

NOTICE OF FILING

Details of Filing

Document Lodged:	Non-Prescribed Notice/Request
Court of Filing	FEDERAL COURT OF AUSTRALIA (FCA)
Date of Lodgment:	7/10/2025 5:24:26 PM AWST
Date Accepted for Filing:	7/10/2025 5:24:31 PM AWST
File Number:	WAD13/2024
File Title:	AUSTRALIAN SECURITIES & INVESTMENTS COMMISSION v BRITE ADVISORS PTY LTD ACN 135 024 412 (RECEIVERS AND MANAGERS APPOINTED) (IN LIQUIDATION)
Registry:	WESTERN AUSTRALIA REGISTRY - FEDERAL COURT OF AUSTRALIA



Sia Lagos

Registrar

Important Information

This Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

The date of the filing of the document is determined pursuant to the Court's Rules.



Federal Court of Australia
District Registry: Western Australia

Division: General

No: WAD13/2024

AUSTRALIAN SECURITIES & INVESTMENTS COMMISSION
Plaintiff

BRITE ADVISORS PTY LTD ACN 135 024 412 (RECEIVERS AND MANAGERS APPOINTED) (IN LIQUIDATION)
Defendant

**COURT APPOINTED RECEIVERS AND MANAGERS'
MINUTE OF PROPOSED ORDERS**

JUDGE: JUSTICE O'SULLIVAN

DATE OF ORDER: ---

WHERE MADE: Adelaide

For the purposes of this order:

“Distribution Orders” means the orders made by this Court relating to the distribution methodology on 15 September 2025 in these proceedings. The same definitions used in Distribution Orders apply to these orders unless stated otherwise.

“Interim Distribution Valuation Date” means a date chosen by the Receivers on which the Interim Distributable Amount will be valued for the purposes of the distribution, as contemplated by order 4(f) of these orders.

“Margin Loan” means the debt owing under lending arrangements in place prior to the appointment of the Receivers between Brite Advisors and Interactive Brokers Australia Pty Ltd (**IBAU**).

“Non-Distributable Amount” is an amount determined by order 6 of these orders.

Filed on behalf of (name & role of party)	Linda Smith and Rob Kirman, as joint and several court-appointed receivers and managers
Prepared by (name of person/lawyer)	C A L Boothman
Law firm (if applicable)	HWL Ebsworth Lawyers
Tel (08) 6559 6500	Fax 1300 704 211
Email	cboothman@hwle.com.au
Address for service (include state and postcode)	Level 20, 240 St Georges Terrace, Perth WA 6000

THE COURT ORDERS THAT:

Termination of Margin Loan arrangements

1. The Receivers would be acting properly and are justified in repaying to IBAU the amount owing under the Margin Loan from the Trust Assets and terminating any contractual arrangement associated with the Margin Loan.
2. Upon repayment of the Margin Loan, the following orders are discharged and of no ongoing effect:
 - (a) Orders 3 and 7 of the orders made in this matter on 5 June 2024; and
 - (b) Orders 17, 18 and 19 of the Distribution Orders.

Interim Distribution

3. The Receivers would be acting properly and are justified in making an interim distribution from the Trust Assets to Corporate Trustees and Beneficiaries, as contemplated by Order 24A of the Distribution Orders, in accordance with Orders 2 to 7 of the Distribution Orders and these orders.
4. To give effect to an interim distribution, which can take place before any application relating to the Retained Funds has been made, the Receivers are to take the following steps.
 - (a) With the advice and assistance of the Interim Funds Manager, identify the assets to be liquidated, which once liquidated will leave assets invested on the IB Platform with a value at or around the Non-Distributable Amount (**Liquidation Assets**).
 - (b) With the advice and assistance of the Interim Funds Manager, liquidate the Liquidation Assets, with such liquidation to occur within twenty-one business days of these orders (**Liquidation Window**).
 - (c) With the advice and assistance of the Interim Funds Manager, manage the currencies in which cash is held, during the Liquidation Window and as the liquidation occurs, to minimize foreign exchange risk and in contemplation of the target currencies for the interim distribution.
 - (d) With the advice and assistance of the Interim Funds Manager and where appropriate, as the Liquidation Assets are liquidated, adopt a hedging strategy

to reduce the period during which the Liquidation Assets are not exposed to market risk.

- (e) On the expiration of the Liquidation Window, the Receivers will commence all reasonable steps to distribute the proceeds of the liquidation of the Liquidation Assets (**Interim Distributable Amount**), with such steps to be completed within twenty business days (**Distribution Window**).
- (f) At the start of the Distribution Window the Interim Distributable Amount will be valued on a single date, being the Interim Distribution Valuation Date, and in US dollars, applying prevailing exchange rates on that date as identified by the Receivers to the extent any cash is held in another currency. The total amount of pension withdrawals (or the USD equivalent calculated as at the date of each payment of such pension withdrawal) paid to Beneficiaries after 13 December 2023 will be added to this value (**Interim Total Value**).
- (g) The interim distribution to be paid to a Corporate Trustee for the benefit of a Beneficiary, or direct to a Beneficiary, as applicable, will thereafter be calculated by reference to the formula in order 7. Where a Beneficiary has received a Withdrawal, this will be deducted from the amount to be distributed to them or to their Corporate Trustee.
- (h) Orders 29 through 37 of the Distribution Orders apply to the Interim Distributable Amount in the same way as these orders apply to the Distributable Amount as defined in the Distribution Orders.
- (i) Any amount of the Interim Distributable Amount continued to be held on trust in accordance with Order 32 of the Distribution Orders, will be held as cash in the IB Accounts.
- (j) After the commencement of the Distribution Window, the Receivers will seek orders from this Court to pay each Corporate Trustee for the benefit of a Beneficiary, or a Beneficiary directly (as applicable), identifying the specific amount to be paid and the currency of that payment (**Payment Orders**):
 - (i) The Receivers are to file the application for the Payment Orders, supported by affidavit evidence, by Thursday 18 December 2025.
 - (ii) The hearing relating to the application for the Payment Orders be

listed on **Tuesday 23 December 2025 at 9am AWST / 11.30 ACDT**.

- (k) Upon receipt of the Payment Orders, the Receivers will make payment of the interim distribution in accordance with those orders and before the conclusion of the Distribution Window.
- 5. IBAU must provide all reasonable and necessary assistance to the Receivers and the Interim Fund Manager to facilitate the expeditious carrying out of these orders, including making the transfer of funds out of the IB Accounts within three business days of receiving instructions from the Receivers.
- 6. The Non-Distributable Amount is:
 - (a) USD\$22,455,609; plus
 - (b) GBP£5,233,636; plus
 - (c) AUD\$19,738,772; plus
 - (d) any amount which as at 14 November 2025 is the subject of an application to a Registrar of the Court for approval for payment and which has not yet been approved or paid.
- 7. In respect of Beneficiaries whose Verified Entitlement includes an entitlement to the Deficient Mixed Fund, the Receivers can calculate the amount of their interim distribution relating to such assets (**Beneficiary's Deficient Mixed Fund Interim Distribution**) on a *pari passu* basis as follows.

$$\text{Beneficiary's Deficient Mixed Fund Interim Distribution} = \frac{\text{BE} - \text{Loans}}{\text{TE} - \text{TL}} * \text{Interim Total Value} - (\text{Withdrawals})$$

Where:

BE (Beneficiary Entitlement) is the total value of an individual Beneficiary's Verified Entitlement relating to assets and cash which Brite Advisors held or purported to hold in the IB Accounts.

TE (Total Entitlements) is the sum of each and every BE.

TL (Total Loans) is the sum of each and every Loan.

Interim Total Value is the Interim Distributable Amount plus any pension withdrawals paid to Beneficiaries after 13 December 2023. The Interim

Total Value is to be determined as at the Interim Distribution Valuation Date, as defined in order 4(f) above.

Withdrawals are post-appointment pension/hardship withdrawals paid to that Beneficiary. This represents a set-off against the Beneficiary's distribution.

Loans are any funds provided by Brite Advisors to that Beneficiary pursuant to a loan agreement and which have not been repaid. This represents a reduction of the Beneficiary's Verified Entitlement.

8. The Interim Distribution need not account for or deduct any liability for tax which the Receivers or Brite Advisors must pay or withhold, or has paid or withheld, on behalf of a Corporate Trustee or Beneficiary. The Receivers may deduct such taxes from a future distribution.
9. For the purpose of these orders, a business day means any day other than:
 - (a) a Saturday or Sunday; or
 - (b) a day that is a public holiday in Western Australia; or
 - (c) 24, 29, 30 or 31 December 2025; or
 - (d) 2 January 2026,
 and includes days on which the Registry of the Federal Court in Western Australia is closed.

Amendment of Distribution Orders

10. Order 31 of the orders dated 15 September 2025 relating to distribution methodology is amended to add after subparagraph (n) in that order:
 - “(o) Alltrust Services Limited (CRN 05365396);
 - (p) Bourse Pension Administrators (Malta) Limited (C66425)”