
Excelsior Capital Limited ABN 98 050 542 553

Meeting Documentation

Notice of General Meeting and Explanatory Memorandum

Notice is hereby given that a General Meeting of the Shareholders of Excelsior Capital Limited will be held at:

Time: 11.00 am (Sydney time)

Date: Monday, 29 April 2024

Venue: 'The Auditorium'
Dexus Place
Level 15, 1 Farrer Place
Sydney, NSW, 2000

THIS IS AN IMPORTANT DOCUMENT AND SHOULD BE READ IN ITS ENTIRETY.

This Notice of Meeting should be read in conjunction with the accompanying Explanatory Memorandum.

The General Meeting has been called following a request pursuant to section 249D of the Corporations Act by Mr Benjamin Graham and Baauer Pty Ltd. The resolution proposes appointing liquidators to the Company to control the distribution of the Company's property.

The Board unanimously recommends that Shareholders **VOTE AGAINST the proposed Resolution.**

If you are unable to attend the General Meeting, please complete the Proxy Form enclosed and return it in accordance with the instructions set out on that form.

If you are in any doubt as to how to vote, you should consult with your financial or legal advisor as soon as possible. Should you wish to discuss the matters in this Notice of Meeting, please contact the Company Secretary on (+61 2) 9216 9009.

Table of Contents

Notice of General Meeting -----3

Instructions on how to vote online----- 4

Agenda:

Resolution:

1 Resolution One – Voluntarily Wind-up and appoint liquidators to the Company -----3

2 Notes-----4

Explanatory Memorandum-----6

1 Resolution One – Wind-up and appoint liquidators -----6

Glossary of Terms-----10

Venue Location-----11

Annexures:

Annexure 1 – Requisition Notice-----12

Annexure 2 - Members Statement ----- 14

Annexure 3 – Table setting out results of Investment Portfolio ----- 18

Notice of General Meeting

Excelsior Capital Limited ABN 98 050 542 553

Notice is given that a General Meeting (**Meeting** or **GM**) of Excelsior Capital Limited (“**ECL**” or the “**Company**”) will be held at 11.00am (Sydney time) on **Monday, 29 April 2024** at the following location:

Venue Location:

‘The Auditorium’
Dexus Place
Level 15, 1 Farrer Place
Sydney, NSW, 2000

Lodging a directed proxy or direct vote in advance of the meeting can be done online at <https://investorcentre.linkgroup.com>. Instructions on how to vote or appoint a proxy are detailed on the back of the Proxy Form. Proxy Forms must be received no later than **11.00am (Sydney time) on Saturday, 27 April 2024** to be valid for the GM. Proxy votes may be lodged online, or proxy form returned by mail in the enclosed reply-paid envelope or by fax on +61292870309.

Terms and abbreviations used in this Notice and the Explanatory Memorandum are defined in the Glossary at the rear of the Explanatory Memorandum.

AGENDA

1 Resolution One – Voluntarily Wind-up and Appoint Liquidators

To consider and, if thought fit, to pass, the following resolution as a **Special Resolution**:

‘That, pursuant to Sections 491 and 495 of the Corporations Act 2001 (Cth), the Company be voluntarily wound up and that James Taplin and Stefan Dopking of BRI Ferrier, having consented to act, are hereby appointed liquidators of Excelsior Capital Limited’.

VOTING RECOMMENDATION

The Board unanimously recommends that Shareholders **VOTE AGAINST** the proposed resolution. Your Directors consider that winding up the Company is not in the interests of Shareholders.

DATED this 21 March 2024

By Order of the Board



Danny Herceg
Chairman
Excelsior Capital Limited

NOTES AND INSTRUCTIONS ON HOW TO VOTE

- (a) The Company has determined in accordance with Regulation 7.11.37 of the *Corporations Regulations 2001* (Cth) that for the purpose of voting at the Meeting, Shares will be taken to be held by those persons recorded in the Company's register of Shareholders as at **7pm (Sydney time) on Saturday, 27 April 2024**.
- (b) You may vote by lodging a directed proxy or direct vote in advance of the meeting online at <https://investorcentre.linkgroup.com> or by proxy or attorney received by post or fax. A body corporate may appoint a corporate representative, rather than appoint a proxy, in accordance with section 250D of the Corporations Act in which case the Company will require written proof of the representative's appointment which must be lodged with or presented to the Company before the Meeting. The representative should bring to the GM a properly executed letter or document confirming its authority to act as the company's representative. A "Certificate of Appointment of Corporate Representative" form may be obtained from the Company's share registry or online at www.linkmarketservices.com.au.
- (c) A Shareholder who is entitled to attend and cast a vote online at the Meeting is entitled to appoint a proxy. The proxy need not be a Shareholder of the Company.
- (d) Unless the proxy is required by law to vote, the proxy may decide whether or not to vote on any particular item of business. If the appointment of proxy directs the proxy to vote on an item of business in a particular way, the proxy may only vote on that item as directed. Any undirected proxy votes on a given resolution may be voted by the appointed proxy as they choose, subject to the voting exclusions described below.
- (e) A Shareholder who is entitled to cast two or more votes may appoint two proxies and may specify the proportion or number of votes each proxy is appointed to exercise. If you appoint two proxies, neither is entitled to vote on a show of hands. To appoint two proxies, use a separate proxy form for each. Shareholders are requested to show on the proxy form the specified proportion or number of the votes each proxy is appointed to exercise. If no proportion or number of votes is specified, each proxy may exercise half of your votes (disregarding fractions) on any poll.
- (f) You can appoint a proxy in four ways:
- online** (preferred) by visiting <https://investorcentre.linkgroup.com>. Shareholders may lodge proxy appointments by logging in at <https://investorcentre.linkgroup.com> and clicking on the 'Voting' link on the Holding Details page. Your online proxy appointment will only be valid if you lodge your proxy in accordance with the instructions set out on the webpage above, in which case you are taken to have signed the proxy form; or
- by post** using the reply-paid envelope to Excelsior Capital Limited, c/o Link Market Services Limited, Locked Bag A14, Sydney South, NSW 1235 Australia; or
- by facsimile** to 02 9287 0309; or
- by hand** to Excelsior Capital Limited, c/o Link Market Services Limited, Parramatta Square, Level 22, Tower 6, 10 Darcy Street, Parramatta NSW 2150.
- (g) The proxy form must be signed by the Shareholder or the Shareholder's attorney. Proxies given by a corporation must be executed in accordance with the Corporations Act and the constitution of that corporation.
- (h) A Shareholder entitled to attend and vote online or by phone at the Meeting is entitled to appoint an attorney to attend and vote at the Meeting on the Shareholder's behalf. An attorney need not themselves be a Shareholder. The power of attorney appointing the attorney must be signed and specify the name of each of the Shareholder, the Company and the attorney, and also specify the meeting(s) at which the appointment may be used. The appointment may be a standing one.

If the proxy form is signed by an attorney, an original certified copy of the power of attorney must be sent with the proxy form.

- (i) To be valid, your proxy appointment must be made online or your proxy form must be received by the Company by no later than 11.00am (Sydney time) on, 27 April 2024 (being 48 hours before the commencement of the Meeting). Any proxy form received after this deadline including at the GM will be treated as invalid unless permitted by the Board.
- (j) If you intend to appoint the Chairman of the Meeting as your proxy without providing specific voting directions to the Chairman of the Meeting (an ***Open Proxy***), then by submitting the Proxy Form you will be expressly authorising the Chairman to exercise your proxy on the relevant resolution.
- (k) In accordance with rule 38 of the Company's constitution, Chairman intends to demand a poll on the resolution proposed at the Meeting. The Chairman considers voting a poll to be in the interests of the Shareholders as a whole and ensures that the views of as many Shareholders as possible are represented at the Meeting.

The Chairman intends to cast all Open Proxies AGAINST the Resolution.

A proxy form is enclosed with this Notice of Meeting.

If you have any queries on how to cast your votes then call the Company's share registry on 1300 554 474 during business hours.

Explanatory Memorandum

Excelsior Capital Limited ABN 98 050 542 553

The information in this Explanatory Memorandum is provided to Shareholders of Excelsior Capital Limited (“**ECL**” or the “**Company**”) to assist Shareholders with their consideration of the resolutions to be put to the GM.

This Explanatory Memorandum forms part of the Notice of the Company’s General Meeting on **Monday, 29 April 2024 at 11:00am (Sydney time)**.

All Shareholders should read this Explanatory Memorandum in full and if they have any questions, obtain professional advice before making any decisions in relation to the resolutions to be put to Shareholders at the GM.

The Directors unanimously recommend Shareholders vote AGAINST the Resolution.

Resolution

1 Resolution One – Voluntarily Wind-up and Appoint Liquidator

1.1 Background

On 1 March 2024, the Company received a request under section 249D of the Corporations Act 2001 to convene a general meeting of the Company to consider and vote on a resolution to voluntarily wind-up the Company and appoint liquidators for that purpose (**Requisition Notice**) (see **Annexure 1**).

As required by section 249D of the Corporations Act, the Directors have convened the Meeting.

The Requisition Notice was given by the following Shareholders (**Requisitioning Shareholders**) who together represent 5.315% of the Company's Shareholders as recorded in a Form 603 released to ASX on 8 March 2024:

- (a) Mr Benjamin Graham ATF the Graham Family Trust, and;
- (b) Baauer Pty Ltd ATF the Baauer Family Trust.

The Requisition Notice is another in a series of requisitions made by a group of shareholders (**Shareholder Group**), including the Requisitioning Shareholders or their associates, who have previously submitted Requisition Notices to the Company.

In addition to multiple ill-fated requests to change the Constitution of the Company and its board, in late 2020 members of this group of shareholders also made an invalid request to convene a general meeting of the Company to force the sale of the CMI Electrical business and subsequently attempted to wind up the Company.

In both cases, the requests by the Shareholder Group would have resulted in a sale price for CMI Electrical at a level significantly less than was ultimately achieved by the Board through its well-considered investment into CMI Electrical and a carefully managed sale process.

Each of the (legal) requests made by the Shareholder Group have emphatically been voted down by Shareholders.

In the Company's view, such requests have had, and continue to have, a negative impact on investor sentiment and the Company's share price (as has negative media driven by the Shareholder Group). The Shareholder Group:

- refuses to acknowledge the extensive losses to Shareholders that would have occurred had their previous requests been successful;
- continues to ignore the Company's successes.

The Directors note that these various requisitions have resulted in significant costs being unnecessarily incurred by the Company (and therefore shareholders). The Directors note that the Requisitioning Shareholders have chosen to proceed with the requisition despite acknowledging that the requisition will also likely fail.

1.2 **Directors' response to the Requisition Notice**

A statement prepared by the Requisitioning Shareholders is attached to this Explanatory Memorandum as **Annexure 2**. The Board does not support or agree with this statement in any respect and in particular, makes the following comments:

- (a) As noted above, the Requisitioning Shareholders refuse to acknowledge or even mention the successful sale by the Company of CMI Electrical. This sale resulted from the Board's excellent management of CMI Electrical, its prudent investment over time into that business over a difficult and uncertain economic period and ultimately the careful management of an extensive sale process to achieve an excellent sale price. As Shareholders would be aware, the Company successfully sold the CMI Electrical Business to IPD Group on 31 January 2024 achieving sale proceeds of \$91.7 million with the opportunity to receive a further \$8.9 million via an earn-out.

Any assessment of the Company or its 'investment capabilities' must fairly take into account the CMI Electrical investment and its ultimate realisation. This investment far outweighs any losses made elsewhere in a portfolio which has in any case historically been largely held in cash (see further below).

The Requisitioning Shareholders also fail to fairly address, or even mention, the effect their earlier attempts to requisition the Company to sell the CMI business or wind ECL up would have had on the Company and its Shareholders. Even now, the Requisitioning Shareholders fail to state the cost to Shareholders of a liquidation of the Company, and seem to assume that liquidation would not carry any risks, costs or losses to existing Shareholders.

- (b) As already discussed, the table of returns in the Members' Statement fails to take into account the profits achieved from the sale of the Company's largest asset by far. It only considers the historically limited, mostly cash, portfolio managed by the Company while it owned CMI Electrical and ignores the significant net profits made by the consolidated group during the relevant period.

In their calculations, the Requisitioning Shareholders have allocated all of the Company's corporate and head office costs (approx. \$6.5m) to that portfolio (ignoring the existence of the much larger CMI Electrical within the Group). On a standalone basis, the portfolio actually made a net profit over the relevant period. In addition, the Member's Statement contains material misstatements and errors with regards to the calculation of returns by the investment portfolio, overstating losses (even

using the basis adopted by the Requisitioning Shareholders) by over \$1.5m. Included at **Annexure 3** is a table that sets out the correct calculations of the results for the investment portfolio, adopting and expanding on the format used by the Requisitioning Shareholders.

- (c) The Shareholder Group are investors in a relatively small, closely-held ASX-listed company. Although, in a perfect market, the Company's shares should trade at or close to NTA, there are many potential reasons beyond the control of the Company or its Directors why this may not be the case. Shareholders have at all times been aware of the Company's position in this respect. The Directors encourage Shareholders to be supportive of the Company's continuing efforts to drive value for all Shareholders.
- (d) The Board considers the Requisition Notice as an unwarranted and unnecessary diversion of the Company's resources and investment focus, which is not in the best interests of Shareholders. The Board has deployed funds of the investment portfolio in a controlled and professional manner primarily into high quality non-correlated managed investment funds. The Board will continue to manage and invest funds of the portfolio and access opportunities which may include the acquisition of other business assets and further investments in management funds.
- (e) The Board has consistently taken steps to maximise Shareholder value and would like to highlight the following capital management and shareholder distributions undertaken by the Company since 2015:
 - (i) 2015: ECL Board successfully divested the TJM Business, the outcome far exceeding market expectations;
 - (ii) 2015: ECL returned \$10.5 million of capital to Shareholders;
 - (iii) 2017: ECL bought back \$4.3 million of ordinary shares from Shareholders;
 - (iv) 2018: ECL bought back \$3.4 million of ordinary shares from Shareholders;
 - (v) 2024: ECL Board successfully divested the CMI Electrical Business to IPD Group achieving a multiple of 6.6 times CMI's FY23A EBIT; and
 - (vi) 2015 – 2024: ECL paid aggregate dividends in excess of \$15 million to Shareholders.

1.3 **Resolution One – Voluntary Winding Up**

Resolution 1 has not been proposed by your Board but by the Requisitioning Shareholders.

The effect of Shareholders passing Resolution 1 would be that the Company would be wound up, all of its remaining assets distributed to Shareholders, and James Taplin and Stefan Dopking of BRI Ferrier would be appointed as liquidators of the Company for the purpose of winding up the Company.

If Shareholders pass Resolution 1 by the requisite majority, the Company must, in accordance with the Corporations Act, cease to carry on ordinary business (except so far as to give effect to the winding up of the Company). Furthermore, if Resolution 1 is approved by the requisite majority, a transfer of Shares in the Company will be void except in certain limited circumstances.

The Board does not believe that winding up is in the best interests of shareholders, including for the reasons set out in section 1.2 above. Each of the Directors recommends that Shareholders vote against Resolution 1.

The Chair of the Meeting will cast all available undirected proxies against Resolution 1.

In accordance with section 491 of the Corporations Act, Resolution 1 is a special resolution. A special resolution is a resolution that requires at least 75% of the votes cast by Shareholders entitled to vote and voting to be in favour of the resolution. There are no voting restrictions on resolution 1 under the Corporations Act or the ASX Listing Rules.

The Directors unanimously recommend that Shareholders vote AGAINST Resolution 1.

The Directors will also be voting their own Shares AGAINST Resolution 1.

Glossary of Terms

In the attached Notice of Meeting and Explanatory Memorandum the following words and expressions have the following meanings:

ASX	means ASX Limited ACN 008 624 691 or the market operated by it, as the context requires.
Board	means the current board of Directors of the Company.
Chairman	means the Chairman of the Company as approved from time to time and includes an acting Chairman.
Company or ECL	means Excelsior Capital Limited ABN 98 050 542 553.
Constitution	means the Constitution of the Company from time to time.
Corporations Act	means the <i>Corporations Act 2001</i> (Cth).
Directors	means the Directors of the Company from time to time, and Director means any one of them.
Explanatory Memorandum	means the explanatory memorandum accompanying and forming part of the Notice of Meeting.
Group	means the Company and its Related Bodies Corporate.
Listing Rules	means the official listing rules of ASX.
Meeting or GM	means the general meeting of the Company's members convened by the Notice of Meeting to be held at 11:00am Sydney time on Monday, 29 April 2024 at the Auditorium', Dexus Place, Level 15, 1 Farrer Place, Sydney, NSW, 2000
Notice or Notice of Meeting	means this notice of General Meeting including the Explanatory Memorandum.
NTA	net tangible assets
Proxy Deadline	means no later than 11:00am on Saturday, 27 April 2024.
Proxy Form	means the proxy form accompanying the Notice
Related Body Corporate	has the meaning given to that term in section 50 of the Corporations Act.
Resolution or Resolution 1	means the resolution set out in the Notice of Meeting
Share or Ordinary Share	means an ordinary share in the capital of the Company.
Shareholders	means the holders of the Shares from time to time.
Share Registry	means LINK Share Registry Services.

GM Venue Location

The ECL GM will be held at **Dexus Place, Level 15, 1 Farrer Place, Sydney, NSW, 2000**

Car Parking

Car parking is available in several locations nearby at:

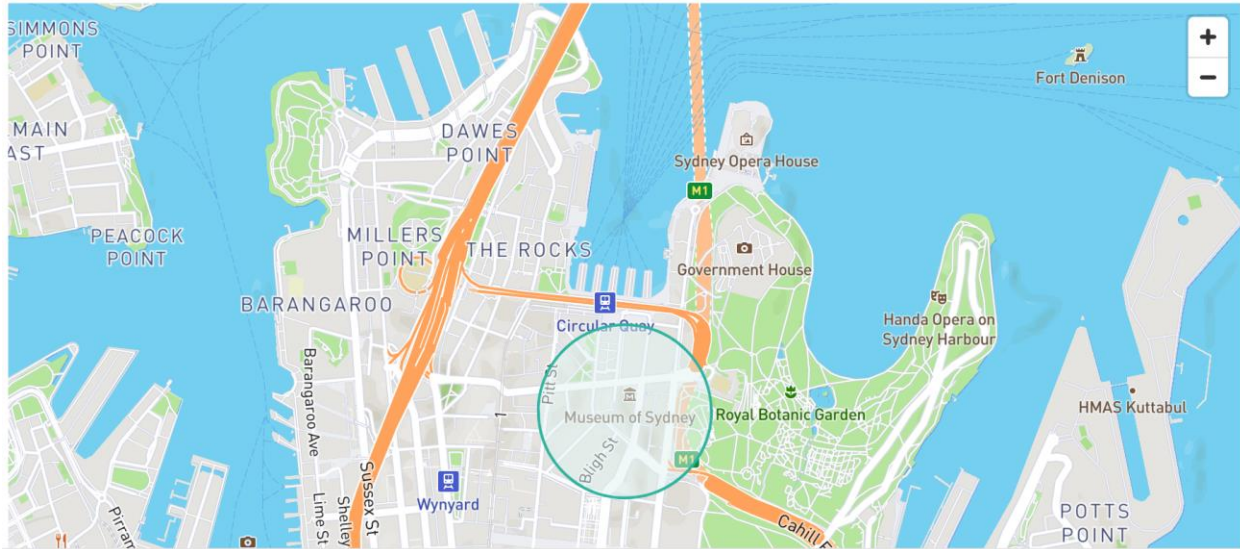
- Wilson Parkin ,43 Phillip Street,
- Wilson Parking, Sofitel Wentworth Hotel,
- Wilson Parking, 1 Farrer Place,

Public Transport

Various forms of public transport available to the CBD including:

- Trains to/from St James, Martin Place, Wynyard and Circular Quay train stations all within a short walking distance to venue.
- Light rail network to Town Hall, Circular Quay, and Wynyard stations.

Taxi ranks are located immediately outside the venue.



COVER PAGE
ANNEXURE 1 – REQUISITION NOTICE

REQUEST FOR DIRECTORS OF EXCELSIOR CAPITAL LTD TO CALL A GENERAL MEETING OF EXCELSIOR CAPITAL LTD

To: Excelsior Capital Ltd ("ECL")

The following members of ECL hold at least 5% of the votes that may be cast at the requested general meeting:

1. Baauer Pty Ltd atf the Baauer Family Trust;
2. Mr Benjamin Graham atf the Graham Family Trust,

(the **Requisitioning Shareholders**).

The Requisitioning Shareholders request under section 249D of the *Corporations Act 2001 (Cth)* (the **Act**) that the directors of ECL call and arrange to hold a meeting of the members of ECL to consider and vote on the following resolution:

That pursuant to Sections 491 and 495 of the Corporations Act, Excelsior Capital Limited be voluntarily wound up and that James Taplin and Stefan Dopking of BRI Ferrier, having consented to act, are hereby appointed liquidators of Excelsior Capital Limited.

Enclosed is a statement prepared by the Requisitioning Shareholders in accordance with section 249P of the Act. The Requisitioning Shareholders request that ECL provide this statement to all members of ECL along with the notice of the meeting requested in this document.

Dated: 29 February 2024

EXECUTED by Baauer Pty Ltd
in accordance with section 127 of the
Corporations Act 2001 (Cth):

Signature of director/secretary

SARAH BAUER
Name of director/secretary

)
)
)



Signature of director

WARWICK SIMON
Name of director

SIGNED by **Benjamin Graham**:

)
)



Benjamin Graham

**COVER PAGE
ANNEXURE 2 - MEMBERS STATEMENT**

VOTING RECOMMENDATION:

VOTE **FOR** THE RESOLUTION

AND

PAYMENT TO YOU OF AROUND
\$4.50 IN CASH AND
\$1.30 IN FRANKING CREDITS

VOTE FOR LIQUIDATION!

Dear Fellow ECL Shareholder,

ECL has cash and investments worth \$4.20 per share. We think ECL will likely receive another 30c per share under the earnout from its recent sale of CMI Electrical. And, ECL also has¹ some \$1.30 per share in franking credits, which could facilitate payment of a fully franked dividend of around \$3.00 cash per share with the \$1.30 per share in franking attached.

Liquidation of ECL would deliver to shareholders that \$4.50 in cash and \$1.30 in franking— so, total value of around \$5.80² per share.

However, ECL shares currently trade on ASX at around \$3.00 – only slightly more than half that amount!

Why?

We think investors avoid ECL because they hold serious concerns about its investment capabilities. ECL in its 2016 prospectus set a very modest performance objective of beating the RBA Cash Rate plus just 2% per annum. ECL's *actual* performance is detailed below. These are ECL's own figures, taken from ECL's own annual reports.

	Investment Portfolio profit before tax:	M'ment and admin costs:	Investment Portfolio net return:
FY17	\$218,000	-\$114,000	\$104,000
FY18	\$16,000	-\$532,000	-\$516,000
FY19	-\$1,141,000	-\$417,000	-\$1,558,000
FY20	-\$1,931,000	-\$123,000	-\$2,054,000
FY21	-\$1,188,000	-\$198,000	-\$1,386,000
FY22	-\$1,390,000	-\$107,000	-\$1,497,000
FY23	-\$825,000	-\$23,000	-\$848,000
Total	-\$6,241,000		-\$7,755,000

Every single major asset class made money over the last seven years. Australian shares returned 80% and International shares returned 118%. But not only did ECL *lose* millions over that same period, in every single year it failed to get anywhere near its own performance objective.

¹ or, will soon have, after paying tax on the sale of CMI Electrical

² \$5.50 if earnout not achieved, or between \$5.50-\$5.80 if earnout partially achieved

VOTE FOR LIQUIDATION!

The resolution we are proposing will, if passed, result in liquidation of ECL and delivery to all shareholders of ECL's circa \$5.80 of cash, investments, and franking. The alternatives to that course are:

- staying invested in a company that has, by a wide margin, failed to meet its own return objectives every single year since inception; or
- selling your ECL shares on market and receiving for them only slightly more than half of their real value.

Despite how unattractive those alternatives are, we expect ECL's board will recommend you vote against our resolution. If we are right about that, surely the board should at the same time explain how its strategy for your investment is superior to liquidation.

When and how does ECL's board plan to deliver to us, ECL's owners, more than \$5.80 in value?

What is ECL's board doing to immediately and drastically narrow the discount between ECL's NTA and the share price?

How does ECL's board have any confidence that ECL's future "investing" performance will be anything other than atrocious?

If ECL's board does not have a bulletproof plan to deliver outstanding returns, how can it justify refusing to liquidate ECL and delivering \$5.80 to us in the near term?

Your vote is important!

Even if you think our resolution will be voted down by ECL's majority shareholder, voting for the resolution will ensure that ECL's board knows how many of us want it to:

- stop using our money to "invest"; and
- let us receive for our shares 100% of their underlying value, rather than only around half that.

We would welcome contact from fellow shareholders at LiquidateECL@gmail.com and 0430074745.

Sincerely,

Warwick Sauer and Ben Graham

COVER PAGE
ANNEXURE 3 - TABLE OF RESULTS

ANNEXURE 3 – TABLE OF RESULTS OF THE INVESTMENT PORTFOLIO

The table below records the correct calculations of results of the Investment Portfolio and addresses the material misstatement of results as shown in a table included on page 16 of Members Statement included at annexure 2 above.

Year	Investment Portfolio				Corporate Office	Post Allocation	Members Statement	Misstatement by Members \$'000
	Investment Portfolio	Loss on Sale of	Management	Investment Portfolio	Overheads and admin	Total Profit / (Loss)	Results Table	
	Gross Revenue	Equity and Hybrids	and Admin Fees	Profit/ (loss) Before Tax	costs allocated to Fund	Before Tax	Page 16 of Statement	
	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000
FY 2017*	332	0	(114)	218	0	218	104	(114)
FY 2018	865	(194)	(532)	139	(123)	16	(516)	(532)
FY 2019	614	(282)	(417)	(85)	(1,056)	(1,141)	(1,558)	(417)
FY 2020	332	(803)	(123)	(594)	(1,337)	(1,931)	(2,054)	(123)
FY 2021	158	0	(198)	(40)	(1,148)	(1,188)	(1,386)	(198)
FY 2022	120	0	(107)	13	(1,403)	(1,390)	(1,497)	(107)
FY 2023	584	0	(23)	561	(1,386)	(825)	(848)	(23)
Totals	3,005	(1,279)	(1,514)	212	(6,453)	(6,241)	(7,755)	(1,514)

Note: The table prepared by the Requisitioning Shareholders allocates 100% of corporate office costs for the whole Group (including overheads and listing costs) to the investment portfolio. On a standalone basis, portfolio results were a profit of \$212,000 over the relevant period.