inland Revenue. Preparation and issuing of statutory reports to creditors and the shareholder. Liaising with the Appointed Actuary on various reporting matters.

