

**Link Fund Solutions Limited (“LFSL” or “the Company”)**

**Chairman of the Investors’ Committee report on proposed Scheme of Arrangement (“Scheme”) terms**

**5 October 2023**

## 1. EXECUTIVE SUMMARY

- 1.1 I was asked to be Chairman of an Investors' Committee (the "**Committee**") which was comprised of certain of the investors in the LF Woodford Equity Income Fund (the "**WEIF**") subject to the Scheme. That is customers who were investors in the WEIF on the suspension date (being 3 June 2019).
- 1.2 A letter was sent by the Company via brokers and platforms to all the current investors of the WEIF asking them whether they wished to be a member of the Committee. The Company will provide more detail on the process they followed in contacting potential members. I wanted to form a committee with as much diversity as I could determine from the names of the interested parties to provide an appropriate cross section of investors.
- 1.3 I selected two institutional investors, including one which had the largest single holding. I then selected 5 individuals as my primary list and 5 individuals who would be reserves if any of the original selection did not respond or were otherwise unavailable over the proposed time when the Committee meetings were likely to take place. From that list I selected 6 individual investors, one of whom was identified as being part of the Wallace litigation group. The Company then asked whether I would consider adding a further member to the Committee from the list of applicants who had been identified as being part of the Leigh Day/Harcus Parker litigation group which would add an additional view. I agreed with this suggestion and selected one individual from the list of identified Harcus Parker/Leigh Day group members with the result that the final Committee had 9 members.
- 1.4 On 20 April 2023, LFSL announced that it had entered into a conditional settlement agreement with the FCA to settle its investigation into LFSL's role as authorised corporate director of the WEIF subject to the High Court sanctioning a Scheme. On 28 July 2023, LFSL made a further announcement that up to £235 million would be made available to investors in the WEIF. Of this sum, subject to certain conditions, LFSL's parent company Link Administration Holdings Limited ("**Link Group**") agreed to make a voluntary contribution of up to £60 million.
- 1.5 On 19 April 2023 the FCA announced a plan to deliver significant redress to investors in the WEIF. I set out below two extracts from that announcement:
- *"The contribution by Link Group is a voluntary one. Link Group considers that it has no legal responsibility for the obligations of LFS including losses caused to investors in the WEIF. Moreover, the FCA investigation into the circumstances leading up to the suspension of the WEIF, has made no adverse findings in relation to and did not raise concerns about Link Group."*
  - *"Therese Chambers, Executive Director of Enforcement and Market Oversight at the FCA, commented: We believe the proposed Scheme offers investors the best chance to obtain a better outcome than might be achieved by any other means and it is in the investors' interests they be given the chance to consider it."*
- 1.6 The Committee met for the first time on 29 August 2023 to listen to a presentation from the Company on the proposed terms of the Scheme. Although the terms of reference of the Committee included the ability to negotiate the terms of the Scheme, it was clear that the terms to be proposed set out in the 28 July announcement by LFSL had followed extensive negotiation between the FCA, LFSL and Link Group and LFSL was offering to pay all its

available assets. It was made clear that the Scheme process would be commenced shortly afterwards by issuing the practice statement letter (“PSL”). The Committee was effectively being asked to choose between supporting the Scheme or the alternative to the Scheme which was that LFSL would contest the findings of the FCA investigation and defend any litigation. In the alternative, LFSL stated that the outcome for investors would be dependent on the outcome of the litigation which was uncertain and would also likely not be resolved for a considerable period of time. The Committee expressed concern at the time being given to the Committee to consider the terms of the Scheme before the PSL was issued (7 September 2023) and asked for more details on: the terms of the Scheme and the discussions that had been had with the FCA, Link Group, and insurers: the alternative to the Scheme; the Reserve Amount; and the return to creditors per unit held in the WEIF at the point of suspension.

- 1.7 Some of the responses from the Company took time which the Company (through its advisors) explained was due to the fact that the questions were complex and needed third party input. Nevertheless, I informed the Company through its advisors that I thought it would be difficult for the Committee to form a view as to whether to support the Scheme before the convening hearing unless further information was provided quickly. In particular, the Committee wanted to understand how the FCA had concluded that the Scheme offered investors the best chance to obtain a better outcome than might be achieved by any other means. Helpfully the Company was able to arrange for me to discuss this directly with the FCA and the FCA agreed to present directly to the Committee. I was also able to meet with the Chief Executive of Link Group. Various documents were also provided to me and my legal advisors which answered some of the questions raised by the Committee at its first meeting.
- 1.8 The Committee met for the second time on 25 September 2023. Representatives from the FCA attended to answer specific questions that I had asked them based on points raised by Committee members at the first meeting and subsequently by email. The Committee took great comfort from the presentation and from the work that the FCA had done either directly or through external advice to satisfy themselves that the Scheme provided a better outcome for investors than they would obtain from any other means. After detailed discussion the Committee members agreed to support the Scheme (with one member undecided) if certain confirmations were received from the Company.
- 1.9 The confirmations received back from the Company were not as definitive as the Committee would have liked (which LFSL explained was for the reasons set out in paragraph 3.23) and, although the level of clarity requested was not received, 8 members of the Committee supported the Scheme, and one remained undecided.
- 1.10 The Committee considered the proposals put forward by the Company purely from the position of considering the possible return to investors covered by the Scheme. The Committee did not consider the impact of the Scheme on any other stakeholder.
- 1.11 It is not possible to say that the Committee has helped achieve the best possible outcome for Investors covered by the Scheme. From my perspective, based on the information provided by the Company and taking comfort from the due diligence carried out by the FCA, it is difficult to see a further source of funds to help improve the return to creditors. If the Scheme were to fail, then (1) Link Group has said it will retain its voluntary contribution of £60 million; (2) the £48 million from insurers may also fall away or be eroded on litigation costs and (3) the remaining assets of LSFL may also be reduced in defending LFSL’s position. The Committee has concluded that the Scheme provides a better outcome than the alternative described in the PSL based on (1) the information provided by the Company and

(2) all the constituent elements stated to compromise the Settlement Fund of up to £230m being received and ultimately distributed to creditors under the terms of the Scheme.

## 2. BACKGROUND

- 2.1 My name is James (known as Jamie) Drummond Smith. I attach a copy of my curriculum vitae at **Appendix 1**. I have been involved in financial services and restructuring for many years and I am familiar with schemes of arrangement. I have had no prior involvement with LFSL or any Woodford entity.
- 2.2 In July 2023 I was approached and asked to be the chairman of an investors' committee to consider proposals put forward by LFSL for a scheme of arrangement to compromise claims of investors in the WEIF as at the suspension date. I had performed similar roles for several companies proposing schemes of arrangement in the sub-prime lending sector. What was unusual in this case was that the FCA had made its views on the Scheme known at such an early stage in the process. The terms of the agreement between LFSL and the FCA and the time over which that agreement was negotiated reduced the scope for the Company to offer alternatives to the Committee which would allow them to shape the terms of the Scheme. However, the work of the Committee has ultimately resulted in an improvement to the terms of the Scheme due to the reduction of the Reserve Amount by £3.5m from the initial £50m figure stated in the PSL. This reduction should result in the earlier distribution of an equivalent amount to investors and provide greater certainty as to the outcome.
- 2.3 On 20 April 2023 LFSL made an announcement that it had entered into a conditional settlement agreement with the FCA subject to the High Court sanctioning a Scheme. The FCA had already made its own announcement on 19 April 2023 confirming the conditional settlement agreement, stating that the amount available to remaining investors would be up to £235 million, and it was in investors' interests to consider the Scheme. Link Group had already made an announcement to the Australian Stock Exchange on 19 April 2023 (UK time) which stated that part of the settlement proceeds related to the sale of certain subsidiaries for a consideration of between £110 million and £140 million depending on the amount of business that transferred to the purchaser and subject to the normal working capital adjustments. The announcement also stated, "There is no further contribution required of Link Group", although it is making a further contribution of £2.5 million towards the costs of the Scheme.
- 2.4 I attach at **Appendix 2** a copy of my Letter of Engagement dated 31 July 2023 including the terms of reference for the Committee. In short, my role was to:
- 2.4.1 Review expressions of interest received from investors and randomly select a cross section for the Committee and appoint up to 8 members;
  - 2.4.2 Decide, together with the Company, if claimant law firms who have brought claims against the Company on behalf of investors, should be entitled to attend as observers;
  - 2.4.3 Develop an in-depth understanding of the potential Scheme;
  - 2.4.4 Convene meetings of the Committee;
  - 2.4.5 Explain the Scheme to members of the Committee, explore, if appropriate, any alternative options to the Scheme and negotiate the terms of the Scheme with the Company, with a view to ensuring that the Scheme is fair, and appropriately takes

into account the interests of the persons affected by it and encourage the Committee to come to a firm conclusion on the Scheme proposed;

- 2.4.6 Present at a webinar on the final Scheme to all investors, explaining why the Committee believes the Scheme is fair, and in the interests of affected creditors; and
- 2.4.7 Write a report to Court on the Committee's business.
- 2.5 I decided that it would be difficult, given the confidentiality provisions, to allow claimant law firms to attend as observers but I did agree with the Company to increase the number of Committee members to 9 by agreeing to choose one additional member from the list of potential Committee members (referred to in 2.7 below) who was identified as a member of the Leigh Day/Harcus Parker claimant group. There may have been others, but I did not ask members to disclose whether they were members of any of the claimant groups, although one member of the Committee had also been identified as being a member of the Wallace litigation group. The other point that was important to me was that the Committee only represented investors affected by the Scheme, that is, those investors who remained invested at the suspension date. The claims of pre-suspension date investors were not affected by the Scheme and the Committee did not therefore consider their interests when assessing the Scheme.
- 2.6 In discussions with the Company, we agreed a committee of 8 investors would be appropriate, it being big enough to obtain a range of views, but also small enough to manage. As stated above, I increased the number to 9 (with the agreement of the Company) to select an additional member from a list of known members of the Leigh Day/Harcus Parker claimant group.
- 2.7 PwC, the Company's financial advisor provided me with a spreadsheet with the names and addresses of approximately 186 investors who responded expressing an interest. My original thought was to select a completely random sample by choosing a from the spreadsheet. On reflection, I chose to form a committee with as much diversity as I could determine from the names of the interested parties to provide an appropriate cross section of investors.
- 2.8 I initially thought that I might select three institutional investors and 5 individuals as I wanted 8 members on the Committee. In the end I selected 2 institutional investors and 6 individual investors (which I then increased to 9 to include the additional member from the Leigh Day/Harcus Parker group). Several of the people selected did not respond or responded to say that they would be on holiday in the period that the meetings were likely to take place. As some individuals did not respond, I went back to the list and selected people who had added some narrative to their application to be a member as I thought they would be likely to respond quickly and that proved to be the case. This approach allowed me to form a committee of 9.
3. **COMMITTEE MEMBERS AND MEETINGS**
- 3.1 The Committee members are drawn from a range of backgrounds, and I would describe some of them as sophisticated individual investors as well as being familiar with the financial services industry.
- 3.2 The first meeting of the Committee took place on 29 August 2023 by video conference call. I was encouraged by the fact that 8 of the 9 members of the Committee managed to attend

the meeting. The ninth member of the Committee (who did not respond to my emails at this time) subsequently said when he attended the second meeting of the Committee that he had followed the email trail and was happy that he was sufficiently informed. I made it clear at the first meeting that I would keep the membership of the Committee confidential and that all conversations between individual Committee members should remain confidential.

3.3 At the commencement of the first meeting, I introduced myself and explained my role. I confirmed that I had expertise in the area having previously advised other customer committees.

3.4 Nigel Boyling and Ryan Minor from LFSL made a presentation (which they shared on screen) which is attached at **Appendix 3**. Nigel Boyling explained the:

3.4.1 The relevant background on the Company and the WEIF, and the Company's role as authorised corporate director of the WEIF;

3.4.2 The FCA investigation and the conditional FCA settlement;

3.4.3 The sale of the "Link Funds Solution Business" which I understand from LFSL constitutes certain business and assets but not the legal entity;

3.4.4 Basic background and explanation of schemes of arrangement;

3.4.5 Key information on the details of the Scheme, including the constituent parts and amount of the "Settlement Fund", the "Reserve Amount", and the Scheme timetable; and

3.4.6 The Company's view of the alternative to the Scheme and the perceived benefits of the Scheme compared to the alternatives.

### 3.5 **Questions**

3.5.1 A Committee member questioned the references in the presentation to the Scheme's Settlement Fund being an amount "up to" £235 million. Ryan Minor said there were possible downsides to each element of the Settlement Fund but also explained that the amounts referenced were realistic and the Company was comfortable in putting this number in front of the Committee at this time.

3.5.2 Committee members asked questions covering topics such as the identity of the parent company, which investors are included in the phrase "all investors treated equally", whether insurers had agreed to provide £48 million, and a member also asked for a table showing the likely return per unit in the Fund.

3.5.3 Committee members noted the uncertainty in the numbers and questioned whether the Scheme documents would require precise values. Ryan Minor confirmed that this was the expectation.

3.5.4 A Committee member asked the extent to which the FCA would be involved in the process and whether it would be reviewing the Scheme documents. Nigel Boyling confirmed that the whole process of the Scheme, including the PSL and Scheme documents were subject to ongoing discussions with and review by the FCA.

- 3.5.5 A Committee member asked how the Financial Services Compensation Scheme (the “FSCS”) fitted into the Scheme process. Ryan Minor explained that the FSCS was not currently considering whether there would be any eligible claimants and had not given any indication as to whether a default would be triggered in future.
- 3.5.6 A Committee member asked about the possibility of a depletion in the assets in the Scheme due to ongoing litigation claims. Ryan Minor confirmed that the Reserve Amount included cover for reasonably foreseeable expenses in the future and possibly a settlement figure for the litigation claims, although this was later clarified to me to mean LFSL’s costs, if any, in defending any litigation.
- 3.5.7 The final question was the potential risk to retail investors who have entered terms with claimant law firms as they could be obliged to pay over a significant proportion of any recovery to those law firms. Ryan Minor replied that this was a matter for those investors.

### 3.6 Committee Discussions

- 3.6.1 I referred to my letter of engagement and reminded the Committee of my and its role being to (1) adequately explain the Scheme to Committee members, (2) explore the potential alternatives to the Scheme which had not been presented by the Company, and (3) negotiate the terms of the Scheme with the Company to ensure that they were fair and appropriately took account of the investors affected by the Scheme.
- 3.6.2 There was a robust debate amongst Committee members, some of whom felt they were being left with a binary decision as to whether to support the Scheme or not. There was concern that the figures presented were conditional, the Reserve Amount had not been disclosed and one Committee member said that they did not see how it was possible to give a view or agree to the proposal on the basis the Committee had not been presented with finalised figures.
- 3.6.3 One Committee member said that, in their view, it would be inappropriate to attempt to negotiate more funds. I said that I disagreed with this view, but agreed it was not clear where more funds might come from.
- 3.6.4 The Committee was uncomfortable with the uncertainty on the size of the potential Settlement Fund, the potential deductions from the Settlement Fund, the value per unit that could be achieved, the alternatives to the Scheme, and that some investors might have to pay a significant proportion of any recovery to a claimant law firm.
- 3.6.5 The Committee expressed disquiet that the meeting was being held on the 29 August and the PSL was going to be issued on 5 September. They felt it strengthened the view that the Committee was being offered a binary decision.

### 3.7 **Committee Response**

- 3.7.1 I confirmed I would draft a response to the Company and circulate it for approval by the Committee members. I circulated a draft on 30 August 2023 to the Committee which I attach as **Appendix 4**. The main points covered were:
- 3.7.2 When could the Company provide greater certainty on the elements of the Settlement Fund; details on the insurance coverage; the quantum of the Reserve Amount; details on the alternatives to the Scheme; details on any conversations with the FSCS; details of the settlement agreement with the FCA; and the projected return per unit from the Settlement Fund.

### 3.8 **Company Response**

- 3.8.1 Nigel Boyling responded on 12 September 2023. I attach his full reply at **Appendix 5** but in summary he said:
- 3.8.2 the Company were confident of receiving the full consideration of £140 million from the sale of the business subject to working capital adjustments (but they did not expect any adjustments to lead to a “significant divergence”).
- 3.8.3 insurers would contribute the remaining cover to the Settlement Fund subject to the Scheme becoming effective and subject to contract.
- 3.8.4 The Reserve Amount had been set at £50 million on a prudent basis. As to whether the Reserve Amount would be used to fund the potential settlement of future litigation claims, we were pointed to paragraphs 5.12 and 5.16 of the Practice Statement Letter in which it was stated at paragraph 5.15 that the Reserve Amount would be used to defend litigation, and where it was further stated “For the avoidance of doubt, the Reserve Amount does not include any provision for making any compensation payments to any other investors”.
- 3.8.5 If the Scheme did not go ahead, then the alternative was that LFSL would continue to defend itself against any litigation and dispute the FCA findings. He did not think judgement on any litigation would be delivered before 2026 and could be subject to appeal.
- 3.8.6 LFSL has engaged with the FSCS for several months, but the discussions were confidential. He also set out his views on FSCS cover for Scheme creditors.
- 3.8.7 I and Freshfields could see the Settlement Deed.

### 3.9 **Discussions with Company’s Advisors**

- 3.9.1 There followed several conversations by myself and Freshfields with the Company’s advisors seeking access to documents and any confidentiality agreements around that access. In my view, the most important of those documents was the settlement agreement with the FCA. I was contacted by the financial advisors to Link who said that the CEO of Link Group, Vivek Bhatia, was in London and would be happy to meet.



### 3.10 Meeting with CEO of Link Group

3.10.1 I met Mr Bhatia with his legal advisors at Freshfields. They explained the history of the sale process of the Link Group subsidiaries and the extensive negotiations with the FCA. They emphasised that, in their opinion, there could be no liability on Link Group and that the voluntary contribution of £60 million had been very unpopular with their investors in Australia. Link was the authorised corporate director in London and so their strong view was that any liability for regulatory or litigation action remained solely with LFSL. I asked whether Link Group would contribute another £5 million to help cover the costs of the Scheme. Mr Bhatia replied that he had made a public announcement that no further funds would be paid towards the Settlement Fund.

### 3.11 Interaction with the FCA

3.11.1 The financial advisors to the Company were also able to arrange for myself and Freshfields to meet with the FCA. In setting up a call on 22 September, the FCA asked if we could provide the questions we wanted answered in advance. We asked them the following questions:

3.11.2 To what extent, and over what timescale, did the FCA negotiate with the Company and its parent the financial terms of the Scheme?

3.11.3 How was the loss of £306 million (subsequently revised to £298 million) calculated?

3.11.4 What due diligence did the FCA do to satisfy itself that the contributions from the parent and insurers were the maximum that could be achieved?

3.11.5 If the Scheme were to fail, did the FCA consider the possibility that investors might make an equal or better recovery from the FSCS?

3.11.6 How did the FCA come to the decision that 1 November 2018 was the relevant date from which losses would be calculated?

3.11.7 Was the FCA consulted on the reserve of £50 million that the Company wishes to retain to fight any potential legal actions?

3.12 In the call on 22 September and a subsequent call on the morning of 25 September the FCA said that they were prepared to answer these questions directly to the Committee at a meeting that afternoon.

### 3.13 Second Meeting of the Committee

3.13.1 The second meeting of the Committee took place on 25 September. All the Committee members were able to attend. After a summary from me on what had happened since the last Committee meeting, representatives from the FCA presented their answers to the questions I had asked them.

3.13.2 I said that I had seen the Settlement Agreement and the methodology for calculating the £298 million redress figure which the FCA had calculated as the loss for investors covered by the Scheme between 1 November 2018 and the actual

suspension date. I noted that the Settlement Agreement was a short functional document with no substantial financial information.

- 3.13.3 Representatives from the FCA then joined the meeting. They informed the Committee that the FCA's investigations had come to two main conclusions being (i) investors who left the WEIF from 1 November 2018 onwards benefited disproportionately from the sale of the most liquid assets in the WEIF compared to suspension date Investors and (ii) the suspension date investors were treated unfairly because they were left with a disproportionate share of less liquid assets. In answering the questions that had been asked, the FCA representatives noted that:
  - 3.13.4 The FCA negotiated over 7 months with the Company using both its own resources and the assistance of an external professional services firm to carry out the investigation and negotiations;
  - 3.13.5 The loss was calculated on the basis of liquidity assessments from 1 November 2018 to the Suspension Date;
  - 3.13.6 The FCA looked carefully at the position of Link Group but concluded that it did not have the legal power to require Link Group to make redress payments and so the contribution of £60 million was a voluntary one;
  - 3.13.7 The FCA acknowledged that the FSCS could potentially produce greater returns for some investors but they would only be available following the conclusion of the litigation process and would be contingent on the successful outcome of that process;
  - 3.13.8 The FCA came to the conclusion that 1 November was the correct date after extensive investigation and assistance from their external advisor; and
  - 3.13.9 The FCA was consulted on the concept of the Reserve Amount.
- 3.14 The Committee found the answers to the questions helpful and agreed that it was very good to hear from the FCA directly as well as to know that I had been in contact with the FCA ahead of the meeting. The Committee also took comfort from the extent of the FCA's investigation and negotiations with LFSL and Link Group and that the FCA believed that the Scheme offered the best chance to achieve a better outcome.
- 3.15 When asked, I confirmed that I had asked Link Group for a contribution towards the costs of the Scheme over and above the contribution of £62.5 million offered and that they had said no. There was significant debate around the Reserve Amount, how it would be used and overseen in the Scheme, and when any surplus would be returned to the Settlement Fund. In the Committee's opinion this was a £180 million "deal" rather than the £235 million headline number on which the percentage recovery had been calculated. It was agreed that one of the requests we would make as a Committee was to request a detailed break-down of the Reserve Amount.
- 3.16 There was also debate around the position of those investors who had joined the claimant law firms' actions and the potential impact this might have on the returns they would receive.

- 3.17 I confirmed that I had seen the insurance documents provided by the Company and, based on the information provided, the view from Freshfields and myself was that the amount being contributed by insurers was based on policy limits. We were asked by the Committee to seek confirmation from the Company that there were no deductibles against the claim value.
- 3.18 Freshfields then provided their views on the likelihood of any possible recovery from the FSCS and stated, in summary, that it was not impossible to rule out that there would be compensation available through the FSCS as an alternative to the Scheme. However, it was necessary for claimants to satisfy the statutory thresholds to be eligible for compensation and establishing this was likely to be largely dependent on the outcome of litigation (which itself was uncertain) and the timing of receiving any compensation (if the thresholds were met) was therefore uncertain given the linkage to the conclusion of that litigation. Freshfields also noted that not all creditors would be eligible claimants.
- 3.19 I then asked each member of the Committee to confirm their position regarding the Scheme. One member said they found it difficult to recommend the Scheme from the perspective of an individual investor due to the lack of ability to negotiate any of the terms of the Scheme and there being no real insight into the likelihood of success of the litigation. The remaining members, some of whom took comfort from the investigations carried out by the FCA and its support for the Scheme, and after raising concerns over the oversight of the Reserve Amount, expressed their support for the Scheme.
- 3.20 I confirmed that I would draft a response to the Company raising the following:
- 3.20.1 Would the £48 million from insurers be contributed to the Scheme with no further deductions?
  - 3.20.2 Would the Company reduce the Reserve Amount from £50 million to £45 million?
  - 3.20.3 Could the Company provide more information on the elements of the Reserve Amount and the estimated timeline for release of the Reserve Amount and how it would be monitored?
  - 3.20.4 Could the Company provide more certainty on the amounts included in the Settlement Fund and provide confirmation that an initial distribution of not less than £185 million will be paid to scheme creditors not later than 31 March 2024?
- 3.21 I sent the response (attached at **Appendix 6**) to the Committee members and the Company simultaneously given the time constraints. I subsequently received confirmation from every member of the Committee that they agreed with the response.
- 3.22 Nigel Boyling responded on 29 September (attached at **Appendix 7**). A summary of the response is:
- 3.22.1 The Company were not aware of any deductions from the £48 million insurance proceeds which would be paid into the Settlement Fund subject to the Scheme becoming effective and subject to contract;
  - 3.22.2 The Company agreed to reduce the Reserve Amount to £46.5 million;

- 3.22.3 A breakdown of the Settlement Fund was provided but the Company could not provide any indication on the timescale to release any element of the Reserve Amount. The monitoring of the Reserve amount would be carried out by the Scheme Supervisors; and
- 3.22.4 Some certainty was provided on elements of the Settlement Fund, the lowest end of the range currently expected first distribution was £183.5 million and, if there were no challenges to the Scheme the first distribution was expected to be made no later than 31 March 2024.
- 3.23 LFSL's advisors have informed me that where there was a lack of clarity around the provision of information particularly the amounts to be paid into the Settlement Fund, those amounts may change depending on the costs connected with the Scheme, and the exact amounts of sale proceeds to be received by LFSL and Link Group. However, they informed me that LFSL had confidence in the overall estimates provided and did not want to unnecessarily delay the Scheme for the purpose of achieving certainty on these matters.
- 3.24 I contacted members of the Committee after sending out LFSL's latest response to ask them whether any of them had changed their position. 8 members of the Committee said that they supported the Scheme and one said that they were undecided.

#### 4. **LEGAL AND ACCOUNTANCY ADVICE**

- 4.1 Under the terms of my engagement letter, I was entitled to engage legal and accounting assistance. I engaged Freshfields Bruckhaus Deringer as my legal advisor and they have assisted in reviewing the documentation provided by the Company and its advisors and provided advice to me and the Committee on a range of matters including the thresholds that need to be met for the FSCS agreeing to pay claims to eligible parties. They have also assisted in ensuring that the terms of the Scheme which form the basis of the Committee's support were properly reflected in the Practice Statement Letter ("**PSL**"), the Explanatory Statement to the Scheme and the Scheme itself. Drafts of all these documents have been provided to me by the Company.
- 4.2 The PSL has been issued and I have seen near complete drafts of the Explanatory Statement and the Scheme. I am comfortable that these documents are not incompatible with the financial terms of the Scheme presented to the Committee and on which the Committee has based its conclusion.
- 4.3 I chose not to employ accountancy advice.

**APPENDICES**

**Jamie Drummond-Smith**

Jamie is a Chartered Accountant and spent 25 years with Deloitte, where he was a Partner in the Corporate Finance during which time he was involved in the drafting of a number of schemes of arrangement. Jamie was Finance Director of Cattles PLC and Welcome Financial Services Limited, which proposed schemes of arrangement. He was the scheme adjudicator on the Instant Cash Loans scheme of arrangement and was the Chairman of the Creditors Committee for the Amigo, Morses Club, and Non Standard Finance schemes of arrangement. He is currently Chair of the Audit Committee and a Director of Arthur J Gallagher Holdings (UK) Limited and is also a Director of Tenet Group Limited.

Jamie Drummond-Smith  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

31 July 2023

Dear Jamie

**Appointment as independent chair of the committee of investors in the LF Woodford Equity Income Fund ("WEIF") (the "Committee") formed in connection with a potential scheme of arrangement to be proposed by Link Fund Solutions Limited (the "Company") pursuant to Part 26 of the Companies Act 2006 ("Scheme").**

On behalf of the Company, I am writing to confirm your appointment as chair of the Committee (the "**Chair**") on the terms set out below (the "**Agreement**").

#### **Appointment**

1. With effect from the date of your countersigning this letter you will be appointed as Chair.
2. Your appointment as the Chair of the Committee (the "**Appointment**") is in accordance with the terms of reference of the Committee (a copy of which is enclosed in the Schedule to this Agreement) (the "**Terms of Reference**").
3. Unless you cease to be the Chair for any reason during the following period, the Appointment will continue until such time as it is terminated in accordance with this Agreement.
4. As Chair, you shall be an independent contractor and nothing in this Agreement shall render you an employee, worker, agent or partner of the Company and you shall not hold yourself out as such. As detailed at paragraphs 7 and 8 (*Role and Responsibilities*) further below, in performing your function as Chair, you will act independently from the Company, and will have regard only to the Committee and the investors of the WEIF in performing your role.

#### **Time Commitment**

5. You will be expected to devote such time as is necessary for the proper performance of your duties. At this stage, the Company anticipates a reasonably significant time commitment but you are aware that the nature of the role makes it impossible to be specific about the time commitment required.
6. By accepting the Appointment, you confirm that you are able to allocate sufficient time to meet the expectations of your role. It is currently anticipated that the Scheme will be formally launched in August 2023 with the issue of a letter in accordance with the Practice Statement for Part 26 and 26A Schemes of 26 June 2020 [2020] 1 WLR 4493.

#### **Role and Responsibilities**

7. In your role as Chair of the Committee, you will:

##### **Link Fund Solutions Limited**

Registered Address: Registered Office: 6th Floor 65 Gresham Street, London, United Kingdom, EC2V 7NQ  
[www.linkfundsolutions.co.uk](http://www.linkfundsolutions.co.uk)

Authorised and regulated by The Financial Conduct Authority.  
Registered in England No. 01146888

- (a) insofar as is necessary, review details of the applications and expressions of interest received from investors seeking to sit on the Committee for the purpose of selecting a cross-section of investors that is representative of the investors affected by the Scheme.
- (b) appoint up to 8 investors to the Committee (or such greater number of investors as you and the Company may jointly agree, each acting reasonably).
- (c) decide, together with the Company, if claimant law firms who have brought claims against the Company on behalf of investors should sit on the Committee, or be entitled to participate in Committee meetings as observers.
- (d) develop an in-depth understanding of the potential Scheme (this will also likely involve attending meetings with the Company and its financial and legal advisers, PricewaterhouseCoopers LLP and Clifford Chance LLP respectively, to discuss the Scheme).
- (e) convene meetings of the Committee to be held in accordance with the Terms of Reference in such number and frequency as is reasonably required. It is anticipated that no more than 3 Committee meetings will be required.
- (f) where a Committee meeting has not been attended by all members, seek the views of individual members of the Committee that were not in attendance (by way of telephone, video conference or any other appropriate means of communication) in order to limit any delay in obtaining the Committee's views.
- (g) adequately explain the Scheme to the members of the Committee.
- (h) explore with the Committee, if appropriate, any alternative options to the Scheme not suggested by the Company (based on your previous experience, knowledge of the Company and of the funds management sector).
- (i) negotiate the terms of the Scheme with the Company, with a view to ensuring that the Scheme is fair, and appropriately takes into account the interests of persons affected by it.
- (j) act as a liaison between the Committee and the Company, in particular with respect to raising queries on behalf of the Committee with the Company and assist in delivering and explaining the Company's responses to the Committee.
- (k) encourage the Committee to come to a firm conclusion on the final Scheme to be proposed.
- (l) present at a webinar on the final Scheme for all investors, explaining why the Committee believes the Scheme being proposed is fair, and in the interests of affected creditors.
- (m) upon request, attend a meeting (or meetings) of the investors to vote upon the Scheme, to explain the conclusions of the Committee.
- (n) deliver a report on the business of the Committee (the "**Report**") to the High Court of Justice for the Scheme convening hearing. A copy of the Report shall be provided to the Company two weeks prior to the Scheme convening hearing and shall include the following:
  - (i) details of the selection process for the Committee
  - (ii) details of the review process undertaken by the Committee
  - (iii) details of the consideration of alternative options by the Committee (if any)
  - (iv) a summary of the Committee meetings (e.g., number of meetings, attendees and key points discussed)
  - (v) a summary of the questions asked by the Committee during the process and the responses provided by the Company; and
  - (vi) details of the conclusions of the Committee, including whether its conclusions were unanimous.
- (o) provide a witness statement to the High Court detailing the findings of the Report, including exhibiting a copy of the Report to the witness statement, if required.
- (p) provide such additional evidence to the High Court, as may be reasonably requested by the Company, at the hearing to sanction the potential Scheme.

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(q) be available at each hearing of the High Court to answer any queries relating to the Report or other evidence provided to the High Court.

8. To assist you in carrying out your role, the Company agrees that you will be able to obtain in your capacity as the chair and, where you consider appropriate, for the benefit of the Committee, such legal and financial advice as you consider appropriate, for the purposes of fulfilling the role of the Committee and following consultation with the Company as to the costs of such advice. All reasonable fees incurred in obtaining such advice will be met by the Company.

### **Fees and expenses**

9. You will be paid:
- (a) for your time spent on the Appointment based on a rate of £475 per hour plus VAT.
  - (b) you will notify the Company of the time spent on the Appointment on a monthly basis.
10. The Company will reimburse out-of-pocket expenses reasonably and properly incurred by you as Chair of the Committee in performing your roles and responsibilities, with the provision of appropriate receipts if necessary.

### **Independence and outside interests**

11. The Company acknowledges that you have business interests other than this Appointment and that you have declared any conflicts that are apparent at present. In the event that you become aware of any conflicts of interest that may arise, you must disclose these to the Company as soon as they become apparent.

### **Confidential and price sensitive information**

12. You will not at any time (whether during the course of the Appointment or at any time after its termination) make use of Confidential Information for your own benefit or for that of any party. You further agree that, to the extent permitted by applicable law and any relevant regulatory obligations, you will protect any and all privileges, including but not limited to legal advice privilege, litigation privilege and common interest privilege, applicable to the Confidential Information and ensure that the applicable privilege is not waived. For these purposes "**Confidential Information**" means:

- (a) all information which is divulged to you in your capacity as Chair, or which is provided to the Committee, and which is described by the Company or the party divulging it as being of a confidential nature and/or which by reason of its nature or the circumstances or manner in which it comes to your knowledge is apparently of such a nature; and
- (b) all existing and future confidential and privileged documents or communications prepared by and/or on behalf of the Company, the Financial Services Compensation Scheme, the Financial Conduct Authority or any of the Company's direct and indirect shareholders ("**Link Group**") in relation to (i) the Company's conduct as authorised corporate director of the WEIF, (ii) the deed of settlement dated 19 April 2023 between, amongst others, the Company and the FCA, (iii) the Scheme, and (iv) the claims that have been made, or could be made, against the Company, and which are disclosed by, or which include information derived from documents or communications in relation to such claims which are disclosed by, the Company, Link Group, the FCA or the FSCS, and/or their respective advisors, pursuant to the terms of this Agreement.

You shall not disclose Confidential Information to any other person, firm or company, other than to your professional advisers, the Committee or otherwise with the authority of the Company or in compliance with any law or regulation, provided always that information shall not be or shall

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cease to be confidential if and to the extent that it comes to be in the public domain other than as a result of your act or default.

13. Your attention is drawn to the requirements under both legislation and regulation as to the disclosure of price-sensitive information. Consequently, you should avoid making any statements that might risk a breach of these requirements without prior clearance from the Company.
14. As Chair, you confirm that you do not hold shares in the WEIF, that you will not acquire shares in the WEIF at a future date, and that you shall not hold yourself out as a shareholder of the WEIF.

### **Termination**

15. Notwithstanding any other provision in this letter, your Appointment:
  - (a) shall terminate automatically following the sanction by the High Court of Justice of the potential Scheme; and
  - (b) may be terminated at any time with immediate effect by you giving notice in writing to the Company, or the Company giving notice in writing to you. In the case of the latter, your attention is expressly drawn to the Terms of Reference and the ability for the Committee to propose your removal in place of a different Committee Chair for the Company to consider.
16. On termination of the Appointment, you will, if requested, deliver up to the Company all books, documents, papers, information, and other property belonging to the Company or relating to the business of the Company or the Scheme, which are in your possession, custody, or power by virtue of your position as Chair, and you will not retain copies (other than where the Company permits this in writing).

### **Data Protection**

17. By signing this letter, you consent to the Company holding and processing information about you for legal, personnel, administrative and management purposes.
18. You consent to the transfer of such personal information to other office locations the Company may have or to other third parties for administration purposes and other purposes in connection with the Appointment, where it is necessary to do so.

### **Exclusion of liability and indemnity**

19. To the extent permitted by law:
  - (a) the Company acknowledges and agrees that it will not seek to argue that you be held liable or responsible for any losses, costs, damages or expenses which may result from anything done or omitted to be done by you in connection with your role as Chair, save for where such losses, costs, damages or expenses arise from or as a result of your gross negligence, wilful default or fraud; and
  - (b) the Company hereby indemnifies you on demand against all claims, damages, losses, costs (provided that, in the case of costs incurred by professional advisers, you complied with your consultation obligations at clause 8 above) and expenses reasonably incurred by you arising from or as a result of any claims or actions brought or threatened by third parties which are based upon or arising in connection with your role as Chair save for where a court of competent jurisdiction in a final and non-appealable decision determines such losses, costs, damages or expenses arose from or as a result of your gross negligence, wilful default or fraud.

### **Miscellaneous**

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20. This letter may be executed in any number of counterparts, and by each party on separate counterparts. Each counterpart is an original, but all counterparts shall together constitute one and the same instrument. Delivery of a counterpart of this letter by email attachment or telecopy shall be an effective mode of delivery.

You must inform the Company promptly of any change in your address, telephone (including mobile telephone) or email contact details.

21. The construction, interpretation, and performance of the terms of this letter will be governed by the laws of England. Each party irrevocably agrees that the courts of England shall have exclusive jurisdiction over any and all disputes or claims (including non-contractual disputes or claims) arising out of or in connection with this Agreement, or its subject matter, formation or enforceability.

22. This appointment letter constitutes neither a contract for services nor a service contract.

Please confirm your agreement to the above by signing and returning to me the enclosed duplicate of this letter.

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Yours sincerely



Karl Midl  
CEO  
Link Fund Solutions Limited

I have read, understood, and agree to the above terms of my Appointment as Chair.

.....  
Jamie Drummond-Smith

.....  
Date

**Link Fund Solutions Limited**

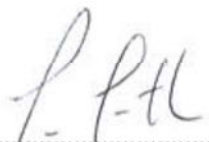
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Yours sincerely

Karl Midl  
CEO  
Link Fund Solutions Limited

I have read, understood, and agree to the above terms of my Appointment as Chair.

  
.....  
Jamie Drummond-Smith

31 July 2023  
.....  
Date

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**Schedule**

**Terms of Reference of the Committee**

**Link Fund Solutions Limited**

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## **TERMS OF REFERENCE**

### **Committee of investors in the LF Woodford Equity Income Fund**

These terms of reference are intended to provide customers with:

- An understanding of the purpose of the Investors' Committee.
- Information on how the Investors' Committee will be formed.
- Guidance on what would be expected of a current investor who chooses to serve as a member of the Investors' Committee.
- Information regarding the operation and functions of the Investors' Committee.

#### **Introduction**

On 19 April 2023, Link Fund Solutions Limited ("**LFSL**") and its ultimate parent entity, Link Administration Holdings Limited ("**Link Group**"), reached a conditional agreement with the Financial Conduct Authority (the "**FCA**") to settle the FCA's investigation into LFSL in respect of LFSL's role as authorised corporate director ("**ACD**") of the **LF Woodford Equity Income Fund** (the "**WEIF**") (the "**Settlement**").

The Settlement is conditional upon the implementation of a Scheme of Arrangement ("**Scheme**") that provides redress to investors of the WEIF.

#### **What is the purpose of the Committee?**

The primary purpose of the Investors' Committee is to help LFSL to design a Scheme that is fair for current investors. Your responsibility will be to discuss and provide your opinions on the information that you are given, and you will have the opportunity to provide feedback to LFSL. The Investors' Committee must represent the interest of all current investors as a whole, as opposed to their own individual interests. Accordingly, we expect that there will be a mix of investors; both individuals and institutions on the Investors' Committee.

We appreciate that these matters are complex, so we have agreed to appoint an independent Chairperson to the Committee, Jamie Drummond-Smith, to help the members of the Investors' Committee to work through the options. His appointment letter and CV are attached.

Members of the Investors' Committee will not be responsible for making any decisions in relation to the Scheme. This will remain the responsibility of the Directors of LFSL. Members will also not be liable for anything which happens as a result of their participation in the Investors' Committee.

#### **How will the Committee be formed?**

We are proposing to form an Investors' Committee of eight investors, which is a typical number for a committee to support schemes of arrangement of this type.

If more than eight investors express an interest in joining the Investors' Committee, the Chairperson of the Investors' Committee will choose eight people at random from those who express interest in joining the Investors' Committee. This is subject to ensuring that the Investors' Committee is representative of the investors in the WEIF as a whole. The Independent Chairperson retains full discretion to increase the size of the Investors' Committee if he considers this to be required to ensure that the Investors' Committee is representative of the WEIF investors as a whole.

#### **Who can sit on the Investors' Committee?**

Any current investor may put themselves forward to sit on the Investors' Committee. No previous experience as a committee member or special skills are required. However, we do not think it would be appropriate if a member of the Investors' Committee had another relationship with LFSL, so, for example, employees of the Link Group will not be able to sit on the Investors' Committee. The Independent Chairperson will assess any other potential conflicts identified that may impact the ability to sit on the Investors' Committee.

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**Will I get paid for being a member of the Investor Committee member?**

Membership is voluntary, and you will not be paid to sit on the Investors' Committee. Reasonable expenses (for example, travel costs to a meeting, in the unlikely event that a physical meeting is arranged) will be reimbursed in full.

**How long will the Investors' Committee role last?**

LFSL anticipates that the Investors' Committee's principal work should be completed by the end of December 2023.

LFSL will update WEIF investors on the Investors' Committee's views on the proposed Scheme at an appropriate time, once the Investors' Committee has had the opportunity to meet and discuss the proposed Scheme.

**Can I cease to be a member of the Investors' Committee?**

You can resign as a member of the Investors' Committee at any time by giving 5 business days written notice to the Chairperson. Following a resignation, if the Committee falls below 8 members, the Chairperson will have the power (but not the obligation) to select at random additional interested investors to join the Investors' Committee.

**What are the Investors' Committee's powers?**

The Investors' Committee will have the following powers:

- The right to review, be consulted on and comment on the Scheme presented by LFSL.
- To be consulted on any matter which the Investors' Committee, acting reasonably, considers appropriate.
- To propose the removal of the Chairperson, in which case LFSL will consider and propose a different Chairperson for the Investors' Committee if this is considered appropriate.

**Confidentiality**

Members of the Investors' Committee are likely to receive confidential information about LFSL. Therefore, members of the Investors' Committee will need to sign a confidentiality agreement and will not be permitted to make use of information which is provided to them as members of the Investors' Committee.

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Appendix 3

LF Equity Income Fund  
Scheme of Arrangement

Investors' Committee Meeting  
Presentation by Link Fund Solutions Limited

# Introductions and Objectives

- **Introduction**

- Nigel Boyling, Director
- Ryan Minor, Head of Legal

- **Objectives**

The Link Fund Solutions Limited (**LFSL**) Board would like to provide you with information about:

- Link Fund Solutions Limited;
- the investigation carried out by the Financial Conduct Authority (**FCA**) into LFSL;
- the conditional settlement agreed between LFSL, Link Administration Holdings Limited (**Parent**) and the FCA;
- the litigation claims against LFSL;
- the proposal for the Scheme; and
- the potential alternatives if the Scheme does not go ahead.

# Background on LFSL and the WEIF

## LFSL

- An independent authorised corporate director (**ACD**) for open-ended investment companies.
- Authorised and regulated by the FCA since 1 December 2001.
- An indirect subsidiary of Link Administration Holdings Limited (**Parent**), a company incorporated in Australia and listed on the Australian Stock Exchange.

## The WEIF

- LSFL is the ACD of LF Equity Income Fund (the **WEIF** or the **Fund**).
- On 31 May 2019 and 3 June 2019, the WEIF received redemption requests totalling 8.2% of its net asset value.
- Those redemptions requests meant that the WEIF could not meet them without prejudicing the interests of remaining investors.
- On 3 June 2019 (the **Suspension Date**), LFSL suspended trading in the WEIF to protect remaining investors.
- Then, having considered all options, LFSL determined, acting with the approval of the depositary and the FCA, that it was in the best interests of investors for the WEIF to be wound up.
- The winding up formally started on 18 January 2020.
- Since the Suspension Date, investors in the WEIF have been paid £2.56bn.

# The FCA Investigation

- Shortly after the Suspension Date, the FCA started an investigation into the events that led to the suspension of the WEIF (**FCA Investigation**).
- Following the FCA Investigation, the FCA's conclusions in relation to LFSL (**FCA Conclusions**) allege that:
  - investors who left the WEIF from 1 November 2018 onwards benefited disproportionately from the sale of the most liquid assets in the WEIF;
  - investors who continued to hold investments in the WEIF on the Suspension Date were treated unfairly because they were left with a disproportionate share of less liquid assets;
  - LFSL had failed to comply with Principles 2 and 6 of the FCA's Principles for Businesses; and
  - the investors who continued to hold investments in the WEIF on and after the Suspension Date were owed redress of £298 million.
- **It is important to note that the FCA Conclusions are strongly disputed by LFSL and are not final nor binding.**

# The Litigation Claims

- Certain investors of the WEIF have issued and served claims against LFSL.
- They argue that LFSL breached certain of the FCA's rules by failing to properly carry out its obligations as the ACD of the WEIF.
- Further claims have been issued against LFSL but not served.
- **LFSL strongly disputes any liability, including as alleged in the litigation claims.**
- The litigation claims are at an early stage, have not been proven and are for an uncertain amount.
- The litigation claims are currently paused until 31 January 2024 to avoid incurring unnecessary further costs.
- If the Scheme becomes effective, investors who held shares in the WEIF as at the Suspension Date will terminate their litigation claims.

## The Conditional Settlement with the FCA

- LFSL disputes both the FCA's Conclusions and the Litigation Claims and considers that it has carried out all of its obligations as ACD of the WEIF in a manner that is consistent with the FCA's principles and rules.
- However, on 19 April 2023, LFSL and the Parent agreed a conditional settlement with the FCA (**Settlement**).
- LFSL agreed to the Settlement because it believes that the Settlement will produce the best outcome for investors.
- The Settlement is subject to two conditions:
  - the Settlement is to be put in place through a scheme of arrangement; and
  - the completion of a sale of the Link Fund Solutions Business by LFSL and its affiliates to the Waystone Group (**Sale**).

# What is a Scheme?

- A scheme of arrangement (**Scheme**) is an agreement under the Companies Act 2006 between a company and some or all of its creditors.
- For a Scheme to become effective it must be approved by relevant creditors and the Court.
- The Scheme is approved by creditors if:
  - more creditors vote for the Scheme than against it; and
  - the creditors voting in favour of the Scheme hold 75% or more of the amount voted.
- Only the votes cast will count for determining whether the Scheme has been approved or not.
- If the Scheme is approved by investors, LFSL will ask the Court to approve the Scheme.
- If the Court approves the Scheme, the Court order approving the Scheme will be filed with the Registrar of Companies and the Scheme will become effective.
- Once the Scheme becomes effective, LFSL and all relevant investors will be bound by it whether or not they voted for the Scheme or did not vote at all.
- I will describe the key steps for implementing the scheme shortly.

# The Settlement Proposal

- The Settlement provides that a fund will be made available to relevant investors. The relevant investors are those who held units in the WEIF on the Suspension Date.
- In return, relevant investors will release LFSL, Parent, each member of the Link Group and their directors, partners, employees, consultants and advisers from claims they may have relating to the WEIF. An investor's right to make a claim against a third party will also be limited to the extent that LFSL would be liable to pay that claim
- The Settlement Fund will be made up of three key elements, being:

All of LFSL's available cash assets comprising Proceeds from the sale to Waystone Other net cash and capital resources	Up to £80,000,000 Est. £47,000,000
All of LFSL's remaining rights under certain insurance policies	Est. £48,000,000
A contribution from Parent	Up to £60,000,000

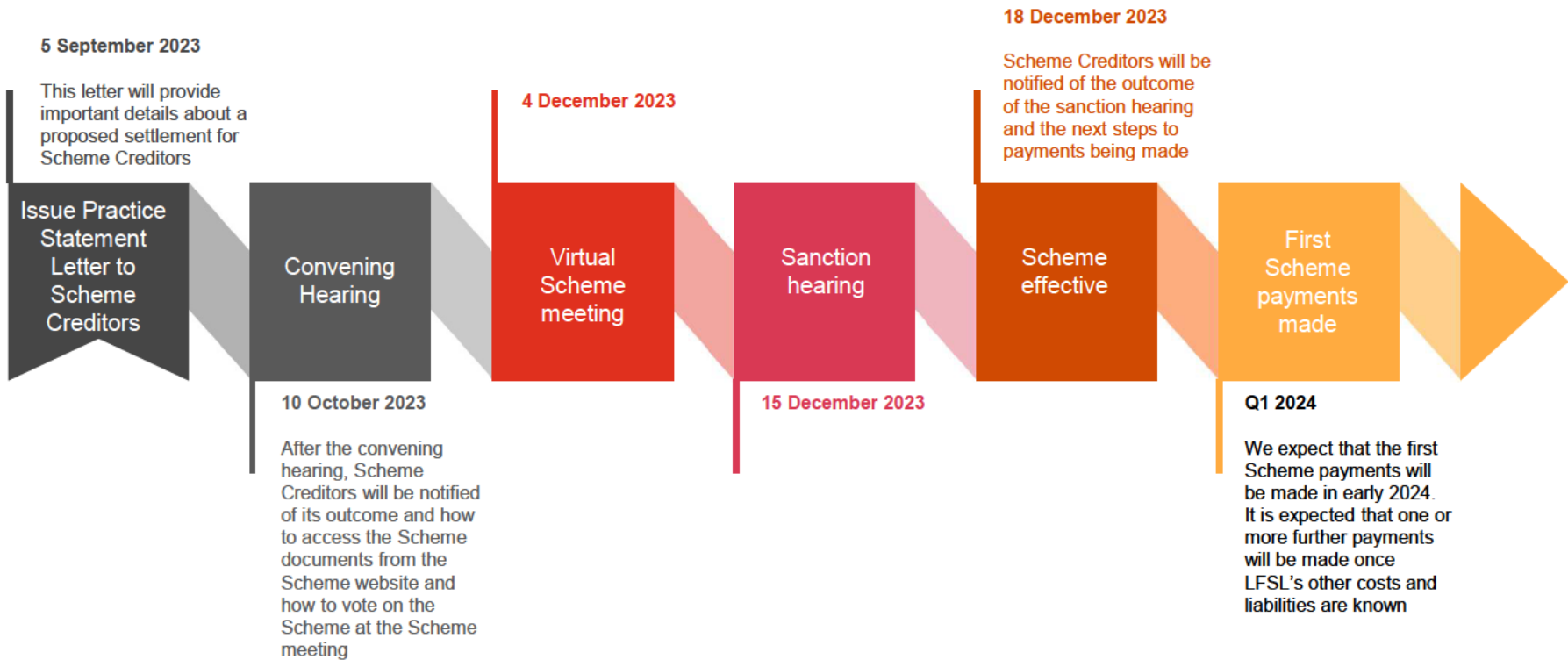
- The Settlement Fund will not include the amount required to pay LFSL's costs and liabilities including any taxes payable. We intend to provide further details as to this reserve amount as at the time that the practice statement letter is issued.



# The Sale of the Link Fund Solutions Business

- The Link Fund Solutions Business to be transferred to Waystone comprises:
  - the business and certain assets of LFSL and an Irish entity within the Link group called Link Fund Manager Solutions (Ireland) Limited. In each case the sale excludes any Woodford related liabilities and certain other liabilities which it has been agreed will not be transferred to Waystone; and
  - the shares of certain other subsidiaries of the Parent.
- Completion of the Sale is conditional on obtaining relevant regulatory approvals and a sufficient number of existing clients of the Link Fund Solutions Business agreeing to transfer to Waystone.
- The sale is expected to be completed before the date on which the Scheme is expected to become effective.

# The Scheme Timetable



## The Position of the FCA and the FSCS

- The FCA has previously confirmed that it considers that the Scheme will offer investors the best chance to obtain a better outcome than might be achieved by any other means and encourages investors to consider it.
- The Financial Services Compensation Scheme (**FSCS**) is the UK's compensation scheme for customers of authorised financial services firms. The FSCS may pay compensation where it is satisfied that a “Protected Claim” has been made by an “Eligible Claimant” against a firm in “Default”.
- FSCS has not made any determination in relation to the FCA’s findings. It has also not made any determination as to whether LFSL is in Default or whether there are Protected Claims against it. An investor will also need to establish that it is an Eligible Claimant before it could be entitled to compensation from the FSCS.
- The FSCS has confirmed that it will assess and pay claims in accordance with its rules. However, it will be a matter for the FSCS to determine whether or not any payments are or will become due.
- With the Scheme, relevant investors do not have to prove these matters to qualify for a payment from the Settlement Fund.

# Advantages of the Scheme

- LFSL considers that investors are better off with the Scheme than without the Scheme because:
  - The Scheme provides for the maximum amount possible to be paid to the investors from LFSL.
  - Parent will make a voluntary contribution of up to £60 million to the Settlement Fund.
  - Parent will also make a voluntary contribution of up to £2.5 million towards the costs of the Scheme.
  - The Scheme provides a convenient and streamlined process for making payments to investors.
  - Investors will each receive the same payment percentage.
  - Payments are expected to be made earlier (with an initial payment expected in early 2024 and further payment(s) to follow once LFSL's other costs and liabilities are ascertained) than would otherwise be the case outside of the Scheme.

## Alternative to the Scheme

- If the Scheme does not go ahead, LFSL intends to defend itself against the FCA Conclusions and Litigation Claims because it does not agree with them. Even if LFSL is unsuccessful in that defence, there will be less money available to pay compensation to affected investors because:
  - Parent will not pay the voluntary Parent contribution of up to £60 million.
  - Parent will not pay the voluntary contribution of up to £2.5 million in relation to the costs of the Scheme.
  - The costs of the defending against the FCA Conclusions may be significant and will reduce the amount of money that LFSL has available to pay compensation.
  - The FCA may decide to impose a financial penalty on LFSL. As noted by the FCA in their 20 April 2023 announcement, *“The FCA’s case includes a proposed financial penalty of £50 million which the FCA would not enforce if the Scheme is approved”*.
  - The costs of defending against the Litigation Claims may be significant and will reduce the amount of money that LFSL has available to pay compensation.
  - If the amount of compensation ultimately awarded is greater than LFSL’s assets, LFSL may enter into insolvency proceedings which will mean additional costs

# Questions and Answers

**From:** [REDACTED]  
**Sent:** 31 August 2023 12:39:25  
**To:** [Nigel BoylingRyan Minor](#)  
**Cc:** [REDACTED]  
**Subject:** Committee Response  
**Importance:** Normal  
**Sensitivity:** None  
**Archived:** 03 October 2023 10:01:24

---

Dear Nigel and Ryan,

Thank you for your time and helpful presentation to the Committee members on Tuesday morning. Eight of the nine members of the Committee were present for the presentation. Seven members have confirmed they approve this response and I will chase the eighth. The Committee members have now received a copy of the slides you presented, subject to the existing confidentiality arrangements with the company. I will also follow up with the member of the Committee who could not join.

Following the presentation, the Committee engaged in detailed discussion in relation to the company's proposal and have the following questions and requests for further information:

1. The Committee noted that certain of the funding amounts listed on slide 8 of the presentation were phrased as amounts "up to" a ceiling amount, rather than firm expectations or minimum amounts. While the Committee notes the company's response that these numbers are realistic amounts which the company feels confident to put forward as part of its proposal, the Committee is concerned that there is too much uncertainty in the numbers provided for them to be able to adequately consider the proposal and/or confirm support at this stage. Further detail and greater certainty are required on the proposed funding amounts for the Committee to be able to properly consider the proposal. The Committee would be grateful if you could let me know when the company will be able to share figures that have a greater degree of certainty.
2. The Committee would like to receive more details of the discussions that the Company has had with its insurers concerning their liability to the Company and/or its investors and their contribution to the compensation fund, as well as details of the insurance coverage, both in terms and amount. The Committee notes that the Chair has previously requested details of the insurance coverage. Have discussions with the insurers now concluded from the Company's perspective, such that you have negotiated the maximum contribution you consider achievable?
3. The Committee is concerned that the company has not provided an estimate of the reserve amount which would be set aside to cover various of the company's other costs and liabilities, including the costs of the ongoing litigation claims. The Committee notes the company's initial response that more detail will be provided in the Practice Statement Letter. However, as the reserve amount will likely materially affect the returns to creditors, greater detail and certainty is required, including confirmation of whether there is an intention for amounts to be reserved for potential settlement of claims in addition to the costs of ongoing litigation.
4. The Committee notes that the company considers the proposal to offer the best available outcome to the investors represented by the Committee. The Committee further notes that the company considers the most likely alternative, if the Committee rejects its proposal, to be that the company will continue to defend itself against both the "FCA Conclusions" and the litigation claims.
  - (a) Please can the company provide more detail on what precisely it considers to be the alternative to the scheme? If the alternative involves the ongoing defence of the litigation claims, please can the Committee be provided with the estimated timelines, estimated costs incurred and likely estimated overall outcomes to the scheme creditors in the alternative scenarios that could materialise.
  - (b) The Committee views the likelihood of the investors being eligible for (and receiving) compensation from the FSCS in any potential insolvency as an important factor in its assessment of the alternative to the scheme. Therefore, the Committee requests that the company provide; (i) a summary of its engagement with the FSCS, including any correspondence or other materials which relate to the likely availability of FSCS compensation to the investors represented by the Committee; and (ii) its view and/or a summary of any work it has done on whether some or all of the claims that are covered by the scheme would likely be compensated by the FSCS.
5. Given the uncertainty noted in preceding questions regarding the likely funding amounts, the Committee considers it particularly important to be informed of the details surrounding the settlement agreement agreed by the

company with the FCA. In particular, the Committee needs to understand the rationale behind the calculation of the £298 million redress figure and the FCA's considerations in coming to the settlement agreement. The Committee notes that the Chair has previously requested sight of the settlement deed and repeats that request.

6. As was raised in questions following the presentation, the Committee considers it important in considering the proposal to understand what the anticipated return per unit / share would be under the scheme. Please could the company therefore:

- (a) inform the Committee of the total number of units / shares which were in issue as at the date of suspension and which will benefit from payments proposed to be made under the scheme; and
- (b) provide the Committee with an estimated return per unit / share, based on a scenario where the fund is £235 million and before any reduction necessitated by the reserve amount is made.

The Committee would be grateful for your prompt written response, bearing in mind the company's proposed timetable for issuing the Practice Statement Letter. As you will appreciate, the Committee will need adequate time to properly consider the proposal in light of this information and any further information which the company can provide. Please also note that the Committee expressed some concern with the proposed timeline for issuing the Practice Statement Letter considering the uncertainties that currently exist on key aspects of the proposal.

Kind Regards

Jamie Drummond-Smith

Jamie  




Archived: 03 October 2023 10:01:49

From: [Nigel Boyling](#)

Sent: 12 September 2023 06:19:25

To: [REDACTED] [Ryan Minor](#)

Cc: [REDACTED] [Karl Midl ProjectEric@CliffordChance.com](#)  
[ProjectLunaCoreTeam@CliffordChance.com](#) [REDACTED]

Subject: RE: Committee Response

Importance: Normal

Sensitivity: None

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Hi Jamie

Further to my earlier email, now please see responses to the various questions raised by the Investors Committee.

If you have any further questions, or wish to discuss, then do please let us know.

Kind regards

Nigel

\*\*\*\*\*

**1. The Committee noted that certain of the funding amounts listed on slide 8 of the presentation were phrased as amounts "up to" a ceiling amount, rather than firm expectations or minimum amounts. While the Committee notes the company's response that these numbers are realistic amounts which the company feels confident to put forward as part of its proposal, the Committee is concerned that there is too much uncertainty in the numbers provided for them to be able to adequately consider the proposal and/or confirm support at this stage. Further detail and greater certainty are required on the proposed funding amounts for the Committee to be able to properly consider the proposal. The Committee would be grateful if you could let me know when the company will be able to share figures that have a greater degree of certainty.**

*LFSL has set out in paragraphs 5.4 to 5.8 of the PSL its current estimate of the total amount of the Settlement Fund (as defined in the PSL), being £230 million, and the various sources of the funds comprising that amount. With respect to the "approximately £80 million" of proceeds from the Sale of the Link Fund Solutions Business (paragraph 5.5. of the PSL) and the "approximately £60 million" of proceeds from Sale of certain affiliates of LFSL that underpin the Parent's Contribution (paragraph 5.7 of the PSL), LFSL is confident that it will receive the full amount of consideration from Waystone (including an element that is contingent on certain criteria being met) of £140 million and the allocation between LFSL and the Link Group will be as specified in the PSL – i.e. approximately £80 million and approximately £60 million, subject (in both cases) to customary cash, debt and normalised working capital adjustments. At this stage, we cannot confirm (A) the precise allocation of the £140 million which is expected to be payable by Waystone between LFSL and the Link Group on completion of the Sale; and (B) what the working capital adjustments (if any) would amount to (but, we do not currently expect to see any significant divergence from the figures set out above). All of the other figures represent LFSL's best estimate of the amounts available at this stage.*

**2. The Committee would like to receive more details of the discussions that the Company has had with its insurers concerning their liability to the Company and/or its investors and their contribution to the compensation fund, as well as details of the insurance coverage, both in terms and amount. The Committee notes that the Chair has previously requested details of the insurance coverage. Have discussions with the insurers now concluded from the Company's perspective, such that you have negotiated the maximum contribution you consider achievable?**

*LFSL is claiming under an insurance programme with a limit of £50 million, of which there is currently approximately £48 million of remaining cover. As explained in paragraph 5.6 of the PSL, Insurers under that programme have agreed that, if the*

Scheme becomes effective, the remaining cover shall be added to the Settlement Fund, subject to contract. LFSL anticipates further discussions with Insurers as to the terms of that contract (which LFSL anticipates will document Insurers' contribution of the remaining cover). In circumstances where Insurers have agreed to contribute the entirety of the remaining cover, we consider that LFSL has secured the maximum contribution achievable.

LFSL is liaising with Insurers in respect of the provision of the relevant policy documents and anticipates being in a position to respond to the request shortly.

**3. The Committee is concerned that the company has not provided an estimate of the reserve amount which would be set aside to cover various of the company's other costs and liabilities, including the costs of the ongoing litigation claims. The Committee notes the company's initial response that more detail will be provided in the Practice Statement Letter. However, as the reserve amount will likely materially affect the returns to creditors, greater detail and certainty is required, including confirmation of whether there is an intention for amounts to be reserved for potential settlement of claims in addition to the costs of ongoing litigation.**

LFSL's proposal in respect of the Reserve Amount (which has been set on a prudent basis at £50 million) is detailed in paragraphs 5.12 to 5.16 of the PSL.

**4. The Committee notes that the company considers the proposal to offer the best available outcome to the investors represented by the Committee. The Committee further notes that the company considers the most likely alternative, if the Committee rejects its proposal, to be that the company will continue to defend itself against both the "FCA Conclusions" and the litigation claims.**

**(a) Please can the company provide more detail on what precisely it considers to be the alternative to the scheme? If the alternative involves the ongoing defence of the litigation claims, please can the Committee be provided with the estimated timelines, estimated costs incurred and likely estimated overall outcomes to the scheme creditors in the alternative scenarios that could materialise.**

LFSL has set out what it considers to be the alternative to the Scheme on pages 2 and 3 of the PSL.

If the Scheme does not go ahead, LFSL will continue to defend itself against the litigation claims made against it by the investors in the WEIF, including those claims led by Leigh Day, Marcus Parker and Wallace (the "Litigation Claims") and dispute the FCA conclusions following its investigation into the events that led to the suspension of the WEIF.

In relation to the ongoing Litigation Claims, please see below: (i) an estimated timeline in relation to the Leigh Day/Marcus Parker claims (given these are, currently, the only claims which have been served on LFSL); and (ii) a rough estimate of the potential costs which might be incurred by LFSL. We are not able to provide an estimated overall outcome at this stage as the claims are at such an early stage.

#### Timeline

- The Leigh Day/Marcus Parker led Litigation Claims are currently stayed until the earlier of (i) 14 days after either the solicitors for the Claimants or the solicitors for LFSL providing written notice to the other of the termination of the stay; or (ii) **31 January 2024**.
- Should the stay be lifted on 31 January 2024, LFSL's Defence will be due on **27 March 2024**. The Claimants' Reply will be due on **8 May 2024**.
- The trial is therefore not likely to take place until **late 2025** at the earliest, with a judgment to follow in **2026**. This judgment would be subject to appeal, so may not be the final decision in the litigation. Further, this case could require multiple trials (e.g. if there is a split trial on liability on quantum) which would further lengthen the timeline.

**(b) The Committee views the likelihood of the investors being eligible for (and receiving) compensation from the FSCS in any potential insolvency as an important factor in its assessment of the alternative to the scheme. Therefore, the Committee requests that the company provide; (i) a summary of its engagement with the FSCS, including any correspondence or other materials which relate to the likely availability of FSCS compensation to the investors represented by the Committee; and (ii) its view and/or a summary of any work it has done on whether some or all of the claims that are covered by the scheme would likely be compensated by the FSCS.**

### Summary of engagement with the FSCS

LFSL has engaged with the FSCS for several months regarding the Scheme, and the treatment of Scheme Creditors. These discussions, and all correspondence, are confidential. Accordingly, LFSL is not able to share copies of the correspondence between LFSL and the FSCS on the Scheme with the Investor Committee.

### FSCS cover for Scheme Creditors:

As noted in the PSL ("Position of the FSCS" on page 3), the FSCS is the UK's compensation scheme of last resort for the customers of failed financial services firms. It is a matter for the FSCS to determine whether any payments may become due to investors from the FSCS. Currently, the FSCS has not made any determination in relation to any of the claims made against LFSL and the claims remain unproven. The FSCS has confirmed that it will assess and pay claims in accordance with COMP and it will be a matter for it to determine whether any payments are or will become due.

LFSL cannot exclude the possibility that Scheme Creditors may be eligible to recover up to £85,000 from the FSCS in the event that the Scheme is not implemented. However, such a claim would be subject to several potential hurdles. LFSL considers the Scheme to be in Scheme Creditors' best interests as it provides them with significant and certain compensation, in circumstances where LFSL would otherwise dispute its liability in respect of the Scheme Claims and there is no certainty that the FSCS would provide Scheme Creditors with any compensation.

By way of further explanation, the FSCS is required to determine claims in accordance with the provisions set out in the Compensation Sourcebook of the FCA Handbook ("**COMP**"). Under COMP, the FSCS may only make a payment if it is satisfied that an "eligible claimant" has brought a "protected claim" against a "relevant person", and that "relevant person" is "in default". We set out below further details on each of these requirements.

- (i) *Eligible Claimant:* The default position is that any person is eligible, as long as they do not fall into certain categories listed in COMP 4.2.2R. In practice, eligible claimants generally constitute private individuals and small businesses. We expect that the vast majority (by number) of the WEIF investors would constitute "private persons". However, it is possible that certain investors would not meet this threshold, so would not be eligible for compensation even if they had a protected claim.
- (ii) *Protected Claims:* The FSCS will pay compensation only where there is "protected claim" (COMP 5.2.1R). A claim will be protected claim if it is "a valid claim made in respect of a civil liability" that meets the requirements set out in COMP 5.5R. The burden is on claimants to satisfy the FSCS that they do have such a claim. The key ground on which a claimant could seek to bring a claim against LFSL is through Section 138D of the Financial Markets and Services Act 2000 ("**FSMA**"). Section 138D FSMA grants a private right of action ("**PROA**") for damages to private

persons who suffer loss as a result of a breach of certain FCA rules, subject to the defences (and other incidents) applying to actions for breach of statutory duty. LFSL's position is that a PROA under section 138D FSMA is not available for breaches by LFSL of the FCA Principles of Business. Accordingly, any claimant who wishes to bring a PROA against LFSL under section 138D FSMA will need to establish that LFSL breached the COLL Rules, rather than the FCA's Principles of Business. In this regard, it is noted that the FCA's draft warning notice (which LFSL has agreed to accept only in the event that the Scheme is implemented in full), found that LFSL breached Principles 2 and 6 of the FCA's Principles for Business only. LFSL does not admit liability in respect of any alleged breaches of the COLL Rules of the FCA's Principles for Businesses and has reserved its rights to defend itself in respect of those claims if the Scheme does not go ahead.

- (iii) *Claim is against a "Relevant Person":* A "relevant person" is, broadly, a firm who has a Part 4A permission to carry on one or more regulated activities, which is not excluded under the categories set out in the definition of "participant firm" in the Glossary to the FCA Handbook. LFSL is a "relevant person".
- (iv) *The "Relevant Person" is "in default":* Under COMP 6.3, the FSCS may determine a relevant person to be in default when, in the opinion of the FSCS, the relevant person is (i) unable to satisfy protected claims against it; or (ii) it is likely to be unable to satisfy protected claims against it. As noted above, if the Scheme is not implemented in full, LFSL intends to fully dispute any suggestion that it acted in breach of the COLL Rules or the FCA Principles of Business when acting as ACD of the WEIF.

**5. Given the uncertainty noted in preceding questions regarding the likely funding amounts, the Committee considers it particularly important to be informed of the details surrounding the settlement agreement agreed by the company with the FCA. In particular, the Committee needs to understand the rationale behind the calculation of the £298 million redress figure and the FCA's considerations in coming to the settlement agreement. The Committee notes that the Chair has previously requested sight of the settlement deed and repeats that request.**

The FCA and Link Group have confirmed that, subject to obtaining Waystone's prior written approval, the Chair and Freshfields can review the Settlement Deed (including the draft Warning Notice) at Clifford Chance's offices in Canary Wharf, but cannot take any copies of the same. We will seek to obtain Waystone's approval in this regard. The FCA has not consented to the sharing of the Settlement Deed (including the draft Warning Notice) with the Investor Committee. With respect to the calculations of the £298 million redress figure, the FCA have confirmed that we can share the details of the calculation with the Chair, Freshfields and the Investor Committee members. This disclosure will be subject to additional confidentiality obligations, which we are currently considering and which we expect to revert to you on, shortly.

**6. As was raised in questions following the presentation, the Committee considers it important in considering the proposal to understand what the anticipated return per unit / share would be under the scheme. Please could the company therefore: (a) inform the Committee of the total number of units / shares which were in issue as at the date of suspension and which will benefit from payments proposed to be made under the scheme; and**

There are 9 share classes in the WEIF. All 9 share classes will be covered by the Scheme, and the Scheme Creditors who hold units in any of these share classes will benefit from the Scheme. The number of shares outstanding in each class, and the total value of each share class, is set out below:

ISIN Number	Share Class	Shares in issue	Fund value (£)
GB00BLRZQ513	LF Equity Income Fund A Sterling Accumulation	19,033,520.64	174,729.11
GB00BLRZQ406	LF Equity Income Fund A Sterling Income	10,484,994.72	79,089.53
GB00BLRZQ620	LF Equity Income Fund C Sterling Income	425,922,649.13	3,257,348.25

GB00BLRZQ737	LF Equity Income Fund C Sterling Accumulation	873,672,763.72	8,124,231.01
GB00BZ01L372	LF Equity Income Fund F Sterling Accumulation	4,381,589.95	32,202.39
GB00BLRZQC88	LF Equity Income Fund Z Sterling Accumulation	1,569,816,936.42	14,680,387.71
GB00BLRZQB71	<u>LF Equity Income Fund Z Sterling Income</u>	931,809,231.65	7,162,876.52
GB00BLRZQ950	LF Equity Income Fund X Sterling Accumulation	16,314,314.64	145,999.21
GB00BLRZQ844	LF Equity Income Fund X Sterling Income	1,883,151.66	13,862.26
<b>TOTAL</b>	-	3,853,319,152.53	33,670,725.99

**(b) provide the Committee with an estimated return per unit / share, based on a scenario where the fund is £235 million and before any reduction necessitated by the reserve amount is made.**

**We set out below an estimated return per unit / share, based on a scenario where the fund is £230 million, and without taking into account any Reserve Amount:**

ISIN Number	Share Class	Settlement per share class	£ per share	Pence/share
GB00BLRZQ513	LF Equity Income Fund A Sterling Accumulation	£1,193,550.01	£0.063	6.271
GB00BLRZQ406	LF Equity Income Fund A Sterling Income	£540,249.47	£0.052	5.153
GB00BLRZQ620	LF Equity Income Fund C Sterling Income	£22,250,488.38	£0.052	5.224
GB00BLRZQ737	LF Equity Income Fund C Sterling Accumulation	£55,495,480.94	£0.064	6.407
GB00BZ01L372	LF Equity Income Fund F Sterling Accumulation	£219,970.00	£0.050	5.020
GB00BLRZQC88	LF Equity Income Fund Z Sterling Accumulation	£100,279,666.51	£0.064	6.388
GB00BLRZQB71	<u>L F Equity Income Fund Z Sterling Income</u>	£48,928,603.44	£0.053	5.251
GB00BLRZQ950	LF Equity Income Fund X Sterling Accumulation	£997,300.10	£0.061	6.113
GB00BLRZQ844	LF Equity Income Fund X Sterling Income	£94,691.15	£0.050	5.028

TOTAL	-	£230,000,000.00	-	-
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Director  
Link Group  
65 Gresham St, London EC2V 7NQ



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Archived: 03 October 2023 10:02:04

From: [REDACTED]

Sent: 26 September 2023 08:33:47

To: [Nigel Boyling](#) [Ryan Minor](#)

Cc: [REDACTED]

Subject: Committee response

Importance: Normal

Sensitivity: None

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Dear Nigel and Ryan,

The Investor Committee had its second meeting yesterday. This followed significant developments late last week in the form of meetings with key stakeholders of Link Group and the FCA and the provision of information (including the insurance documentation) previously requested by the Committee. Following those helpful discussions, certain representatives from the FCA also attended the meeting and addressed the Committee in respect of specific questions. The Committee appreciated the FCA's attendance and found the discussion helpful.

Following careful and considered discussion, the Committee members have requested responses to the following:

1. Please could the company confirm for the sake of good order that the £48m of remaining insurance cover will be contributed in full if the Scheme is approved, i.e. the amount of £48m will be paid into the Settlement Fund without any deductions under the policy? There do not appear to be any provisions providing for such deductions in the documents we reviewed; however, some parts were redacted and so we would be grateful if you could please confirm this.
2. The Committee is concerned about the size of the Reserve Amount, being £50m. The Committee also noted that an additional £5m has been deducted in order to cover costs from the Settlement Fund according to the PSL published since the company's initial presentation at the first Committee meeting. The Committee is, therefore, concerned that the initial £235m headline figure now stands at an initial payment of up to £180m, with a further potential payment of up to £50m in the future, making a total of up to £230m. Therefore, noting from the PSL that the Reserve Amount has been set on a prudent basis, the Committee requests that it be reduced from £50m to £45m to provide more certainty for scheme creditors and allow a larger initial payment of £185m not later than 31 March 2024.
3. Further, the Committee has the following specific requests relating to the Reserve Amount:
  - a. Please could the company provide a breakdown of how the £50m figure has been arrived at. This should include detail on what specific reserved costs have been included and what likelihood the company sees in these costs actually being incurred.
  - b. Please could the company also provide the Committee with its best estimate on the timeline for the use and eventual return of the remaining Reserve Amount. This should include detail on when the final distribution of the residual Reserve Amount would be made to scheme creditors taking into account the ongoing litigation and when the company expects to have more certainty on when certain contingent costs and liabilities reserved for will not materialise.
  - c. The Committee is particularly concerned that the use of the Reserve Amount is adequately policed by an external independent party. Therefore, please could the company provide information on what supervision will be put in place to ensure the Reserve Amount is used only for proper purposes and that maximum value is preserved and made available

for scheme creditors as soon as possible by way of a further distribution.

4. You previously provided a helpful breakdown of returns per-unit/share assuming a distribution of £235m is received by scheme creditors. Noting that, subject to the requested reduction of the Reserve Amount, the initial distribution would be of £185m, please could you provide an updated table setting out the returns per-unit/share upon an initial distribution of £185m?
5. The Committee would like for a reference to be made in the Explanatory Statement to the fact that certain scheme creditors may have entered into separate arrangements with claims management companies and they may need to consider the quantum and timing of those fees under the terms of those arrangements if they receive compensation under any scheme.
6. Subject to satisfactory answers to the above questions and to the following confirmations, the Committee is of the view that they could consider recommending the scheme for approval:
  - a. Confirmation that the threshold for the sale of the Link Fund Solutions business to Waystone has been passed, i.e. that the sale will definitely proceed;
  - b. Confirmation that the company is certain that the following amounts will be or have been (as applicable) received: (i) no less than £80m proceeds from the Waystone sale, (ii) approximately £47m of LFSL's other net cash and capital resources, (iii) the full amount of £48m remaining of the liability limit under the insurance documents, and (iv) the full amounts of the Parent's contribution of £60m. This would require certainty from the company that the total sum of £235m would be received, before allowing for any deduction for the Reserve Amount / additional legal costs.
  - c. Confirmation that satisfactory measures to safeguard the use and preservation for investors of the Reserve Amount are set out to the Committee, to be put in place under the terms of the Scheme following its sanction;
  - d. Confirmation that the Reserve Amount to be deducted from the Settlement Fund be reduced from £50m to £45m; and
  - e. Confirmation that an initial distribution of not less than £185m will be made to creditors not later than 31 March 2024

I would be grateful for your prompt response given the limited time available for the Committee to come to a decision on the scheme and for me to provide my report to the court. While the Committee appreciates that it has already made a similar point in its initial response, I have been asked to reiterate their view that they have had limited time to consider the Scheme in light of the overall timetable.

In light of the timetable, I am sending this email to you at the same time as I am sending it to the members of the Committee for their approval. If I receive any comments from them, I will forward them to you

Kind regards,

Jamie

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Jamie





## Committee Questions

(26 September 2023)

Dear Jamie,

Thank you for your email dated 26 September 2023. The purpose of this note is to set out in writing the responses to the Committee's questions following the telephone call between our respective advisers, Freshfields and Clifford Chance.

Our responses to each of the questions are set out below.

- 1. Please could the company confirm for the sake of good order that the £48m of remaining insurance cover will be contributed in full if the Scheme is approved, i.e. the amount of £48m will be paid into the Settlement Fund without any deductions under the policy? There do not appear to be any provisions providing for such deductions in the documents we reviewed; however, some parts were redacted and so we would be grateful if you could please confirm this.**

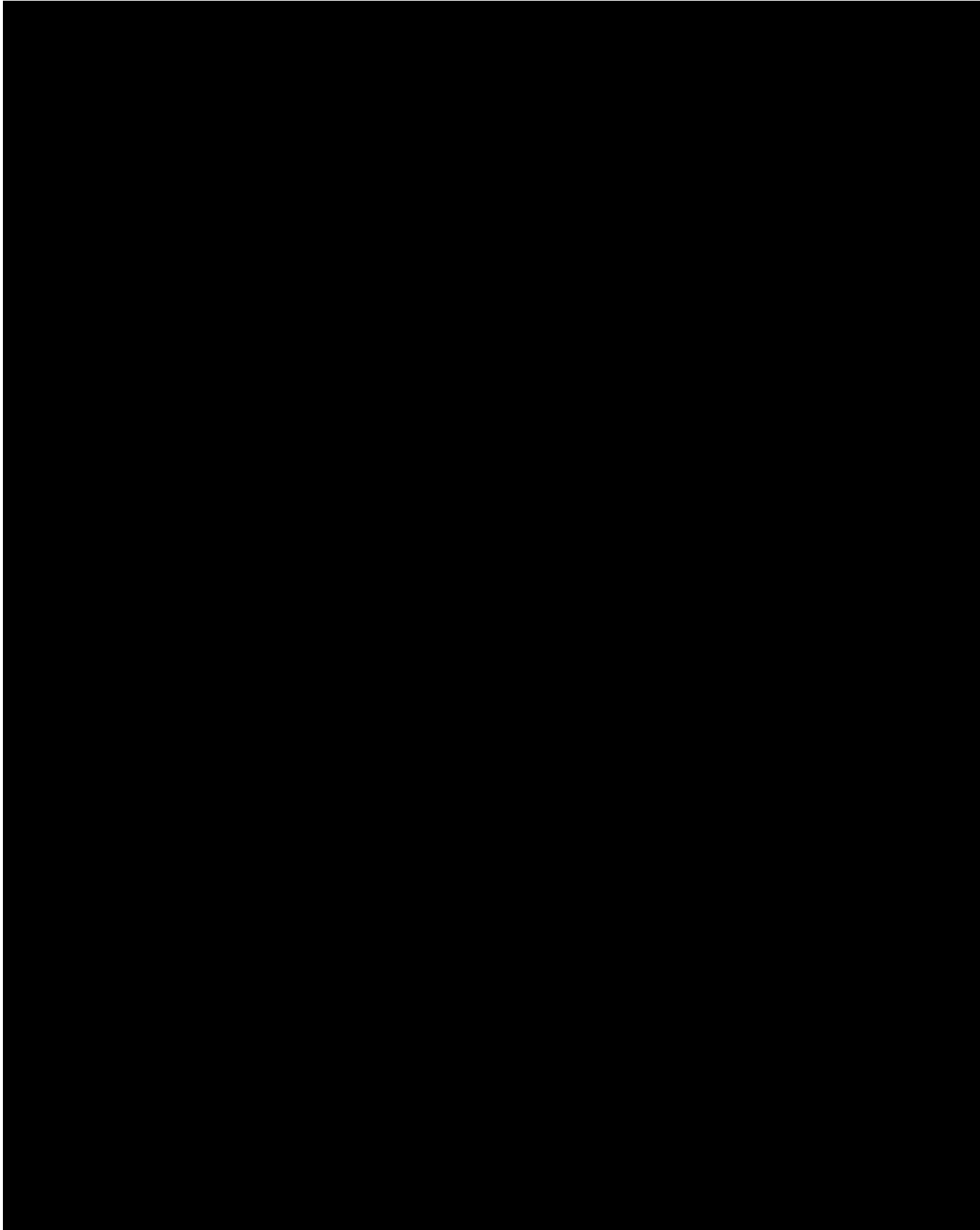
LFSL is not aware of any deductions under the programme. LFSL has claimed for costs incurred in connection with responding to the FCA's investigation and defending the WEIF-related litigation, of which c.£2m have been paid, resulting in c.£48m being left outstanding under the programme. If further costs are paid, this will reduce the c.£48m figure, but increase LFSL's cash to be distributed under the Scheme by an equal amount (such that the amount contributed to the Scheme which ultimately comes from the Insurers should be c.£48m in either scenario). LFSL is agreeing arrangements with the Insurers to record the amount that the insurers will pay and the process for making such payment.

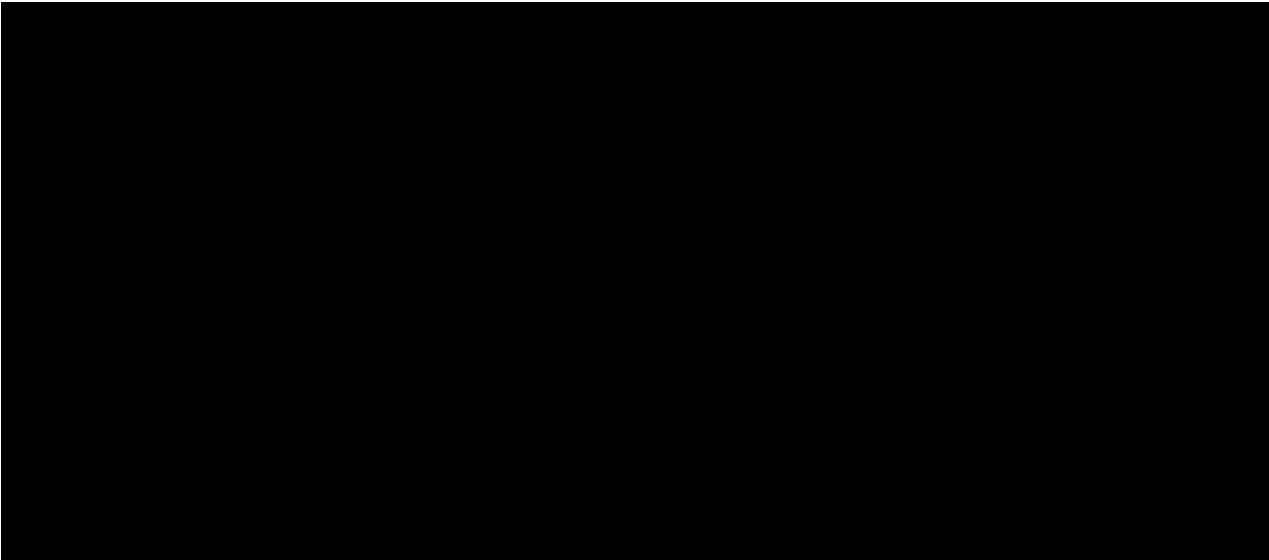
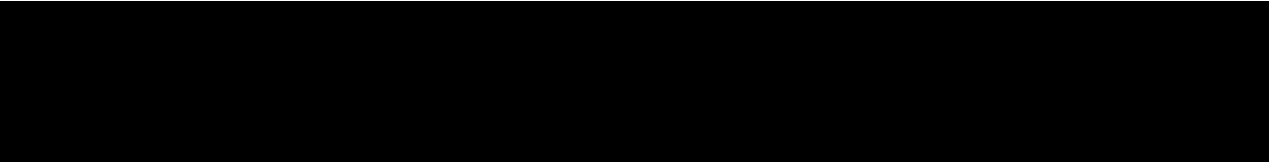
- 2. The Committee is concerned about the size of the Reserve Amount, being £50m. The Committee also noted that an additional £5m has been deducted in order to cover costs from the Settlement Fund according to the PSL published since the company's initial presentation at the first Committee meeting. The Committee is, therefore, concerned that the initial £235m headline figure now stands at an initial payment of up to £180m, with a further potential payment of up to £50m in the future, making a total of up to £230m. Therefore, noting from the PSL that the Reserve Amount has been set on a prudent basis, the Committee requests that it be reduced from £50m to £45m to provide more certainty for scheme creditors and allow a larger initial payment of £185m not later than 31 March 2024.**

We have provided the breakdown in our response to Question 3.a. Please note that this information is highly confidential. From the breakdown we hope you can see that the Reserve Amount has been set prudently but reasonably. Indeed, there are provisions we have not catered for as we believe it would be overly prudent to do so, such as those relating to the indemnities given as part of the sale to Waystone. Nevertheless, the Directors have carefully considered the Committee's request to reduce the Reserve Amount and concluded that they can achieve a reduction of £3.5m [REDACTED]. We hope the Committee recognises that we are endeavouring to respond in a constructive manner to their feedback. The breakdown provided reflects this reduced Reserve Amount.

- 3. Further, the Committee has the following specific requests relating to the Reserve Amount:**
- a. Please could the company provide a breakdown of how the £50m figure has been arrived at. This should include detail on what specific reserved costs have been included and what likelihood the company sees in these costs actually being incurred.**

**Project Eric costs reserves**



- 
- b. **Please could the company also provide the Committee with its best estimate on the timeline for the use and eventual return of the remaining Reserve Amount. This should include detail on when the final distribution of the residual Reserve Amount would be made to scheme creditors taking into account the ongoing litigation and when the company expects to have more certainty on when certain contingent costs and liabilities reserved for will not materialise.**
- 

- c. **The Committee is particularly concerned that the use of the Reserve Amount is adequately policed by an external independent party. Therefore, please could the company provide information on what supervision will be put in place to ensure the Reserve Amount is used only for proper purposes and that maximum value is preserved and made available for scheme creditors as soon as possible by way of a further distribution.**

Please note the following protections included in the Scheme with respect to the setting of the Reserve Amount.

- (1) The Scheme currently contemplates that LFSL shall prudently set the Reserve Amount following consultation with the Scheme Supervisors (Dan Schwarzman and Nigel Rackham, both of PwC). LFSL is also required to notify the Scheme Creditors of the Reserve Amount once determined and any changes are made to it.
- (2) The Reserve Amount may not exceed the sum set out in the Scheme which, as indicated above, we propose to be £46,500,000.00.
- (3) In consulting with the Scheme Supervisors, LFSL is required to:

- (a) provide the Scheme Supervisors with an estimate of any cash it requires, to meet its Excluded Liabilities as they fall due;
  - (b) provide the Scheme Supervisors with any other information that they request (acting reasonably) in order to evaluate the Reserve Amount and to consider whether the Reserve Amount should be reduced; and
  - (c) obtain and consider such financial and/or legal information and advice as the Scheme Supervisors consider appropriate.
- (4) The Scheme Supervisors will in addition:
- (a) monitor LFSL's compliance with the terms of the Scheme;
  - (b) once every six months, prepare a report for Scheme Creditors providing an update on the progress of the Scheme and publish such report on the Website;
  - (c) confirm that any Scheme Costs incurred by LFSL (other than in relation to their own costs) have been properly incurred in accordance with the Scheme;
- (5) Whilst the Scheme Supervisors are agents of LFSL, they are required under the terms of the Scheme to act in good faith with reasonable skill and care in the interests of the Scheme Creditors as a whole and shall exercise their powers, duties and functions under the Scheme with a view to ensuring that the Scheme is implemented in accordance with its terms.

**4. You previously provided a helpful breakdown of returns per-unit/share assuming a distribution of £235m is received by scheme creditors. Noting that, subject to the requestion reduction of the Reserve Amount, the initial distribution would be of £185m, please could you provide an updated table setting out the returns per-unit/share upon an initial distribution of £185m?**

We separately attach the updated figures showing breakdown of returns assuming distributions at:

- (a) £183.5 m (the amount at the lowest end of the range of the currently expected first distribution, taking into account the reduction in the reserves explained above);
- (b) £230 m (which is the maximum amount of the Settlement Fund); and
- (c) £298 m (which is the FCA Total Amount (as defined in the PSL)).

**5. The Committee would like for a reference to be made in the Explanatory Statement to the fact that certain scheme creditors may have entered into separate arrangements with claims management companies and they may need to consider**

**the quantum and timing of those fees under the terms of those arrangements if they receive compensation under any scheme.**

We will update the Explanatory Statement accordingly.

**6. Subject to satisfactory answers to the above questions and to the following confirmations, the Committee is of the view that they could consider recommending the scheme for approval:**

- a. Confirmation that the threshold for the sale of the Link Fund Solutions business to Waystone has been passed, i.e. that the sale will definitely proceed;**

Confirmed, though this must be kept on a confidential basis until a public announcement is made – expected Monday 9 October 2023.

- b. Confirmation that the company is certain that the following amounts will be or have been (as applicable) received: (i) no less than £80m proceeds from the Waystone sale, (ii) approximately £47m of LFSL’s other net cash and capital resources, (iii) the full amount of £48m remaining of the liability limit under the insurance documents, and (iv) the full amounts of the Parent’s contribution of £60m. This would require certainty from the company that the total sum of £235m would be received, before allowing for any deduction for the Reserve Amount / additional legal costs.**

There were three principal sources of uncertainty on price on the Waystone transaction (which affect the confirmations that can be given in respect of b(i) and b(iv)):

- (1) How much of the business would transfer to Waystone? This is now known, and so the full agreed enterprise value of the business (i.e. £140m in aggregate) is payable.
- (2) How much of the enterprise value is allocated to LFSL's business and assets, versus those of affiliated entities? £80,202,000 for LFSL and £59,798,000 for the affiliated entities.
- (3) The amount of net debt and working capital that transfers to Waystone and whether it matches pre-agreed levels that formed part of the calculation of the enterprise value? The estimate is that across the entire perimeter £2,422.72 of cash in excess of the agreed targets will transfer to, and therefore be paid for by, Waystone on Completion.

Following Completion, the precise net debt and working capital position will be determined and, should it be different from the £2,422.72 estimated, a balancing payment either way will be due.

With regards LFSL, any balancing payment due will be neutral from an investor perspective as: (A) in the event that a payment is to be made by LFSL to Waystone, this will be as a result of Waystone assuming

additional debt beyond agreed levels and that, if retained, would have reduced LFSL's retained cash amount; and (B) in the event a payment is to be made by Waystone to LFSL, this is to compensate LFSL for additional cash transferring beyond agreed levels that would otherwise have formed part of LFSL's retained cash amount.

LFSL cannot therefore provide absolute certainty on the final amounts of sale proceeds, but these do not look like compelling reasons to delay the Scheme.

With respect to the confirmations requested in respect of b(iii), please see our answer to Question 1. With respect to the confirmation requested in respect of b(ii), please note that LFSL's cash position will be moving on a day-to-day basis and so cannot be fixed. However, LFSL remains of the view that the expected cash position is such that the maximum potential Settlement Fund is still £230m.

- c. Confirmation that satisfactory measures to safeguard the use and preservation for investors of the Reserve Amount are set out to the Committee, to be put in place under the terms of the Scheme following its sanction;**

Please see comments above.

- d. Confirmation that the Reserve Amount to be deducted from the Settlement Fund be reduced from £50m to £45m; and**

Please see comments above.

- e. Confirmation that an initial distribution of not less than £185m will be made to creditors not later than 31 March 2024**

The key uncertainty now relates to the Scheme process. If the Scheme is widely supported, with convening and sanction orders made by the Court after hearings (which LFSL would think of as a realistic good case) there will be more to distribute, more quickly, than if LFSL faces contested hearings at each leading to appeals, with only marginal approval from creditors (the other end of the spectrum of possible outcomes). However, assuming there are no challenges to the Scheme, it continues to be the case that the first distribution from the Settlement Fund is expected to be made no later than 31 March 2024.