



CR-2015-003442

IN THE HIGH COURT OF JUSTICE

CHANCERY DIVISION

COMPANIES COURT

Before the Honourable Mr Justice Newey

Dated 29 September 2016

IN THE MATTER OF ALPARI (UK) LIMITED (IN SPECIAL ADMINISTRATION)

AND IN THE MATTER OF THE INVESTMENT BANK SPECIAL ADMINISTRATION REGULATIONS 2011

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ORDER

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**UPON** the (1) application of Alpari (UK) Limited (in special administration) ("**Alpari**"), as trustee of the trust of client money under the client money rules ("**CASS 7**") including the client money distribution rules ("**CASS 7A**") of which the "*firm*" within the meaning of CASS 7.7.2R is Alpari (the "**Client Money Trust**"); and (2) Richard Heis, (3) Samantha Rae Bewick and (4) Edward George Boyle of KPMG LLP, 15 Canada Square, Canary Wharf, London, E14 5GL, the joint special administrators of Alpari (the "**Joint Special Administrators**"), by their Application dated 27 July 2016 and made pursuant to Part 64 of the Civil Procedure Rules 1998 as amended and / or the inherent jurisdiction of the Court and / or paragraph 63 of Schedule B1 to the Insolvency Act 1986 as applied to these proceedings without modification by regulation 15 of the Investment Bank Special Administration Regulations 2011 ("**IBSAR**")

**AND UPON** reading the Witness Statement of Samantha Rae Bewick dated 26 July 2016 and its exhibits

**AND UPON HEARING** Daniel Bayfield QC for the Joint Special Administrators

**AND UPON** the Joint Special Administrators being under an obligation to distribute client money held in the Client Money Trust in accordance with CASS 7.17.2R, so that each client who is a beneficiary of that Trust receives a sum which is rateable to the client money entitlement calculated in accordance with CASS 7A.2.5R.

**IT IS ORDERED AND DIRECTED** that:

1. The definitions contained in Regulation 2 of IBSAR are, for convenience, adopted for the purposes of this Order.
2. The Joint Special Administrators are at liberty, subject to the terms of this Order, to make a final distribution of the client money held in the Client Money Trust.
3. The Joint Special Administrators shall be at liberty to make a final distribution of the client money held in the Client Money Trust without regard to the client money entitlement of any client or clients that have not submitted a client money claim prior to a given date (which must be at least 21 days from the date of the posting of the notice referred to below) (the "**Bar Date**"), even where that client is shown in

Alpari's records as having a client money entitlement, provided that, not less than 21 days before the Bar Date, the Joint Special Administrators:

- (a) give notice by email to all clients who have not to date agreed their client money entitlement inviting them by the Bar Date either to agree their client money entitlement or to submit a client money claim to the Joint Special Administrators and explaining the consequences of failing to do so before the Bar Date. The email shall be in the form of the draft attached as Schedule 1 to this Order (the "**Email**");
  - (b) place a notice in a prominent position on <http://www.kpmg.com/uk/alpari> (the "**Website**"), the website the Joint Special Administrators use to communicate with Alpari's clients. The notice shall be in the form of the draft attached as Schedule 2 to this Order (the "**Notice**"). The Joint Special Administrators shall ensure that the Notice remains on the Website until (at the earliest) the date on which they have paid the final dividend to the general body of unsecured creditors from the general estate;
  - (c) advertise the Notice in the London Gazette, the Financial Times and the Global Financial Times.
4. Nothing in paragraph 3 above shall prevent the Joint Special Administrators, in the exercise of their discretion, dealing with a client money claim after the passing of the Bar Date and before they have distributed the balance of the money falling within the Client Money Trust.
5. The Joint Special Administrators may admit a client money claim either for the whole amount claimed, or for part of that amount. If the Joint Special Administrators reject a client money claim in whole or in part on or after the date of this Order, the Joint Special Administrators shall prepare a written statement of reasons for doing so, and send it as soon as reasonably practicable to the client.
6. If a client is dissatisfied with the Joint Special Administrators' decision with respect to its client money claim, the client may apply to the Court for the decision to be reversed or varied:
  - (a) any such application must be made pursuant to Chapter 5 of Part 9 of The Investment Bank Special Administration (England and Wales) Rules 2011, in the Company's special administration proceedings;
  - (b) an application under sub-paragraph 6(a) must be filed with the Court within 21 days of the client receiving the statement under paragraph 5;
  - (c) a client who files an application under sub-paragraph 6(a) above must forthwith, and in any event by the later of: (a) 5pm London time on the Bar Date; and (b) 30 days after the Joint Special Administrators had sent a statement under paragraph 5, give notice in writing to the Joint Special Administrators of the filing of that application;
  - (d) where application is made to the Court under this paragraph, the Court shall fix a venue for the application to be heard, notice of which shall be sent by the applicant to the Joint Special Administrators;

- (e) neither the Company nor the Joint Special Administrators shall be personally liable for costs incurred by a client or any other person in respect of such an application unless the Court otherwise orders.
7. A client money claim may at any time prior to the final distribution from the Client Money Trust, by agreement between the client and the Joint Special Administrators, be varied as to the amount claimed.
  8. Unless the Court otherwise orders:
    - (a) every client money claimant shall bear the cost of proving its own entitlement, including costs incurred in providing documents or evidence; and
    - (b) costs incurred by the Company and by the Joint Special Administrators in assessing a client's client money entitlement, including the costs of and occasioned by any appeal, are payable from the Client Money Trust as costs properly attributable to the distribution of the Client Money Trust (without prejudice to any right the Company and/or the Joint Special Administrators may have to recover their costs of an appeal from the client in such appeal).
  9. If the Joint Special Administrators cause the Company to act in accordance with paragraphs 3 and 5 above, neither the Company nor the Joint Special Administrators shall be liable, with respect to any distribution made in accordance with that paragraph, to any client of the Company:
    - (a) of whom the Joint Special Administrators were not aware as at the Bar Date (and, for these purposes, the Joint Special Administrators shall be deemed not to have been aware of any clients who failed to submit a client money claim by the Bar Date);
    - (b) who it is later established (by agreement or by the Court) has a client money entitlement but who failed to file an application with the Court to appeal against the rejection of its client money proof within the time specified above; or
    - (c) whose client money entitlement is later agreed or established by the Court as being greater than the accepted part of its claim, but who failed to file an application with the Court to appeal against the rejection of its client money proof within the time specified above.
  10. The Joint Special Administrators may, when making the final distribution of client money in the Client Money Trust, make that distribution without regard to the client money entitlement of any client whose rateable sum for the final distribution arising from its client money entitlement is valued at less than US\$51.50.
  11. Subject to the conditions imposed by the Financial Conduct Authority in its direction dated 25 July 2016, a client referred to in paragraph 3 or 10 shall cease to have an interest in client money within the meaning of CASS7.17.2R(2) upon a final distribution of client money in the Client Money Trust in accordance with paragraph 2, 3 or 10.
  12. Nothing in this Order shall prejudice the right of a client to prove in the special administration as an unsecured creditor or a client's ability to receive compensation from the FSCS.

13. The Joint Special Administrators shall act in accordance with this Order solely as agents of the Company in its capacity as trustee of the Client Money Trust, and nothing in this Order or in determining client money claims or distributing the money held in the Client Money Trust in accordance with this Order shall result in the Joint Special Administrators assuming personal liability as trustees.
14. The costs of and occasioned by the Application, to be assessed if not agreed by the Creditors' Committee, shall be paid as costs properly attributable to the distribution of the Client Money Trust within the meaning of CASS 7.17.2R(4).

**Service of the order**

The court has provided a sealed copy of this order to the serving party:

Ashurst LLP, Broadwalk House, 5 Appold Street, London EC2A 2HA (Reference: Lynn Dunne / Elizabeth Preston-Whyte)

**SCHEDULE 1**

Dear Sir/Madam

**Alpari (UK) Limited – in Special Administration  
Joint Special Administrators – Richard Heis, Samantha Rae Bewick and Edward George Boyle**

This is notice that, on [I] 2016, the English High Court made an Order prescribing a procedure by which client money held by Alpari (UK) Limited (in special administration) (“**Alpari**”) should be distributed to clients. The Order can be viewed and downloaded at [\[insert\]](#).

This is also notice that Richard Heis, Samantha Bewick and Edward George Boyle of KPMG LLP, the Joint Special Administrators of Alpari (the “**Joint Special Administrators**”), intend to make a final distribution of client money to clients of Alpari, in accordance with the Order.

**Alpari intends to distribute all remaining client money. Clients who have not agreed their client money entitlement or submitted a client money claim to the Joint Special Administrators as set out below by the last date for proving will not be entitled to share in the proposed distribution of client monies.**

If you intend to agree your client money entitlement or submit a client money claim you must do so within 21 days from the date of this notice, i.e. on or before [I] 2016, that being the last date for proving.

The Order permits the Joint Special Administrators to apply a de minimis threshold of US\$51.50 in respect of claims where there would be a total distribution of less than US\$51.50. The Joint Special Administrators therefore do not intend to make a distribution to clients whose rateable sum for total distribution is less than US\$51.50.

Once the remaining client money has been distributed, if you have not agreed your client money entitlement or submitted a client money claim you will no longer be entitled to any distribution from the client money pool.

Provision is being made in Alpari’s general estate for creditor claims connected with those clients who have neither agreed their client money entitlement nor submitted a claim in respect of their client money entitlement.

Alpari will assist clients who have not claimed compensation to contact the FSCS in order for those clients to try to make a claim for compensation for their client money entitlement from the FSCS.

The Joint Special Administrators intend to make a final distribution to clients by [I] 2016.

If you have not yet agreed your closing balance as at 19 January 2015 with the Joint Special Administrators **and** you do agree with your client money entitlement, please log on to the Claims Portal, accessible at <https://www.alpariadministration.com>, **on or before [I] 2016**, that being the last date for proving, and tick that you agree each of your account balances. After you have done that, please continue through the website, agree the terms and conditions and click “confirm”.

If you do not agree with the closing balance as at 19 January 2015, please log on to the Claims Portal, accessible at <https://www.alpariadministration.com>, on or before [ ] 2016, that being the last date for proving, and do not tick the boxes under "Agree". You will then be asked to provide reasons to substantiate your dispute and will have the opportunity to upload documents to support your dispute. Once you have submitted your claim, the Joint Special Administrators will review your reasons and the documents you have supplied and advise you of the outcome as soon as possible by email.

If you cannot access the Claims Portal, you are requested to contact the Joint Special Administrators via email to [alpariukclaims@kpmg.co.uk](mailto:alpariukclaims@kpmg.co.uk) indicating whether you accept or dispute the closing balance on the statement dated 19 January 2015. If you dispute the closing balance, please provide reasons to substantiate your dispute.

Pursuant to rule 296(1) of The Investment Bank Special Administration (England and Wales) Rules 2011, where the Joint Special Administrators give, send or deliver any notice or other document to you by electronic means, you may request a hard copy of that notice or document. If you choose to request a hard copy, the Joint Special Administrators must send it to you within 5 business days of receipt of the request.

If you have any queries, or you wish to request a hard copy of this document, the Joint Special Administrators can be contacted (1) by writing to Alpari (UK) Limited (in special administration), 15 Canada Square, London, United Kingdom E14 5GL, (2) by emailing [alpariukclaims@kpmg.co.uk](mailto:alpariukclaims@kpmg.co.uk), or (3) by telephoning +44 (0)333 2021397.

Yours faithfully  
For Alpari (UK) Limited

Samantha Bewick  
Joint Special Administrator

Richard Heis and Samantha Rae Bewick were appointed as joint special administrators of Alpari (UK) Limited on 19 January 2015, and Edward George Boyle was appointed as joint special administrator of Alpari (UK) Limited on 15 July 2016.

The affairs, business and property of Alpari (UK) Limited are being managed by the joint special administrators who contract as agents of Alpari (UK) Limited without personal liability.

Richard Heis, Samantha Rae Bewick and Edward George Boyle are authorised to act as insolvency practitioners by the Institute of Chartered Accountants in England and Wales.

Alpari (UK) Limited is authorised and regulated by the Financial Conduct Authority. FCA reference number 448002. Registered in England No. 05284142. Registered Office: 15 Canada Square, London, E14 5GL.

**SCHEDULE 2**



Alpari (UK) Limited (in special administration)

IMPORTANT NOTICES REGARDING DISTRIBUTION OF CLIENT MONEY AND  
UNSECURED DIVIDEND

CLIENT MONEY:

Notice of Order prescribing a client money distribution procedure

Notice of proposed distribution of client money and bar date for claims of [ ] 2016

This is notice that, on [ ] 2016, the English High Court made an Order prescribing a procedure by which client money held by Alpari (UK) Limited (in special administration) (“Alpari”) should be distributed to clients. The Order can be viewed and downloaded alongside this notice at [\[insert\]](#).

This is also notice that Richard Heis, Samantha Bewick and Edward George Boyle of KPMG LLP, the Joint Special Administrators of Alpari (the “**Joint Special Administrators**”), intend to make a final distribution of client money to clients of Alpari, in accordance with the Order.

Clients who have not yet submitted a client money claim, but wish to do so, must provide their claim to the Joint Special Administrators using the contact details at the bottom of this notice.

Clients may submit their claims at any point up to and including [ ] 2016, being the last date for proving.

**Alpari intends to distribute all remaining client money. Clients who have not submitted a client money claim to the Joint Special Administrators as set out below by the last date for proving will not be entitled to share in the proposed distribution of client monies.**

Clients who intend to submit a client money claim should do so within 21 days from the date of this notice, i.e. on or before [ ] 2016.

The Order permits the Joint Special Administrators to apply a de minimis threshold of US\$51.50 in respect of claims where there would be a total distribution of less than US\$51.50. The Joint Special Administrators therefore do not intend to make a distribution to clients whose rateable sum for total distribution is less than US\$51.50.

Once the remaining client money has been distributed, clients who have not submitted a client money claim will no longer be entitled to any distribution from the client money pool.

Provision is being made in Alpari’s general estate for creditor claims connected with those clients who have not submitted a claim in respect of their client money entitlements.

Alpari will assist clients who have not claimed to contact the FSCS in order for those clients to try to make a claim for compensation for their client money entitlement from the FSCS.

The Joint Special Administrators intend to make a final distribution to clients by [ ] 2016.

## THE JOINT SPECIAL ADMINISTRATORS AND ALPARI

Richard Heis and Samantha Rae Bewick were appointed as joint special administrators of Alpari (UK) Limited on 19 January 2015, and Edward George Boyle was appointed as a Joint Special Administrator of Alpari (UK) Limited on 15 July 2016. The Special Administrators' insolvency practitioner numbers are 8618, 8872 and 9077.

The affairs, business and property of Alpari (UK) Limited are being managed by the joint special administrators who contract as agents of Alpari (UK) Limited without personal liability.

Alpari (UK) Limited is authorised and regulated by the Financial Conduct Authority. FCA reference number 448002. Registered in England No. 05284142.

Pursuant to rule 296(1) of the Investment Bank Special Administration (England and Wales) Rules 2011, if you wish to request a hard copy of this notice, the Joint Special Administrators can be contacted: (a) by emailing [alpariukclaims@kpmg.co.uk](mailto:alpariukclaims@kpmg.co.uk), (b) by writing to Alpari (UK) Limited (in special administration), 15 Canada Square, London, United Kingdom E14 5GL, or (c) by telephoning +44(0)333 2021397.

Samantha Rae Bewick