

TCA Global Credit Fund, Ltd. (In Official Liquidation)

The Joint Official Liquidators' First Report to Creditors and Contributories

First Concurrent Meetings of Creditors and Contributories

Date: 10 June 2020

Time: 11:00am (Cayman Islands time)

Attendance: By teleconference (details to be provided upon request)

Reliance Restricted

5 June 2020



Building a better
working world



EY Cayman Ltd.
62 Forum Lane
Camana Bay
Grand Cayman
Cayman Islands

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To the creditors and contributories of
TCA Global Credit Fund, Ltd. (In Official Liquidation)

TCA Global Credit Fund, Ltd. (In Official Liquidation) (“the Fund”)

5 June 2020

Disclaimer

This report has been prepared solely to provide all known and potential creditors and contributories of the Fund with an update as to the progress of the liquidation and should not be relied upon for any other purpose. This report is strictly confidential and should not be copied or disclosed to any third party or otherwise quoted or referred to, in whole or in part, without the prior written consent of the Joint Official Liquidators (“the JOLs”).

Any party who uses this report for any other purpose does so entirely at its own risk and shall have no right of recourse against the JOLs, EY Cayman Ltd., or any of their partners, directors, employees, professional advisors or agents.

None of the JOLs, EY Cayman Ltd., or any of their partners, directors, employees, professional advisors or agents accept any liability or assume any duty of care to any third party (whether it is an assignee or successor of another third party or otherwise) in respect of this report and any such party who receives a copy of this report, whether from the JOLs, EY Cayman Ltd., or any other source, shall have no right of recourse against the JOLs, EY Cayman Ltd., or any of their partners, directors, employees, professional advisors or agents.

In preparing this report, the JOLs have relied upon information which they have obtained during the course of their appointment including certain statutory documentation and other information received from parties in possession of information, documents, or records pertaining to the Fund and its affairs or other third parties. The JOLs have not performed an audit examination on this information.

The affairs, business and property of the Fund are being managed by the JOLs who act as agents of the Fund only and without personal liability.



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Executive Summary

- ▶ On 13 May 2020, the Grand Court of the Cayman Islands (“**the Cayman Court**”) appointed Ms Eleanor Fisher and Ms Tammy Fu of EY Cayman Ltd. as JOLs of the Fund.
- ▶ The JOLs are responsible for the affairs of the Fund.
- ▶ The US Securities and Exchange Commission (“**SEC**”) commenced an investigation into the affairs of the Fund and other entities within the TCA Group¹ in response to whistleblower complaints alleging malpractice and potential fraudulent activity. The allegations were levelled against key personnel involved in the day-to-day operation of the TCA Group.
- ▶ As a result of its findings, the SEC filed a complaint and made an urgent application in the US District Court for the Southern District of Florida (“**US District Court**”) seeking the appointment of a US-based receiver over all entities within the TCA Group. The application was filed in Florida given the investment manager, TCA Fund Management Group Corp. (previously known as Trafalgar Capital Advisors, Inc) (“**the Investment Manager**”), is a Florida incorporated entity.
- ▶ Subsequently, on 11 May 2020, Mr Jonathan E Perlman of Genovese Joblove & Battista (“**the Receiver**”) was appointed as Receiver by the US District Court (“**the Receivership Order**”). The Receivership Order granted the Receiver extensive powers to administer the affairs of all entities within the TCA Group (excluding the Nevada Entity). On 18 May 2020, the Receiver obtained further orders from the US District Court to expand the Receivership Order to include the Nevada Entity.
- ▶ The JOLs have instructed US counsel to file a petition in the US Bankruptcy Court seeking recognition of the Cayman Islands liquidation and related relief under Chapter 15 of the US Bankruptcy Code.
- ▶ The JOLs’ US counsel continues to engage with US counsel for the Receiver on a collaborative approach that is intended to avoid duplication of effort and to ensure the efficient conduct of the liquidation.
- ▶ The JOLs are in the process of identifying and preserving the Fund’s assets. It is the JOLs’ understanding that the majority of the TCA Group’s assets are held by TCA Global Credit Master Fund, LP, a Cayman Islands exempted limited partnership (“**the Master Fund**”).
- ▶ The JOLs will provide a substantive update with respect to distributions to creditors and contributories once investigations are sufficiently advanced and substantive discussions with the Receiver have taken place.
- ▶ The JOLs will not formally adjudicate any proof of debt forms until the JOLs are in a position to declare and pay a distribution. However, in the event that a creditor submits a proof of debt form for the purpose of voting at the first concurrent meetings of creditors and contributories on 10 June 2020, the JOLs will complete an informal adjudication for voting purposes only.
- ▶ The JOLs anticipate providing a further update report to creditors and contributories within the next three to four months.

¹ The TCA Group includes the General Partner, the Master Fund, the LP Fund, the Nevada Entity, the Investment Manager and the Fund as defined on page 7 of this report.



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1. Introduction and purpose of the meeting

1.1 Introduction

On 13 May 2020, the Cayman Court appointed Ms Eleanor Fisher and Ms Tammy Fu of EY Cayman Ltd. as the JOLs of the Fund, following a winding-up petition filed by a redemption creditor of the Fund on 1 April 2020.

As required under Cayman Islands law, the appointment of the JOLs was published in the Cayman Islands Gazette on 20 May 2020. The appointment will also be advertised (in English and Arabic) in Al Ayam newspaper in Bahrain and the Gulf News newspaper in the United Arab Emirates prior to 10 June 2020 (as the winding-up petition was also advertised in these jurisdictions).

Notice of the JOLs' appointment was sent to the Fund's directors, service providers, creditors and contributories. The JOLs requested the Fund's books and records from various service providers. The JOLs are currently in the process of obtaining and reviewing various records including financial statements, Net Asset Value ("**NAV**") data, bank statements, corporate, legal and subscription documents, investor schedules and emails.

1.2 Purpose of the meeting

Pursuant to Order 8, Rule 1(2) of the Cayman Islands' Companies Winding-Up Rules, 2018 ("**CWR**"), the JOLs are required to make a determination as to the solvency of the Fund. Based on information available to date, it has been determined that the Fund is of doubtful solvency and the JOLs have filed a Certificate of Doubtful Solvency with the Cayman Court. The JOLs may revise their solvency determination from time to time in light of changes of any relevant circumstances and/or their assessment of the Fund's financial position.

Having determined the Fund to be of doubtful solvency, in accordance with Order 8, Rule 2 of the CWR, the JOLs have convened the first concurrent meetings of creditors and contributories of the Fund to be held at 11:00 am (Cayman Islands time) on 10 June 2020 via teleconference ("**the First Meeting**").

The First Meeting has been convened for the purpose of laying before the meeting the JOLs' first report on the conduct of the liquidation and the state of the Fund's affairs. The JOLs will also propose to creditors and contributories the forming of a Liquidation Committee ("**LC**").

The JOLs have also determined that the currency of the liquidation shall be United States Dollars (\$). Therefore, all currency amounts included in this report are in United States Dollars (\$) unless otherwise stated.



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1.3 Liquidation Committee

As noted above, the primary purpose of the First Meeting will be to seek nominations for the formation of the LC. The role of the LC is to:

- ▶ act as a representative body of creditors and contributories, and to consult with the JOLs;
- ▶ act as a confidential sounding board on the liquidation strategy; and
- ▶ approve the remuneration of the JOLs.

Order 9 of the CWR details the establishment, roles and requirements of the LC and is attached for your reference.

Completed proof of debt forms with supporting documents (for creditors only) and proxy forms must be submitted to the JOLs by no later than 5:00 pm (Cayman Islands time) on 9 June 2020 should a creditor or contributory wish to attend the First Meeting and be nominated for the LC (if applicable).

Any creditor or contributory wishing to nominate themselves as a member of the LC should contact tcagloballiquidation@ky.ey.com or alternatively a creditor or contributory may nominate themselves during the course of the First Meeting on 10 June 2020.

The LC must consist of between three (3) and six (6) creditors and contributories, of whom a majority shall be creditors and at least one contributory. Any creditor is eligible to be a member of the LC so long as it has lodged a proof of debt form in advance of the meeting and the proof of debt has not been wholly rejected. A contributory is eligible to be a member of the LC if recorded as a member in the Fund's register of members.

LC members will be asked to sign a confidentiality agreement as much of the information provided to them will be non-public, potentially commercially sensitive and/or legally privileged and will not be made available to all creditors and contributories. The JOLs intend to liaise with the LC regularly and will consult with the LC regarding confidential issues and key decisions which may arise during the course of the liquidation.

1.4 Status as a creditor or contributory

Under Cayman Islands law, investors may be a creditor if they have submitted a valid redemption request prior to the appointment of the JOLs on 13 May 2020. If investors have not submitted a redemption request, they are a contributory of the Fund and do not need to complete a proof of debt form. Pursuant to Section 140 of the Companies Law (2020 Revision), contributory claims are subordinate to the claims of unsecured creditors and redeemed creditors of the Fund.

Please note that if a creditor does not wish to attend the First Meeting, then no proof of debt form or proxy form is required to be completed at this stage. The JOLs will not formally adjudicate any proof of debt forms until the JOLs are in a position to declare and pay a distribution. However, in the event that a creditor submits a proof of debt form for the First Meeting, the JOLs will complete an informal adjudication for voting purposes only.



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2. Circumstances giving rise to the appointment of the JOLs

2.1 Statutory information

The Fund was incorporated under the laws of the Cayman Islands on 12 March 2010 as an exempted company with limited liability with registration number 238193.

Registered Office: Maples Corporate Services Limited
P.O. Box 309, Ugland House
South Church Street, George Town
Grand Cayman, KY1-1104
Cayman Islands

The JOLs are in the process of changing the Fund's registered office to EY Cayman Ltd., 62 Forum Lane, Camana Bay, P.O. Box 510, Grand Cayman, KY1-1106, Cayman Islands.

Directors: Robert Daryl Press
Bruce John Wookey
Bernard Sumner

Investors: Various institutional, corporate and individual investors.

2.2 History

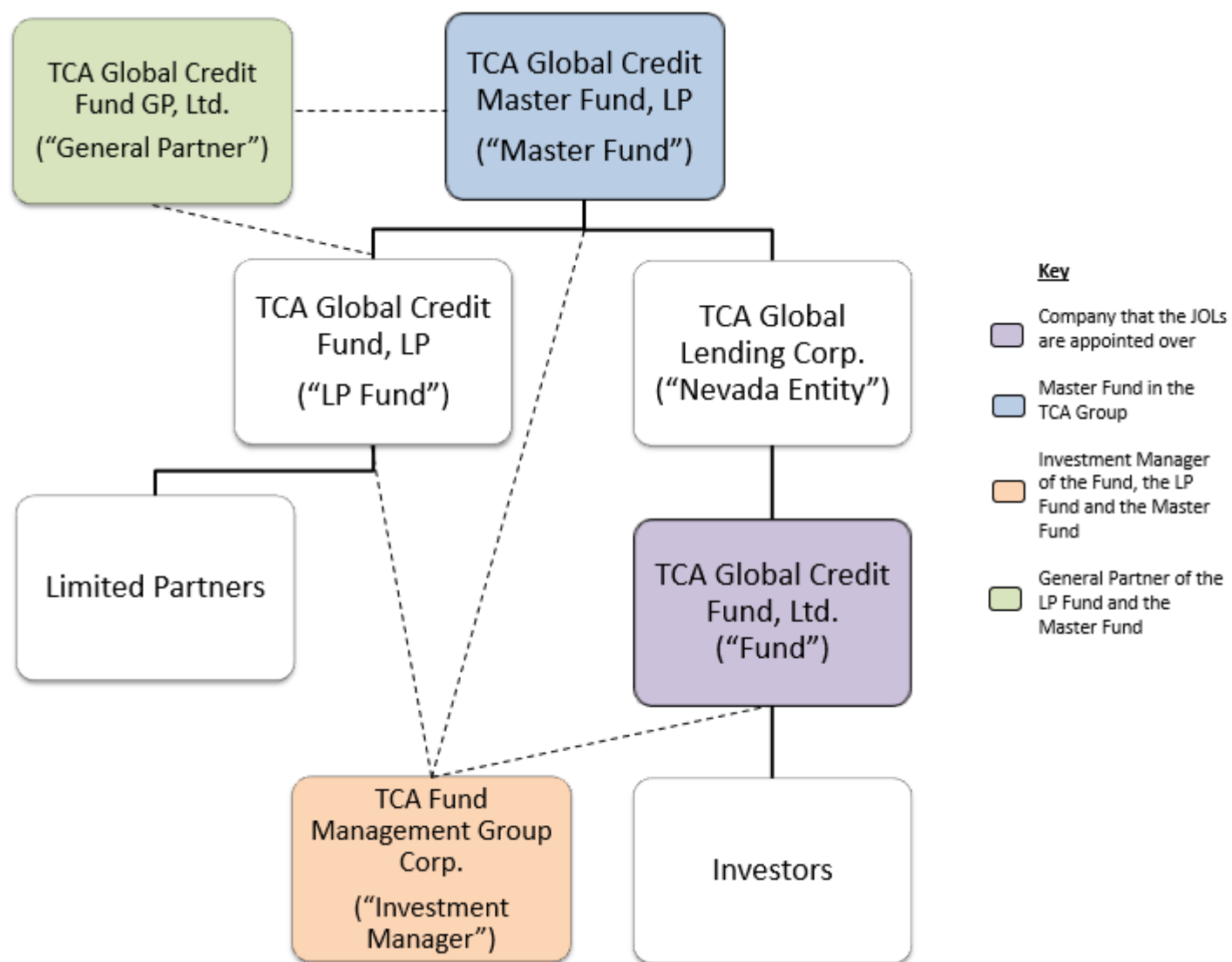
The Fund was formed to pool investment funds from its shareholders for the purpose of investing in the Master Fund through a master-feeder structure. The Fund is regulated by the Cayman Islands Monetary Authority as a mutual fund. According to the Fund's January 2018 Offering Memorandum, the Fund's investment in the Master Fund is made via a Nevada incorporated company, TCA Global Lending Corp., ("**Nevada Entity**") which is wholly owned and controlled by the Fund. The JOLs understand that the Nevada Entity sits in the TCA Group structure for tax purposes.

According to the Fund's January 2018 Offering Memorandum, its investment objective is to seek to achieve superior risk-adjusted returns, primarily by making directly negotiated debt and equity-related investments in public and private companies. The Fund has multiple share classes which differ from one another only with respect to the currency in which the shares are denominated. All subscriptions are converted into US Dollars which is the base currency for the Fund's portfolio.



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Detailed below is a structure chart for the TCA Group structure.²



² Based on the Fund's January 2018 Offering Memorandum



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According to the Fund's January 2018 Offering Memorandum, the Fund was formed for investment by non-US investors and US non-taxable investors while the LP Fund was formed for investment by US taxable investors.

The Investment Manager has discretionary authority to invest the assets of the Fund, LP Fund and the Master Fund subject to authorization by the General Partner. Pursuant to the Limited Partnership Agreement, the business and affairs of the Master Fund are managed by the General Partner and the JOLs understand that the Investment Manager is the sole shareholder of the General Partner.

The Investment Manager is regulated by the US SEC as a registered investment advisor. The JOLs understand that the Investment Manager is controlled and majority-owned by Robert Daryl Press, also a director of the Fund.

On 21 January 2020, in a letter to investors, the board of directors of the Fund wrote that:

- ▶ it would begin an orderly winding-down of the Fund's affairs and had approved the suspension of subscriptions, redemptions, the payment of redemption proceeds and the calculation of the NAV of the Fund with immediate effect;
- ▶ the Fund had received redemption and withdrawal requests in excess of available cash;
- ▶ the Investment Manager had determined that the continued operation of the Fund was no longer commercially viable due to various reasons including the significant redemption requests received and revenue recognition policies that have been raised in connection with an ongoing SEC investigation of the Investment Manager; and
- ▶ it was anticipated to take between 12 to 18 months to liquidate all positions held by the Master Fund, following which the board of directors of the Fund intended to compulsorily redeem all investors.

Subsequently, on 11 May 2020, the SEC filed a complaint in the US District Court seeking the appointment of a receiver over the Investment Manager, the General Partner, the LP Fund, the Fund and the Master Fund ("**the TCA Defendants**") on the basis that the Investment Manager and the General Partner violated various US securities laws having allegedly:

- ▶ adopted revenue recognition practices which artificially inflated the Master Fund's profits and NAV; and
- ▶ misrepresented the Master Fund's performance to investors and the SEC.

The Fund was listed as a Relief Defendant in the SEC Complaint. On the same date, the US District Court made the orders sought by the SEC and appointed the Receiver.

On 13 May 2020, the Cayman Court made an order placing the Fund into Official Liquidation and appointing the JOLs over the Fund.

On 18 May 2020, the Receiver obtained further orders from the US District Court to expand the Receivership Order to include the Nevada Entity.



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3. Purpose and progress of the liquidation

3.1 Interaction between the JOLs and the Receiver

In order to protect the interests of creditors and contributories and ensure compliance with Cayman Islands law, the JOLs have retained legal counsel in Florida. The JOLs have instructed US counsel to file a petition in the US Bankruptcy Court seeking recognition of the Cayman Islands liquidation and related relief under Chapter 15 of the US Bankruptcy Code.

The JOLs' US counsel continues to engage with US counsel for the Receiver on a collaborative approach that is intended to avoid duplication of effort and wasteful litigation over control of the Fund, and promote efficiency in administration through a set of bilateral protocols that will be submitted to the US and Cayman Courts for approval and implementation.

3.2 Assets

The Fund's investment in the Master Fund is valued at the Fund's proportionate interest in the capital of the Master Fund. According to the Fund's most recent audited financial statements as at 31 December 2018, which has not been verified by the JOLs, the Fund has an interest of approximately 92% of the Master Fund's net assets with an approximate book value of \$395m. However, based on the SEC Complaint and on the basis of a qualified audit opinion issued for the Master Fund's financial statements as at 31 December 2018, the JOLs understand that the book value may be inflated and that the actual realizable value of the assets is less than reported.

The JOLs are in the process of identifying and preserving the Fund's assets and will provide further updates during the liquidation. Based on initial enquiries, the majority of the TCA Group's assets are held at the Master Fund level. Given the JOLs are appointed over the Fund only, the JOLs are seeking urgent clarification from the Receiver regarding the current asset position (including an assessment of estimated realizable values and the timing of realization). The JOLs are also determining whether any monies recovered by the Receiver from the Fund's bank accounts (totaling approximately \$4.3m) ought to be transferred to a liquidation bank account under the control of the JOLs.

As detailed at Section 1.2 above, the JOLs have formed the opinion that the Fund is of doubtful solvency since it is unclear whether the Fund holds sufficient assets or has a claim to sufficient assets in the Master Fund to discharge estimated claims by creditors.

The JOLs are conscious that creditors and contributories wish to know the estimated realizable value of the assets and, in turn, the likely return on their claims/investments. As stated above, the JOLs are seeking urgent clarification from the Receiver in this regard and will provide a further update as soon as possible.

3.3 Liabilities

The JOLs have contacted all known and potential creditors of the Fund to notify them of the liquidation and to request that they provide the JOLs with details of any claims they may have against the Fund.

The JOLs are in the process of obtaining and reviewing all the Fund's books and records with respect to the liabilities of the Fund including trade creditors, redemption creditors and parties who paid subscription monies but did not receive a corresponding issue of shares in the Fund.



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3.4 Expenses of the liquidation

The petitioning creditor's costs, and all liquidation fees, costs and other expenses incurred by the JOLs in the course of the winding-up are treated as expenses of the liquidation payable out of the assets of the Fund and in priority to all other debts. Such expenses will include the JOLs' fees and expenses, legal costs and the costs of other service providers which the JOLs have agreed are required for the purpose of the liquidation.

The JOLs' fees and expenses are subject to the approval of the LC (if formed) and sanction by the Cayman Court.

3.5 Distributions

As creditors and contributories may appreciate, the JOLs have been appointed for less than one month and are in the preliminary stages of their investigations into the affairs and conduct of the Fund.

The JOLs will provide a more substantive update with respect to distributions to creditors and contributories once investigations are sufficiently advanced and substantive discussions with the Receiver have taken place.

At a high level, the quantum and timing of any future distributions is dependent on the following factors:

- ▶ Realization of the Fund's assets (including any distributions made by the Master Fund);
- ▶ The outcome of the JOLs' investigations and any recoveries which may flow from those investigations; and
- ▶ Known and estimated liquidation expenses.

The JOLs will provide creditors and contributories with an estimated outcome statement as soon as practicable. An estimated outcome statement provides an indication of the anticipated return after taking into account the costs and expenses of the liquidation.

3.6 Investigations

The JOLs have a statutory obligation to investigate the circumstances relating to the Fund's failure. In order to discharge this duty, the JOLs must not only determine the assets and liabilities of the Fund, but the JOLs must also consider the conduct of those involved in the formation, promotion and management of the Fund.

Should any creditors or contributories have any information or records which may assist with the JOLs' investigations, please contact tcagloballiquidation@ky.ey.com.

4. JOLs' fees and expenses

The JOLs have no funds from which to draw any fees and expenses at this stage. If an LC is formed, the JOLs will seek approval from the LC in respect of the JOLs' fees and expenses incurred during the liquidation, with up to 80% of the JOLs' fees to be drawn monthly on account at the JOLs' hourly rates pursuant to Regulation 10, 11 and 12 of the Insolvency Practitioners' Regulations 2018 ("IPR").

Following approval from the LC, the JOLs must also make an application to the Cayman Court pursuant to Regulation 13 of the IPR to seek the Cayman Court's approval of the JOLs' fees and expenses.



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5. Other matters

5.1 Future conduct of the liquidation

The JOLs will continue to manage the affairs, business and property of the Fund in order to progress matters in the liquidation.

As stated above, the JOLs, in conjunction with their US counsel, are in discussions with the Receiver regarding agreement to a set of bilateral protocols to avoid duplication of effort and to ensure the efficient conduct of the liquidation. The protocols will be subject to the approval of the Cayman Court.

Should creditors or contributories wish to provide funding to the JOLs to investigate the affairs of the Fund, please contact tcagloballiquidation@ky.ey.com. Any monies advanced by creditors or contributories to the JOLs will be treated as a priority claim in the liquidation and will rank ahead of the claims of creditors and contributories.

5.2 Conclusion

The JOLs will provide further updates to creditors and contributories on the progress of the matters outlined in this report and any other matters arising during the course of the liquidation.

The JOLs anticipate providing a further update report to creditors and contributories within the next three to four months.

Should you have any queries with respect to this report, please contact tcagloballiquidation@ky.ey.com.

Yours faithfully

For and on behalf of TCA Global Credit Fund, Ltd. (In Official Liquidation)

A handwritten signature in blue ink, appearing to read 'E Fisher', is shown.

Eleanor Fisher

Joint Official Liquidator

The affairs, business and property of the Fund are being managed by the Joint Official Liquidators who act as agents of the Fund only and without personal liability.