



**IN THE HIGH COURT OF JUSTICE**  
**BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES**  
**INSOLVENCY AND COMPANIES LIST (ChD)**

CR-2022-002927

Insolvency and Companies Court Judge Prentis  
Friday, 30 September 2022

**IN THE MATTER OF ALEXANDER DAVID SECURITIES LIMITED (IN CREDITORS' VOLUNTARY LIQUIDATION)**  
**AND IN THE MATTER OF THE INSOLVENCY ACT 1986**

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**ORDER**

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**UPON THE APPLICATION** of Shane Crooks, Emma Sayers and Malcolm Cohen, the joint liquidators of Alexander David Securities Limited (the "**Joint Liquidators**") by an application notice dated 2 September 2022

**AND UPON HEARING** Mr Andrew Shaw for the Joint Liquidators and Mr Amit Karia for Orange River Capital Limited

**AND UPON READING** the witness statement of Shane Michael Crooks dated 2 September 2022

**AND UPON** the Applicants confirming that the Financial Conduct Authority has been provided with a copy of the plan for the distribution of client money held by the Company pursuant to Chapter 7 of the FCA Client Assets Sourcebook, a copy of which is attached to this order marked "A" (the "**Distribution Plan**"), and does not object to it

**IT IS ORDERED that:**

1. The Joint Liquidators shall distribute the client money held by the Company in accordance with the terms of the Distribution Plan.
2. The Joint Liquidators are entitled to payment from the Pooled Funds (as defined in the Distribution Plan) of their remuneration and disbursements properly attributable to distributing the Pooled Funds, at the rates set out in the Distribution Plan.
3. The Joint Liquidators' costs of and incidental to this application shall be costs attributable to the distribution of the Pooled Funds.

**Service of this Order:** The Court has provided a sealed copy of this order to the serving party:

Enyo Law LLP, 1 Tudor Street, London EC4Y 0AH, ref JTL/DJT/CRO2.1 (solicitors for the Applicants).

A

## DISTRIBUTION PLAN

### Terms used in this Distribution Plan

1. The following terms, used in this Distribution Plan, have the meanings set out below.

<b>Admitted Claims</b>	Client Money Claims that are admitted by the Liquidators pursuant to paragraph 15.
<b>Bar Date</b>	As defined by paragraph 12.1, a date, set by the Liquidators and identified in a Distribution Notice, by which Client Money Claims must be submitted.
<b>CASS 7</b>	Chapter 7 of the FCA Client Asset Sourcebook.
<b>CASS 7A</b>	Chapter 7A of the FCA Client Asset Sourcebook.
<b>Client Money</b>	Client money as defined by the glossary to the FCA Client Asset Sourcebook, as it applies to CASS 7.
<b>Client Money Claim</b>	A claim by a client of the firm asserting a Client Money Entitlement.
<b>Client Money Claim Form</b>	The form of claim at <b>Annex 2</b> .
<b>Client Money Entitlement</b>	As defined by CASS 7A.2.5R.
<b>Company</b>	Alexander David Securities Limited (in creditors' voluntary liquidation).
<b>Court</b>	The Business and Property Courts of England and Wales, Insolvency and Companies List (Ch).
<b>Distribution Costs</b>	The remuneration and disbursements of the Liquidators properly attributable to the distribution of the Pooled Funds (including without limitation the costs of investigating and adjudicating Client Money Claims and of the application to court for the approval of this Distribution Plan) calculated in accordance with paragraph 22.
<b>Distribution Notice</b>	A written notice provided by the Liquidators of the intention to make a distribution from the Pooled Funds.
<b>Distribution Plan</b>	This distribution plan.
<b>FCA</b>	The Financial Conduct Authority.
<b>FSCS</b>	The Financial Services Compensation Scheme.

<b>Liquidators</b>	Shane Crooks, Emma Sayers and Malcolm Cohen, the joint liquidators of the Company (including any persons appointed in addition or substitution to them as such joint liquidators).
<b>Pooled Funds</b>	Those funds which were received by the Company as client money pursuant to CASS 7 and which (following the liquidation of the Company) have been pooled pursuant to CASS 7A.2.4R.
<b>Primary Pooling Event</b>	The appointment of the Liquidators to the Company at 10am on Friday, 1 July 2022, being a "primary pooling event" pursuant to CASS 7A.2.2 R.
<b>Relevant Clients</b>	The clients of the Company with Client Money Entitlements against the Pooled Funds.
<b>Unresolved Claims</b>	Any Client Money Claims not yet asserted, or asserted but not admitted, or which have been rejected (in whole or in part) and in respect of which an application to reverse or vary the Liquidators' decision has been made under paragraph 16.2..
<b>USD</b>	US Dollars.

### The Pooled Funds

2. The Pooled Funds held by the Liquidators as agents for the Company at the date of this Approved Distribution Plan (excluding any client money of which the Liquidators are unaware) are in the total amount of GBP173,554, EUR97,552 and USD1,699,400 and are held in segregated banks accounts as set out in **Annex 1**. The Pooled Funds are held on the terms of CASS 7A for the benefit of the Relevant Clients.
3. The Primary Pooling Event occurred at 10am on Friday, 1 July 2022, upon the appointment of the Liquidators as joint liquidators of the Company.
4. Save insofar as otherwise declared or determined by the court, all sums held by the Company which were Client Money at the point of receipt by the Company are to be considered Pooled Funds, whether or not they were held within the segregated bank accounts of the Company upon the occurrence of the Primary Pooling Event.

### Client Money Claims

5. Clients of the Company which wish to assert Client Money Claims shall deliver to the Liquidators:

- 5.1. a Client Money Claim Form as set out at **Annex 2** (save that the Liquidators may waive the requirement to submit a completed Client Money Claim Form in their sole discretion if they consider that the relevant claim has already been adequately particularised); and
- 5.2. copies of the identification documents set out at **Annex 3**.
6. The Liquidators may call for a client to produce any document or other evidence that the Liquidators consider is necessary to substantiate the whole or any part of a Client Money Claim or to verify the identity of the client.
7. Unless the Court orders otherwise, each client shall bear the cost of asserting its Client Money Claim(s).

#### *The Distribution of the Pooled Funds*

8. If the Pooled Funds are insufficient to pay the Admitted Claims in full (reasonable provision having been made for incurred and future Distribution Costs), the Liquidators will distribute the Pooled Funds in accordance with CASS 7A.2.4(2)R (so that each Relevant Client receives a sum which is rateable to its Client Money Entitlement).
9. The Liquidators may make as many distributions in respect of the Pooled Funds as they consider appropriate, and in doing so shall make such provision as they consider appropriate for Unresolved Claims and for incurred and future Distribution Costs.
10. The distribution of the Pooled Funds and the adjudication of Client Money Entitlements shall be undertaken in USD.
  - 10.1. For the purpose of calculating the Client Money Entitlements of Relevant Clients, the Liquidators shall convert each Client Money Claim denominated in any currency other than USD into USD at a single rate determined by the Liquidators by reference to the exchange rates prevailing on 1 July 2022. The rates applicable to claims in Sterling and Euros shall be as follows:
    - 10.1.1. Sterling: GBP 1 : USD 1.205082
    - 10.1.2. Euros: EUR 1 : USD 1.041115

- 10.2. The Liquidators shall as soon as reasonably practicable following the approval of this Distribution Plan convert into USD all the Pooled Funds that are held in other currencies.
- 10.3. Any Relevant Client may opt to receive a distribution in Sterling or Euros (by its Client Money Claim Form or otherwise in writing by the Liquidators), in which case:
  - 10.3.1. the amount to be paid to that Relevant Client in the requested currency shall be calculated by reference to the exchange rates prevailing as soon as reasonably practicable before the distribution date; and
  - 10.3.2. the costs of conversion from USD into the requested currency shall be deducted from the amount of the distribution.
11. Before making any distribution from the Pooled Funds, the Liquidators shall:
  - 11.1. deliver a Distribution Notice to:
    - 11.1.1. all clients which have asserted a Client Money Claim but not yet submitted a Client Money Claim Form;
    - 11.1.2. the FCA and the FSCS; and
  - 11.2. take reasonable steps to send a Distribution Notice to all clients which have not yet asserted a Client Money Claim but which the Liquidators consider may have a Client Money Entitlement (pursuant to CASS 7A.2.6A, 7A.2.6C and 7A.2.6D).
12. A Distribution Notice must contain:
  - 12.1. details of the last date by which Client Money Claims must be delivered ("**Bar Date**") which must be—
    - 12.1.1. the same date for all clients which claim, and
    - 12.1.2. not less than 30 days from the date of the Distribution Notice;

- 12.2. the postal address or email address to which Client Money Claims must be delivered;
  - 12.3. a template Client Money Claim Form; and
  - 12.4. a statement that the Liquidators intend to make a distribution of the Pooled Funds within the period of two months from the Bar Date.
13. The Liquidators may postpone or cancel the distribution to which a Distribution Notice relates, within the two month period to which paragraph 12.4 refers, if:
- 13.1. the relevant distribution was intended to be a final distribution; and an application has been made to court under paragraph 16.2 to challenge the Liquidators' decision in relation to a Client Money Claim; or
  - 13.2. the Liquidators consider that postponement or cancellation is necessary in the interests of the Relevant Clients on the basis of real complexity in admitting or rejecting the Client Money Claims submitted.

*Determination and adjudication of Client Money Claims*

14. The Liquidators will be at liberty to determine whether a client has a Client Money Entitlement by reference to the records of the Company in the hands of the Liquidators, including but not limited to the company ledgers, contracts, correspondence, and information provided to the Liquidators by the clients or third parties.
15. In the event that the Liquidators consider that a client has a valid Client Money Entitlement then that client's claim will be an Admitted Claim in the relevant amount and a distribution will be made in relation to that Admitted Claim according to this Distribution Plan.
16. Rejection of Client Money Claims:
- 16.1. If the Liquidators conclude that any Client Money Claim should be rejected (in whole or in part) the Liquidators will, as soon as reasonably practicable, deliver to the relevant client a statement of the Liquidators' reasons for that decision.



- 16.2. Any client which is dissatisfied with the decision reached by the Liquidators on its claim has liberty to apply to the Court within 21 days of the date of receipt by the client of the notice under paragraph 16.1 for the decision to be reversed or varied.
- 16.3. Any client which receives a notice under paragraph 16.1 and which does not issue an application within the 21 days prescribed by paragraph 16.2 shall:
- 16.3.1. if that client's claim has been rejected in full, not be entitled to any distribution from the Pooled Funds; or
- 16.3.2. if that client's claim has been rejected in part, be entitled to a distribution from the Pooled Funds only on the basis of the Client Money Entitlement as admitted by the Liquidators.

#### Operation of Bar Dates

17. After the Bar Date, provided that they have complied with the provisions of this Distribution Plan, the Liquidators will be at liberty to make a distribution of the Pooled Funds to all Relevant Clients without regard to the entitlement of any client that has not submitted a Client Money Claim.
18. A client that did not deliver a Client Money Claim to the Liquidators before the Bar Date or seeks to increase the amount of its Client Money Claim after the Bar Date shall not be entitled, as against the Liquidators, to disturb any prior distribution of the Pooled Funds.
19. In the event that a client submits a Client Money Claim after the Bar Date:
- 19.1. after an interim distribution of the Pooled Funds has been made but before any subsequent distribution has been made, then if such Client Money Claim is admitted the client will be entitled to receive an equalizing payment (to the extent possible) out of the Pooled Funds available for the payment of a further distribution (subject always to such provision as the Liquidators consider appropriate in relation to Unresolved Claims and for incurred and future Distribution Costs) before any further distributions are made to the clients who have participated in the prior distribution; or

- 19.2. after the final distribution of the Pooled Funds has been made, the client will be entitled to submit a proof of debt and to receive a *pari passu* distribution as an unsecured creditor from the insolvent estate of the Company (if the assets of the Company are sufficient to make a distribution to unsecured creditors).

### General

20. The Liquidators shall not be deemed to be trustees by reason of their effecting this Distribution Plan, including the determination or distribution of funds thereunder.
21. Nothing in this Distribution Plan shall prejudice any right of any client of the Company (or any other person):
- 21.1. to prove in the liquidation of the Company as an unsecured creditor whether for any shortfall claimed in relation to the Pooled Funds or any other claim; or
- 21.2. to assert proprietary claims to the Pooled Funds (or their traceable proceeds) in the hands of any third party (including without limitation funds distributed pursuant to this Distribution Plan).

### Distribution Costs

22. The Distribution Costs shall be recoverable from the Pooled Funds on the basis set out in this paragraph 22, and payable from the Pooled Funds in priority to Client Money Claims (pursuant to CASS 7.17.2 R (2)(a)).
- 22.1. The Liquidators shall be entitled to payment from the Pooled Funds of their remuneration and disbursements properly attributable to the distribution of Client Money (pursuant to CASS 7.17.2 R (4)). The remuneration and disbursements properly attributable to the distribution of Client Money shall include the costs incurred for the purpose of enabling such distribution to be made with any steps taken pursuant to this Distribution Plan and (without limitation):
- 22.1.1. the reconciliation of the Pooled Funds and Client Money Entitlements;
- 22.1.2. the investigation and adjudication of Client Money Claims;

22.1.3. any challenge to the Liquidators' adjudication in relation to a Client Money Claim made pursuant to paragraph 16 (subject to any order of the court to the contrary); and

22.1.4. the application for the approval of this Distribution Plan.

22.2. The remuneration to which the Liquidators are entitled under this clause 22 shall be fixed on the basis of the time of the Liquidators and their staff properly attributable to attending to the matters referred to at paragraph 22.1 on the basis of the following hourly rates:

<b>Grade</b>	<b>Hourly rate (excl. VAT)</b>
Partner	£585
Director	£491
Assistant Manager	£225
Executive	£209
Trainee	£179
Support	£110

22.3. The disbursements payable under this clause 22 shall be determined by the Liquidators in their discretion.

22.4. The Liquidators shall provide to all Relevant Clients a written report of the Distribution Costs paid from the Pooled Funds within 28 days of:

22.4.1. each period of three months starting with the Primary Pooling Event until the date of the final distribution of the Pooled Funds; and

22.4.2. the date of the final distribution of the Pooled Funds.

22.5. Any Relevant Client which considers that the Distribution Costs are excessive may apply to the Court no later than eight weeks after receipt of the report pursuant to paragraph 22.4. Such an application shall be treated *mutatis mutandis* as an application made under rule 18.34 Insolvency (England and Wales) Rules 2016.

**Annex 1: The Client Bank Accounts**

<b>Bank</b>	<b>Currency</b>	<b>Balance at 1/7/22</b>
The Royal Bank of Scotland	Sterling (GBP)	£173,554
The Royal Bank of Scotland	Euro (EUR)	€97,552
The Royal Bank of Scotland	US Dollar (USD)	\$1,699,400

**Annex 2: Client Money Claim Form**

**ALEXANDER DAVID SECURITIES LIMITED (IN LIQUIDATION) (registered no. 06015379) ("ADSL")**

**CLAIM FOR THE REPAYMENT OF CLIENT MONEY**

<b>Name of client:</b>	
<b>Address of client (including email address)</b>	
<b>Total amount claimed: (including currency)</b>	
<b>Details of why and when your client money was provided to ADSL</b>  (If you need more space, attach a continuation sheet to this form)	
<b>Details of any document by reference to which the claim can be substantiated</b>	
<b>Which currency would you like to receive your distribution in?</b>	<b>USD / GBP / EUR</b>  (please delete as applicable and <u>note that payments in currencies other than US dollars will be made net of conversion costs</u> ).
<b>Signature of client</b>  (or person authorized to act on the client's behalf)	

<b>Address of signatory if different from that of client stated above</b>	
<b>Name of signatory in BLOCK LETTERS</b>	
<b>Position with, or in relation to, client</b>	
<b>Details of bank account into which payment should be made</b>	Sort Code: Account No.: IBAN:

Notes:

1. Please return this Client Money Claim Form by email to [ADSLclients@bdo.co.uk](mailto:ADSLclients@bdo.co.uk) or by post to FAO: Abby Lalor, BDO LLP, 5 Temple Square, Temple Street, Liverpool, L2 5RH.

2. Please attach:

All necessary identity documentation (as listed in the accompanying Distribution Notice); and

any documentation supporting your claim that you (or someone else on your behalf) have not already provided to the Joint Liquidators. Please note that the Liquidators may ask you to produce any document or other evidence which is considered necessary to substantiate the whole or any part of the claim.

3. This form can be authenticated for submission by email by entering your name in block capitals and sending the form as an attachment from an email address which clearly identifies you or has been previously notified to the office holder. If completing on behalf of a company, please state your relationship to the company.

## **Annex 3: Identification documents**

### **A. Individual Clients**

1. Certified copy of passport or driving licence;
2. Proof of address – a copy of a utility bill or bank statement dated within the last 3 months showing current address; and
3. Proof of bank account into which payment is to be made – showing account name, sort code and account number at a minimum.

### **B. Corporate Clients**

1. Certificate of incorporation;
2. Group structure, where applicable;
3. Register of company directors;
4. Certified copy of passport or driving licence of at least one director;
5. Proof of address – a copy of a utility bill or bank statement dated within the last 3 months showing current address of identified director;
6. Authorisation to act on behalf of the company; and
7. Proof of bank account into which payment is to be made – showing account name, sort code and account number at a minimum.