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6th Floor
Victory House
Prospect Hill
Douglas
Isle of Man IM1 1EQ

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**By email only to:
All Known Shareholders**

Your ref:
Our ref: M3011LON
Please Contact: Georgia Devlin
Telephone Number: 020 3005 4000
Email Address: MontreuxHealthcareFund@frpadvisory.com

Date: 24 January 2025

Dear Sir/Madam

The Montreux Healthcare Fund Plc (In liquidation) ('the Fund')

I refer to our recent letter dated 8 January 2025 regarding our application to the High Court of Justice in the Isle of Man ("Court") to bring the voluntary liquidation of the Fund under the Court's supervision on notice to the IOM FSA.

By way of an update, the Court has assigned a matter number to the application, namely CHP 25/0003 and made an initial order on 22 January 2025 ("the Initial Order") that the Joint Liquidators provide you with the following documents:

- i. The Sealed Claim Form
- ii. The Affidavit of Gordon James Wilson (without exhibits)
- iii. The cover letter exhibited to the Affidavit (i.e. my letter dated 8 January 2025)

Although you should have already received my letter of 8 January 2025 which enclosed the Unsealed Claim Form and my Affidavit (without exhibits), I am now sending you these documents again, in line with the Initial Order. For completeness, I also enclose the Initial Order itself.

You will see that the Court has set a short directions hearing for 10:30am on 13 February 2025. This is a procedural step and should give rise to a timetable for the hearing of the application itself.

You are not required to attend the hearing on 13 February 2025 and I will provide a further update following the outcome of the hearing.

If you have any queries regarding the above, please contact me at the FRP address above or by email on MontreuxHealthcareFund@frpadvisory.com.

Yours faithfully

Gordon Wilson
Joint Liquidator

Encs.

Appendix 1 – Joint Liquidators' Letter to Shareholders dated 8 January 2025 (Cover Letter)
Appendix 2 – (Sealed) Claim Form
Appendix 3 – Affidavit (without exhibits)
Appendix 4 – The Court Order dated 22 January 2025



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To All Known Shareholders

Your ref:
Our ref: M3011LON
Please Contact: Georgia Devlin
Telephone Number: 020 3005 4000
Email Address: MontreuxHealthcareFund@frpadvisory.com

Date: 8 January 2025

Dear Sir/Madam

The Montreux Healthcare Fund Plc (In liquidation) ('the Fund')

I refer to our letters dated 4 October 2024 and 13 November 2024.

In the circumstances, the Joint Liquidators have recently decided to make an application to Court to bring the voluntary liquidation under the Court's supervision. This application will be on notice to the Isle of Man Financial Services Authority ("IOMFSA").

The Joint Liquidators petition seeks an order:

- a. That the voluntary winding up shall continue subject to the supervision of the Court pursuant to s.243 of the Companies Act 1931 ('the 1931 Act');
- b. For the Joint Liquidators to have all of the powers granted to liquidators during a company's winding up process pursuant to s.184 of the 1931 Act without having to revert to the court in relation to such powers; and
- c. That the costs of and associated with the application are paid out of the assets of the Fund ('the Claim').

Further details are set out in the Claim Form and Affidavit (without exhibits) enclosed to this letter. As a member, I now invite you to review the enclosed Claim Form and Affidavit carefully. If you require legal advice then you need to retain your own lawyer in the Isle of Man. If you would like to see a copy of the exhibits, please can you contact my office.

Should you have any objections, then you have rights as a matter of Isle of Man law to address them to the court and you should do so accordingly subject to your own legal advice.

A further update will be circulated once the hearing has taken place providing an update on the outcome.

If you have any queries, please do not hesitate to contact me.

Yours faithfully

Gordon Wilson

Joint Liquidator

Encs.

Appendix 1 – Claim Form

Appendix 2 – Affidavit

For court use only

Claim No. **CHP 25/0003**

Issue date **7 January 2025**

**IN THE HIGH COURT OF JUSTICE OF THE ISLE OF MAN
CIVIL DIVISION
CHANCERY PROCEDURE**

SEAL



Nature of Proceedings: Winding up under Companies Act 1931

Parties

Gordon James Wilson
6th Floor
Victory House
Prospect Hill
Douglas
IM1 1EQ

and

Paul David Allen
110 Cannon Street
London
EC4N 6EU

As Joint Liquidators of the Defendant

Claimant(s)
(Full name(s) & address(es))

The Montreux Healthcare Fund PLC
6th Floor
Victory House
Prosect Hill
Douglas

Defendant(s)
(Full name(s) & address(es))

IM1 1EQ

Details of claim

(use numbered paragraphs)

See attached sheet.

If you need to continue on a separate sheet please use the prescribed form – 'HCC CONTINUATION SHEET'

Name and address (including postcode) of defendant on whom copy of the claim form is to be served The Montreux Healthcare Fund PLC 6 th Floor Victory House Prospect Hill Douglas IM1 1EQ	£	
	Court fee	£253.50
	Coroner's fee	
	Advocate's costs	
	Total	£253.50


Statement of truth

[I believe] [The Claimant believes] that the facts stated in this claim form are true.

[I am duly authorised by the claimant to sign this statement]

Full name of [claimant] [s advocate]*

*indicate as appropriate

Lindsey Bermingham	
Name of claimant's advocate's firm Whittles Law Limited	
Signed  [Claimant <input <input="" ['s="" [litigation=""]]="" advocate="" appropriate<="" as="" checked="" friend="" indicate="" td="" type="checkbox"/>	
Date 3 January 2025	
Claimant's or claimant's advocate's address in the Isle of Man (including postcode) to which documents or payments should be sent: Fort Anne Douglas Isle of Man IM1 5PD	Telephone no. 621466
	Fax no. (if appropriate)
	E-mail (if appropriate) lb@whittleslaw.com
	Reference (if any) 100120

Please specify which document this continuation sheet is for, which party it is filed by and on what date it is filed, in the spaces below, and complete the boxes opposite.

This is a continuation sheet for [Claim Form (Chancery)]

filed by the [Claimants] on [3 January 2025]

Serial No.	CHP25/
Sheet No.	1 of 5
Date	3 January 2025

(contents to be typed and use numbered paragraphs)

1. The Montreux Healthcare Fund Plc ("Montreux") is a company incorporated under the Companies Act 2006 on 17 June 2013, with company number 009788V.
2. Montreux's registered office is at 6th Floor, Victory House, Prospect Hill, Douglas, Isle of Man, IM1 1EQ.
3. This is a Claim brought by the Claimants, as joint liquidators of Montreux, for the continuation of the voluntary winding up of Montreux subject to the supervision of the court, pursuant to s.243 of the Companies Act 1931 (the "1931 Act").
4. Montreux is an open-ended investment company and a qualifying fund under the Collective Investment Schemes (Qualifying Fund) Regulations 2010 (the "Regulations").
5. Montreux operated a business focused on investments within the healthcare sector, with an objective to purchase, develop and maintain high end care homes and facilities in the UK and western Europe. Montreux's business activities and strategies are referred to as the Scheme.
6. Prior to the matters detailed in the affidavit of Gordon James Wilson of FRP Advisory (Isle of Man) Limited, one of the Claimants, dated 3 January 2025 ("Mr Wilson's Affidavit"), the audited accounts of Montreux as at 30 September 2022 show net assets of c£426.1 million. The principal asset of Montreux was an interest in an Isle of Man subsidiary, Montreux Holdings Limited ("MHL"), valued at c.£376.39 million. That value is now significantly less, as set out in Mr Wilson's Affidavit. The value of MHL was derived from the value of its interest in the underlying companies, Ruby Holdco Limited and ACG Holdco Limited ("ACG Holdco"), both UK companies and approximately fifty underlying subsidiaries.
7. Montreux has over 600 (six hundred) named shareholders, with seventeen share classes, each of which have between two and five currency sub-classes resulting in there being approximately fifty sub-classes in total. Many of the shareholders are in mainland Europe, as well as the Middle East and Asia and the shareholder register shows that many of the registered shareholders are institutional nominees, with many individual investors behind these shareholdings.

Background

8. As detailed in Mr Wilson's Affidavit, on 24 December 2021, the Scheme became interested, through ACG Holdco, in Huntercombe Group Holdco Limited ("Huntercombe"), a specialist health provider in the UK.
9. Around six months later, on 28 June 2022, ACG Holdco entered into a bridging loan (the "Bridging Loan"), the proceeds of which were mainly used to pay back the debts arising from the Huntercombe acquisition. The Bridging Loan was secured by ACG Holdco over its

interest in ACG Midco Limited, an English company, meaning that, effectively, the entirety of the assets of the Scheme, except for its cash balances held with a London based FX broker and its custodian, Cayman National Bank (Isle of Man) Limited, were pledged to the Bridging Loan provider.

10. On 3 October 2022, in light of its obligations under the Bridging Loan, which it was struggling to meet, Montreux suspended subscriptions, redemptions and the calculation of the net asset value ("NAV") and started to sell the ACG Holdco business.

11. The Bridging Loan had to be repaid by the end of 2023 and it appears that no repayments were made.

12. On 29 May 2024, Richard Beard and Richard Fleming of Alvarez & Marsal Europe LLP were appointed as Joint Administrators of ACG Holdco (the "Joint Administrators") under the Bridging Loan arrangements which were then in default. Shortly after their appointment, the Joint Administrators completed a sale of the assets of ACG Holdco to a third party for approximately £62 million. As set out in Mr Wilson's Affidavit there were no surplus funds from the sale for distribution to the Scheme. As a result, the Scheme no longer has any interest in the ACG business and its interest in MHL, once valued at c.£376.39 million, is now worthless.

13. As set out in Mr Wilson's Affidavit, Montreux's financial records show that since its last audited accounts dated 30 September 2022 the Scheme's value has been substantially reduced by a combination of the losses on the MHL interest as explained above as well as expenses and currency hedging losses. As a result, the Scheme's overall net assets have reduced from £426,069,395 as at 30 September 2022 to approximately £4,218,115 as at 31 August 2024. At the date of the appointment of the Joint Liquidators on 3 October 2024, Montreux had £4,076,111 in cash at bank, no remaining forward currency contracts, no receivables and no other known assets of value. However, it is possible that Montreux may have valuable claims against third parties.

14. On 12 July 2024, Montreux wrote to its members proposing that it be placed into members' voluntary liquidation.

15. A members meeting was held on 7 August 2024 but the proposal to place Montreux into members' voluntary liquidation was not passed at the meeting.

16. On 22 August 2024, the Isle of Man Financial Services Authority (the "FSA") appointed Mr Wilson as Controller to assume control of the affairs of Montreux in relation to its activities as a collective investment scheme pursuant to s.13(1)(b) of the Collective Investment Schemes Act 2008 ("CISA"). The reasons for the appointment are set out in Mr Wilson's affidavit.

17. By s.13(2) and s.13(3) of CISA, a person appointed pursuant to s.13(1)(b) has all the powers necessary to operate or manage (as the case may be) the affairs of the scheme in the best interests of the participants and potential participants, including the power to terminate the business of the scheme.

18. On 30 August 2024, one of the two remaining directors of Montreux (Ita McArdle ("Mrs McArdle")) resigned, leaving it with only one director, Barry Monks ("Mr Monks"). This caused Montreux to be in breach of its Articles of Association (the "Articles") which required

a minimum of two directors. Mr Monks took no steps to appoint another director following Mrs McArdle's resignation and the voting shareholder, MCM Capital Management Zug AG did not make any new director appointments either. Given the position described in Mr Wilson's Affidavit, it is unlikely that there would be any person willing to be appointed as director.

19. On 17 September 2024, under his powers as Controller, Mr Wilson wrote to Montreux's shareholders providing details of his findings to date, advising that due to the financial situation and Montreux being in breach of the Regulations, the only real way forward was for Montreux to go into liquidation. Notice, signed by Montreux's sole director, convening a meeting of shareholders on 3 October 2024, for the passing of a resolution to wind up Montreux by way of a creditors' voluntary winding up, was provided to shareholders.

20. Whilst Article 26.2 of the Articles provides that the minimum number of directors is two, Article 28.10 provides that if the number of directors is less than the quorum, the director(s) may nevertheless call a members' meeting.

21. Due to the financial uncertainties relating to Montreux, no declaration of solvency was made pursuant to s.218 of the 1931 Act. By s.218(3) the winding up of Montreux was therefore a creditors' voluntary winding up. Pursuant to s.226 of the 1931 Act, Montreux therefore had to convene a meeting of creditors for the same day, or the day after, the members' meeting and to comply with the other requirements of s.226 relating to notice, the issue of a statement of affairs by directors and the chairing of the creditors' meeting by a director.

22. However, due to Article 28.10 and there being only one director, Montreux itself could not call a creditors' meeting. On 25 September 2024, Mr Wilson as Controller and considering it to be in the best interests of Montreux, its shareholders and creditors, and noting his power to terminate the Scheme, gave notice of a creditors' meeting, to take place immediately following the members' meeting.

23. On 3 October 2024, Montreux's members passed a resolution to wind up Montreux, with Mr Wilson and Paul David Allen of FRP Advisory Trading Limited appointed as joint liquidators (the "Joint Liquidators"). As set out in Mr Wilson's Affidavit, 60.45% of shareholders participated and of those who voted, 99.64% were in favour of the appointment of Mr Wilson and Mr Allen, 0.08% were against and 0.28% abstained.

24. As there is no known authority in terms of a Controller calling a creditors' meeting and to remove any doubt as to the validity of the Joint Liquidators' appointment, the creditors' meeting was opened and adjourned to a date to be determined. Creditors and shareholders were advised of this and informed that the directions of the Court may be required.

25. Pursuant to s.227 of the 1931 Act, if no person is nominated by the creditors, the person, if any, nominated by the company shall be liquidator. Given that no person was nominated by the creditors and the meeting was adjourned, it is believed that the Joint Liquidators were validly appointed on 3 October 2024 and they have started the process of liquidating Montreux. The actions carried out by them are set out in Mr Wilson's Affidavit.

26. Following Mr Wilson's appointment as liquidator, Mr Monks also resigned, with effect from 14 November 2024, leaving Montreux with no directors.

Assistance sought

27. By s.13(6)(c) of CISA, on receipt of information or a report from the Controller, the FSA may apply to court for an order that an open-ended investment company may be wound up in accordance with the relevant statutory provisions applying to that company. S.13(6)(c) does not expressly preclude the use of other powers available to wind up Montreux and it is considered that other powers remain available.

28. In the circumstances, there have been discussions with the FSA regarding the progression of the winding up of Montreux and the FSA has been informed of the decision to file this Claim.

29. This way forward is considered appropriate noting, in particular, the matters set out below.

a. The FSA saw fit to intervene in the Scheme and to appoint Mr Wilson as Controller under CISA.

b. The Joint Liquidators' desire to deal with the uncertainty concerning the creditors' meeting (Montreux itself is unable to cause a meeting of creditors in order to progress the liquidation, as it no longer has any directors) and to bring this matter before the Court as soon as possible. This Claim is brought with notice to the FSA.

c. There is an urgent need to carry out investigations to determine what happened to the significant sums of investor capital invested into the Scheme which has been substantially lost and to take any actions necessary following from such investigations in the interests of the Scheme/those interested in it. Given that Montreux was at the top of a substantial group of companies, all but two of which were registered in England and Wales, it is anticipated that the Joint Liquidators efforts will require recognition in England and Wales and the possible assurance of the English Courts which, it is considered, will be assisted by a winding up subject to the supervision of the Court. The former investment advisor, MCM, has gone into a Creditors' Voluntary Liquidation effective 19 November 2024 and the Joint Liquidators will need to engage with the appointed liquidators in London as part of their work.

d. Montreux has been threatened with litigation and has received a letter before action, addressed to Montreux, MCM and another party from English solicitors. It is considered that there is a risk of claims and a potential rush to enforce against the assets of Montreux, whereas a winding up subject to the supervision of the Court would stay or prevent such proceedings so as to ensure a proper investigation of Montreux's affairs and its assets and an orderly distribution of such assets.

30. The Joint Liquidators now bring this Claim for the reasons set out in Mr Wilson's Affidavit, pursuant to s.243 of the 1931 Act for the continued voluntary winding up of Montreux, with the Joint Liquidators continuing to be joint liquidators, subject to the supervision of the Court and subject to such terms and conditions as the Court thinks just.

31. The Joint Liquidators invite the Court to order that they shall have all of the powers in s. 184 of the 1931 Act including, for the avoidance of doubt, the s.184(1)(d), (e) and (f) powers.

32. The Claimants invite the Court to make directions for the notice to be given of this Claim at an initial hearing, which shall include directions as to the notice to be given to Montreux's members and creditors. In view of the interest of the FSA in this matter, this Claim is brought with notice to the FSA.

33. In terms of notice of the petition, recognising that the majority of Montreux members have already voted in favour of the Joint Liquidators' appointment, recognising also that the vast majority of Montreux members are based outside of the Isle of Man and finally recognising that the Joint Liquidators have been provided with the email details for these members by Suntera Fund Services (IOM) Limited, the Scheme's Fund Manager, it is proposed that the Claim Form and Mr Wilson's Affidavit (without exhibits) are provided to members (and potential creditors) via email, together with a covering letter in the form attached at GW1/266 to 269 to Mr Wilson's Affidavit, inviting members (and potential creditors) to reply in writing within 14 days of receipt to say whether they (i) support, (ii) oppose or are (iii) neutral to the Claim and that a further directions hearing is listed for a date shortly after the 14 day period for further directions to be set leading to the hearing of the Claim.

34. The Claimants propose that reports as to the progress of the winding up and any other matters arising are filed with the Court every three months, or at such other interval as the Court requires.

35. The Claimants also seek an order that the costs of and associated with this Claim are paid out of the assets of Montreux.

CHP 25/

IN THE HIGH COURT OF JUSTICE OF THE ISLE OF MAN
CIVIL DIVISION
CHANCERY PROCEDURE

IN THE MATTER of the Companies Act 1931

and

IN THE MATTER of The Montreux Healthcare Fund PLC

and

IN THE MATTER of the Claim Form of Gordon James Wilson and Paul David Allen as Joint Liquidators of the Company dated 3rd January 2025

Affidavit of Gordon James Wilson

I, **GORDON JAMES WILSON** of FRP Advisory (Isle of Man) Limited of 6th Floor, Victory House, Prospect Hill, Douglas, Isle of Man, IM1 1EQ, being sworn make oath and say as follows:

Introduction

1. I am a Partner at FRP Advisory (Isle of Man) Limited (“FRP”) and one of the Claimants in this matter.
2. I make this affidavit in support of the Claim of the Joint Liquidators of The Montreux Healthcare Fund Plc (“Montreux”) for an order that the voluntary winding up of Montreux be continued subject to the supervision of the High Court (“Court”).
3. I am one of the joint liquidators of Montreux, having been appointed as such by Montreux’s members on 3 October 2024.
4. I confirm that I am authorised by my fellow joint liquidator, Paul David Allen of FRP Advisory Trading Limited, 110 Cannon Street, London, EC4N 6EU, to make this my affidavit.
5. Save where otherwise stated the matters set out in this affidavit are within my own personal knowledge and are true. Where they are not within my personal knowledge, I confirm that they are true to the best of my knowledge, information and belief. Much of the information

within this affidavit is from a review of Montreux's documents which have been made available to me.

6. I have read the Claim Form and believe its contents to be true.
7. There is now produced and shown to me marked GJW1/pages 1 to 269, a bundle containing documents to which I shall refer.

Montreux

8. Montreux is a company incorporated on 17 June 2013 in the Isle of Man under the Companies Act 2006. It has company number 009788V. A copy of Montreux's certificate of incorporation is at GJW1/1.
9. Montreux's registered office is at 6th Floor, Victory House, Prospect Hill, Douglas, Isle of Man, IM1 1EQ.
10. Montreux is an open-ended investment company and a qualifying fund under the Collective Investment Schemes (Qualifying Fund) Regulations 2010 (the "Regulations") (GJW1/2 to 21).
11. Montreux operated a business focused on investments within the healthcare sector, with an objective to purchase, develop and maintain high end care homes and facilities in the UK and western Europe. Montreux's business activities and strategies hereto will be referred to as the Scheme.

The Scheme

12. The Scheme was structured as an offshore investment vehicle with layers of subsidiary and sub-subsidiary entities for investment ultimately in healthcare related assets. Investors contributed capital to Montreux in exchange for shares reflecting their proportional interest in Montreux's assets and projects. Montreux Capital Management (UK) Limited ("MCM"), the investment advisor, was responsible for advising on investing the assets of the Scheme, including identifying and advising on the Scheme acquiring valuable healthcare assets. Montreux loaned the investors' capital to its subsidiary Montreux Holdings Limited ("MHL") for onward investment.
13. Prior to the matters I describe below, the audited accounts of Montreux as at 30 September 2022 show net assets of c£426.1 million (GJW1/22 to 63), comprising of the following:
 - a. Montreux's interest in MHL, valued at c.£376.39 million. The value of MHL was derived from the value of its interest in the underlying companies, Ruby Holdco Limited and ACG Holdco Limited ("ACG Holdco"), both UK companies and around 50 underlying subsidiaries. A structure chart can be found at GJW1/64;
 - b. Net forward currency contracts of c.£6.98m;

- c. Cash and cash equivalents of c.£41.12m; and
 - d. Net receivables of c. £1.55m.
14. Montreux has over 600 (six hundred) named shareholders, with seventeen share classes, each of which have between two and five currency sub-classes resulting in there being approximately fifty sub-classes in total. Many of the shareholders are in mainland Europe, as well as the Middle East and Asia and the shareholder register shows that many of the registered shareholders are institutional nominees, with many individual investors behind these shareholdings.

ACG Holdco

15. From a review of Montreux's records, on 24 December 2021, the Scheme became interested, through ACG Holdco, in Huntercombe Group Holdco Limited ("Huntercombe"), a specialist health provider in the UK.
16. Around six months later, on 28 June 2022, ACG Holdco entered into a bridging loan (the "Bridging Loan"), the proceeds of which were mainly used to pay back the debts arising from the Huntercombe acquisition. The Bridging Loan was secured by ACG Holdco over its interest in ACG Midco Limited, an English company, which meant that, effectively, the entirety of the assets of the Scheme, except for its cash balances held with a London based FX broker and its custodian, Cayman National Bank (Isle of Man) Limited, were pledged to the Bridging Loan provider.
17. On 3 October 2022, in light of its obligations under the Bridging Loan which it was struggling to meet, Montreux suspended subscriptions, redemptions and the calculation of the net asset value ("NAV") and it appears from Montreux's board minutes that I have seen, that efforts also started to sell the ACG Holdco business around that time.
18. The Bridging Loan had to be repaid by the end of 2023 and it is apparent from Montreux's financial records that no repayments were made.
19. On 29 May 2024, Richard Beard and Richard Fleming of Alvarez & Marsal Europe LLP were appointed as Joint Administrators of ACG Holdco (the "Joint Administrators") under the Bridging Loan arrangements which were then in default (GJW1/65 to 67). Shortly after their appointment, the Joint Administrators completed a sale of the assets of ACG Holdco to a third party for approximately £62m. A review of the Joint Administrators' report shows that there were no surplus funds from the sale for distribution to the Scheme (GJW1/68 to 121). As a result, the Scheme no longer has any interest in the ACG business and its interest in MHL, once valued at £376.39 million, is now worthless.
20. Montreux's financial records show that since its last audited accounts dated 30 September 2022 the Scheme's value has been substantially reduced by a combination of the losses on the MHL interest as explained above as well as expenses and currency hedging losses. As

a result, the Scheme's overall net assets have reduced from £426,069,395 as at 30 September 2022 to approximately £4,218,115 as at 31 August 2024. At the date of my appointment as liquidator, on 3 October 2024, Montreux had £4,076,111 in cash at bank, no remaining forward currency contracts, no receivables and no other known assets of value. However, it is possible that Montreux may have valuable claims against third parties.

Background to liquidation

21. On 12 July 2024, Montreux wrote to its members proposing that it be placed into members' voluntary liquidation (GJW1/122 to 123).
22. A members meeting was held on 7 August 2024 but the proposal to place Montreux into members' voluntary liquidation was not passed at the meeting (GJW1/124). While I do not have any direct knowledge of the issue, having spoken to certain members, the reason that the proposal was not passed is that the majority of members were not in favour of the liquidator proposed, rather than that they did not wish Montreux to be wound up.
23. On 22 August 2024, I was appointed as Controller of the company by the Isle of Man Financial Services Authority (the "FSA") pursuant to Section 13(1)(b) of the Collective Investment Schemes Act 2008 ("CISA") to assume control of the affairs of Montreux in relation to its activities as a collective investment scheme (GJW1/125 to 134).
24. The reasons for the appointment are set out at pages 130 to 134 of Exhibit GJW1, with some of the main considerations summarised below:
 - a. the Scheme had no investment adviser, following the resignation of MCM on 25 July 2024 and hence was in breach of Regulation 10 of the Regulations. MCM is understood to be a UK based asset advisory firm which advises on investments exclusively in health and social care in the UK;
 - b. Montreux had not provided shareholders with audited financial statements within 6 months of its year end (namely 30 September 2023) and is in breach of Regulation 20 of the Regulations;
 - c. The Scheme had no current or future income streams following on from the loss of its interests in the ACG business, as detailed above, yet it had liabilities which were continuing to accrue; and
 - d. A number of shareholders had made complaints to Montreux, some of which were considered material.
25. In addition, I was asked by the FSA to make an assessment as to whether Montreux's members were and had been in possession of sufficient information to understand their

commercial position as members and to assess the ongoing viability of the Scheme as a going concern.

26. On 30 August 2024, one of the two remaining directors of Montreux (Ita McArdle (“Mrs McArdle”)) resigned, leaving it with only one director, Barry Monks (“Mr Monks”). This caused Montreux to be in breach of its Articles of Association which required a minimum of two directors (GJW1/135 to 191). Mr Monks took no steps to appoint another director following Mrs McArdle’s resignation and the voting shareholder, MCM Capital Management Zug AG did not make any new director appointments either. Given the position I have described above, it is unlikely that there would be any person willing to be appointed as director in such circumstances.
27. Following my appointment as Controller, the Scheme’s Fund Manager, Suntera Fund Services (IOM) Limited (“Suntera”) also resigned with effect from 4 October 2024. I discussed the situation with Mr Monks and noted that Article 43.1 provides that Montreux may, by a special resolution of the members, resolve that Montreux be wound up voluntarily. In light of s. 68(1) and s. 182 of the 2006 Act and there being notice requirement in Montreux’s Memorandum and Articles of Association (Article 25.3) that not less than 14 days’ notice shall be given of a members’ meeting, it was decided by Mr Monks and me to convene a further members’ meeting for 3 October 2024.
28. On 17 September 2024, I wrote to members about my findings as Controller (GJW1/192 to 203) and attached a signed notice signed by Mr Monks calling a meeting of members on 3 October 2024. I am satisfied that the notice was properly sent to all members and that members were afforded at least 14 days’ notice in accordance with the Articles of Association and applicable law.

Winding Up of Montreux

29. On 3 October 2024, Montreux’s shareholders passed a resolution to wind up Montreux, with me and Paul David Allen of FRP Advisory Trading Limited appointed as Joint Liquidators. The voting record is at GJW1/204 to 208 and shows who voted. In summary, 60.45% of shareholders participated and of those who voted, 99.64% were in favour of our appointment, 0.08% were against and 0.28% abstained.
30. Due to the financial uncertainties of Montreux and because it only had one director, no declaration of solvency was or could be made pursuant to s. 218 of the Companies Act 1931 (the “1931 Act”). The liquidation is therefore a creditors’ voluntary winding up pursuant to s. 218 (3) of the Companies Act 1931.
31. By s. 226 of the 1931 Act, Montreux was accordingly required to cause a meeting of its creditors for the same day, or the day after the members’ meeting. However, this posed difficulties in the situation Montreux found itself in:

- a. Pursuant to Article 28.10 of Montreux's Articles, where the number of directors is less than the number fixed as the quorum, the director(s) may act only for the purposes of filling vacancies or of calling a members' meeting.
 - b. Accordingly, notwithstanding that it was required to do so, Montreux was unable to comply with s.226 because its sole director could not cause a meeting of creditors.
32. In such circumstances, and in light of my position as Controller, (which include terminating the business of the Scheme amongst other matters) and considering that Montreux's only business was the Scheme, my view was that I could cause Montreux to convene the creditors' meeting and chair the creditors' meeting in my capacity as Controller. However, I am not aware of any precedent in the Isle of Man whereby it has been confirmed by the Court that a controller can properly convene a creditors' meeting.
33. Notice of a creditors' meeting, immediately following the shareholders' meeting, was therefore sent to creditors by me on 25 September 2024 (pages 209 to 227) and I feel that this was in the best interests of Montreux, its members and creditors, pursuant to my powers as Controller. I also considered that it was in the Scheme's interest that Montreux should avoid the potential risk of a fine under s. 226 (6) of the 1931 Act.
34. Certain investors have made creditor claims on the basis that they claim they were due distributions under the Scheme, which had not been paid. This is set out in the table below.

Shareholders with creditor claims	Amount claimed (GBP £)
Select Securities Europe S.a.r.l Compartment G	1,236,565
Select Securities Europe S.a.r.l Compartment N	1,464,907
Clearstream Banking	Not specified
Dominus Multi-Manager Fund	Not specified
Custodian Life Ltd (in provisional liquidation) (GBP)	243,741
Custodian Life Ltd (in provisional liquidation) (Euro)	118,739
STM Life Assurance Pcc Plc	1,014,434
International Investment Platform	796,014
Variant Alternative Income Fund	3,008,000
CA Indosuez (Switzerland) SA	550,000
Total	8,432,400

35. Whilst these shareholders' positions as creditors remains to be determined, their proxies (given to me as Chairman) were all voting in favour of the Joint Liquidators' appointment.
36. MCM (Montreux's investment adviser at all material times) submitted a claim for unpaid fees of £1.0m and voted against our appointment but did not nominate anyone else as liquidator. Suntera and DQ Advocates may also be creditors, but they did not attend or vote.

37. Accordingly, the resolution confirming the appointment of myself and Paul David Allen as Joint Liquidators at the creditors' meeting would have passed based on the proxies received.
38. However, as there is no precedent of a Controller conveying a creditors' meeting and to remove any doubt (for the avoidance of doubt I believe the Joint Liquidators are properly appointed), I decided that the creditors' meeting should be opened and adjourned to a date to be confirmed. Creditors were advised of this, and a letter was sent to shareholders explaining the position. I concluded that the directions of the Court may be required and told investors as much in my letter on 4 October 2024 (GJW1/228 to 234).

Present Position

39. I understand that pursuant to s.227 of the 1931 Act, if no person is nominated by the creditors, the person, if any, nominated by the company shall be liquidator. Given that no person was nominated by the creditors (and the meeting adjourned), I understand that the Joint Liquidators are validly appointed, and we have started the process of liquidating Montreux.
40. Following our appointment as Joint liquidators, Mr Monks also resigned, with effect from 14 November 2024, leaving Montreux with no directors.
41. Since our appointment, we have taken a number of steps:
- a. Issuing information requests to third parties and obtaining books and records;
 - b. Changing the registered office of Montreux;
 - c. Payment of certain expenses including Controller fees, liquidators' fees and custody fees ;
 - d. Liaising with the FSA;
 - e. Entering into a services agreement with Suntera for administration assistance;
 - f. Notifying the Joint Liquidators' appointment to the Companies Registry;
 - g. Notifying shareholders using email addresses provided by Suntera, providing updates as to progress and responding to shareholders' queries regarding the liquidation generally;
 - h. Bringing this application before the Court;
 - i. Setting up a shareholders' portal and issuing notifications/updates to members via the portal;
 - j. Engaging with the liquidation of MCM following it going into liquidation on 19 November 2024;

- k. Engaging with lawyers for Mr Harris, in his capacity as the former director and owner of MCM; and
- l. Engaging with certain investors that had expressed an interest in forming an investors' committee and facilitating discussions to assist them in reaching an agreement on membership as the number of interested parties exceeded the maximum limit of five.

The Winding Up of Montreux by the Court

42. Under s.13(6) CISA, the FSA may apply to the Court (on receipt of any information or report from me as Controller) under CISA for an order that Montreux be wound up.
43. I do not understand this to mean that by reason of CISA, Montreux may only be wound up by the FSA and hence, other methods of winding up Montreux remain available.
44. In such circumstances, I have discussed with the FSA the progression of the winding up of Montreux and the FSA has been informed of the decision to file this Claim to ask the Court to order that the voluntary winding up shall continue but subject to the supervision of the Court pursuant to s. 243 of the 1931 Act.
45. This way forward is considered appropriate noting, in particular, the matters set out below.
 - a. The FSA saw fit to intervene in the Scheme and to appoint me as Controller under CISA.
 - b. The Joint Liquidators' desire to deal with the uncertainty concerning the creditors' meeting (Montreux itself is unable to cause a meeting of creditors in order to progress the liquidation, as it no longer has any directors) and to bring this matter before the Court as soon as possible. This Claim is brought with notice to the FSA.
 - c. There is an urgent need to carry out investigations to determine what happened to the significant sums of investor capital invested into the Scheme which has been substantially lost and to take any actions necessary following from such investigations in the interests of the Scheme / those interested in it. Given that Montreux was at the top of a substantial group of companies, all but two of which were registered in England and Wales, it is anticipated that our efforts will require recognition in England and Wales and the possible assurance of the English Courts which, it is considered, will be assisted by a winding up subject to the supervision of the Court.
 - d. The former investment advisor, MCM, has gone into a Creditors' Voluntary Liquidation effective 19 November 2024 and we will need to engage with the appointed liquidators in London as part of our work.

- e. Montreux has been threatened with litigation and has received a letter before action, addressed to Montreux, MCM and another party from English solicitors (GJW1/235 to 265). It is considered that there is a risk of claims and a potential rush to enforce against the assets of Montreux, whereas a winding up subject to the supervision of the Court would stay or prevent such proceedings so as to ensure a proper investigation of Montreux's affairs and its assets and an orderly distribution of such assets.
46. Further, it is the view of the Joint Liquidators that the winding up of Montreux pursuant to s. 243 of the 1931 Act is the appropriate way forward due to the issues and complexities pertaining to this winding up, which may require ongoing judicial intervention or the reference of questions to the court for determination or action by the Joint Liquidators outside of the jurisdiction of the Isle of Man, where obtaining recognition may be assisted by a Court appointment. We also consider that the timely authoritative resolution of the Court will prevent the winding up process being unduly stalled.
 47. The Joint Liquidators propose that reports as to the progress of the winding up and any other matters arising, are filed with the Court every 3 months, or at such other interval as the Court requires.
 48. For the reasons set out above, the Joint Liquidators bring this petition before the Court seeking the following:
 - a. An order that the voluntary winding up shall continue but subject to the supervision of the Court pursuant to s. 243 of the 1931 Act;
 - b. An order that the Joint Liquidators have all of the powers pursuant to s. 184 of the 1931 Act including, for the avoidance of doubt, the s. 184(1)(d), (e) and (f) powers so as to avoid additional cost and delay in having to revert to the Court in relation to such powers; and
 - c. An order that the costs of and associated with the Claim are paid out of the assets of Montreux.
 49. In terms of notice of the petition, recognising that the majority of Montreux members have already voted in favour of the Joint Liquidators' appointment, recognising also that the vast majority of Montreux members are based outside of the Isle of Man and finally recognising that the Joint Liquidators have been provided with the email details for these members by Suntera, it is proposed that the Claim Form and this Affidavit (without exhibits) are provided to members (and potential creditors) via email, together with a covering letter in the form attached at GJW1/266 to 269, inviting members (and potential creditors) to reply in writing within 14 days of receipt to say whether they (i) support, (ii) oppose or are (iii) neutral to the Claim and that a further directions hearing is listed for a date shortly after the 14 day period for further directions to be set leading to the hearing of the Claim. The period

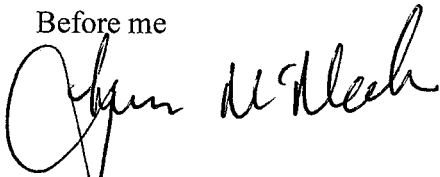
of 14 days is suggested in view of the provision within Article 25.3 of the Articles, where not less than 14 days' notice of a shareholders meeting shall be given, as referred to above.

50. The Claim has also been brought with notice to the FSA, so that it may appear at the hearing of the Claim, should it so wish.

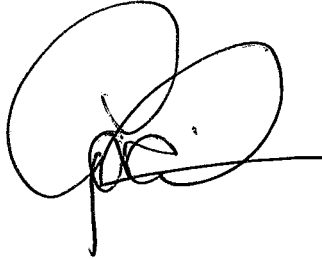
TAKEN and SWORN at Douglas :

This 3rd day of January 2025 :

Before me :



LYNN McMECHAN
COMMISSIONER FOR OATHS



CHP 25/0003

**IN THE HIGH COURT OF JUSTICE OF THE ISLE OF MAN
CIVIL DIVISION
CHANCERY PROCEDURE**

IN THE MATTER of the Companies Act 1931

and

IN THE MATTER of The Montreux Healthcare Fund Plc

and

IN THE MATTER of the Claim Form of Gordon James Wilson and Paul David Allen as Joint Liquidators of the Company dated 3 January 2025 ("**the Claim**")

**HIS HONOUR
DEEMSTER CORLETT**

UPON considering this day administratively the foregoing Claim and the Affidavit of Gordon James Wilson sworn on 3 January 2025 **AND UPON** consideration had thereof **IT IS ORDERED THAT:-**

1. Notice of the claim be given to members and the potential creditors of The Montreux Healthcare Fund Plc ("the Company") by sending a copy of the Claim Form and the Affidavit of Gordon James Wilson (without exhibits) to them by email to their last known email addresses, together with a copy of the cover letter exhibited to Mr Wilson's Affidavit;
2. The Claim is adjourned to 13 February 2025 at 10:30am (30 minutes allowed) for the setting of further directions leading to the hearing of the claim;
3. The costs of and incidental to the claim shall be paid out of the assets of the Company;
4. Liberty to the Claimants to apply.

Dated 22 January 2025

