

**IN THE HIGH COURT OF NEW ZEALAND  
WELLINGTON REGISTRY**

**I TE KŌTI MATUA O AOTEAROA  
TE WHANGANUI-A-TARA ROHE**

**CIV 2023-485-411**

Under the Part 19 of the High Court Rules, Part 16 of the Companies Act 1993 and Part 7 of the Trusts Act 2019

In the matter of an application concerning **CRYPTOPIA LIMITED (IN LIQUIDATION)**, a company having its registered office at Level 15, Grant Thornton House, 215 Lambton Quay, Wellington, 6143 and carrying on business as a cryptocurrency exchange

And

In the matter of an application for directions by **DAVID IAN RUSCOE** and **MALCOLM RUSSELL MOORE** of **GRANT THORNTON NEW ZEALAND LIMITED**, insolvency practitioners of Wellington and Auckland respectively, as liquidators of **CRYPTOPIA LIMITED (in liquidation)**

Applicants

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**ORIGINATING APPLICATION FOR DIRECTIONS IN RESPECT OF  
DISTRIBUTION OF CRYPTOCURRENCIES**

Dated: 31 July 2023

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Judicial officer assigned: Justice Palmer

**BUDDLE FINDLAY**

Barristers and Solicitors  
Wellington

Solicitor Acting: **Scott Barker / Bridie McKinnon / Brooke Marriner**  
Email: [scott.barker@buddlefindlay.com](mailto:scott.barker@buddlefindlay.com) / [bridie.mckinnon@buddlefindlay.com](mailto:bridie.mckinnon@buddlefindlay.com) / [brooke.marriner@buddlefindlay.com](mailto:brooke.marriner@buddlefindlay.com)  
Tel 64 4 498 7349 Fax 64 4 499 4141 PO Box 2694 DX SP20201 Wellington 6011

## **ORIGINATING APPLICATION FOR DIRECTIONS IN RESPECT OF DISTRIBUTION OF CRYPTOCURRENCIES**

**To:** the Registrar of the High Court at Wellington

**And to:** Court appointed counsel

**And to:** Account holders and creditors of Cryptopia Ltd (in liquidation)

### **This document notifies you that –**

The applicants, David Ian Ruscoe and Malcolm Russell Moore, liquidators of Cryptopia Limited (**Cryptopia** or the **Company**) (**Liquidators**), will on 31 August 2023 at 10am apply to the Court for orders determining that:

#### **1. Claim valuation date**

1.1 Pending further order of the Court, and subject to paragraph 9 below, the Liquidators may adopt 14 May 2019 as the date at which the entitlement of each account holder of the respective cryptocurrency trusts shall be calculated.

#### **2. Distribution process**

2.1 The Liquidators are permitted, and shall procure Cryptopia, to make distributions in specie of cryptocurrency held on trust to account holders, subject to the terms of the following orders described further below:

- (a) Submission of claims before 'cut-off' date (Directions 2.2,2.5)
- (b) Completion of identity verification and account balance acceptance / review / resolution (Directions 2.6, 3)
- (c) Deduction of allocated incurred and projected future costs (Directions 6,7)
- (d) Reimbursement of BTC and DOGE trusts (and Cryptopia Ltd) for funding the liquidators' costs (Direction 8)
- (e) Realisable value of trust property (Direction 4.1)
- (f) De minimis value threshold for distribution (Direction 5.1)

2.2 The Liquidators are permitted, and shall procure Cryptopia, to make a distribution of cryptocurrency which is held by Cryptopia on bare trust in accordance with Gendall J's judgment of 8 April 2020 in CIV 2019-404-544,

on the basis that those account holders who have not registered their claim with the Liquidators prior to a given date (which must be at least 90 days from the date of Notice referred to below) (the **Soft Cut-off Date** or the **Cut-off Date**), are not in existence, even when that account holder is shown in Cryptopia's records as having a beneficial entitlement, provided that no fewer than 90 days before the Cut-off Date the Liquidators:

- (a) Give notice by email to all account holders who have not registered with the Liquidators via the Cryptopia Claims Portal, explaining the consequences of failing to do so before the Cut-off Date.
- (b) The email shall be in the form of the draft attached as Schedule 1 to this Order.
- (c) Place a notice in a prominent position on [www.grantthornton.co.nz/cryptopia-limited](http://www.grantthornton.co.nz/cryptopia-limited) (the **Website**), which the Liquidators use to communicate with Cryptopia's account holders. The notice shall be in the form of the draft attached as Schedule 2 to this Order (the **Notice**). The Liquidators shall ensure that the Notice remains on the Website until (at the earliest) the date on which they have paid the dividend to participating account holders.
- (d) Place the Notice on Cryptopia's social media channels, or any successor channels.

2.3 Nothing in paragraph [2.2] above shall prevent the Liquidators, in the exercise of their discretion, from receiving, considering, resolving and/or accepting a claim after the passing of the Soft Cut-off Date and before they have made the distribution of cryptocurrency held on trust.

2.4 The Liquidators may accept an account holder's claim either for the whole amount claimed, or for part of that amount.

2.5 If any account holder who has taken any step in, but has not fully completed, the process in the Cryptopia claims portal, including accepting or amending their balance by 31 December 2024 (**Final Cut-off Date**), then the Liquidators are permitted, and shall procure Cryptopia, to treat any such account holder as having abandoned their claim with consequent loss of entitlement to receive a distribution (**non-eligible account holder**).

- 2.6 Any account holder who has fully completed the process in the Cryptopia claims portal, including accepting or amending their balance, by the Final Cut-off Date shall be categorised as an **eligible account holder**.
- 2.7 Following the Final Cut-off Date the Liquidators shall calculate the:
- (a) quantum of unclaimed Cryptocurrencies in each trust (**Unclaimed Holding**);
  - (b) actual trust administration costs to the Final Cut-off date borne by each account holder in each trust; and
  - (c) quantum, if any, of any shortfall in distribution(s) to each account holder in any trust for which there is an Unclaimed Holding.
- 2.8 In relation to any trust for which there is an Unclaimed Holding, and to the extent available from any such Unclaimed Holding, the Liquidators are permitted, and shall procure Cryptopia, to distribute to all eligible account holders (in the following order):
- (a) an amount (in fiat or crypto) by way of reimbursement of costs charged to such account holders in that trust (ie, to 100% of their holdings as at 14 May 2019); and
  - (b) a top up distribution to satisfy the account holders' accepted claims to a maximum of 100% of their holdings pre-Hack, but taking into account any post Hack transactions.
- (top-up distribution)**
- 2.9 If the Unclaimed Holding in any given trust is insufficient to make a top-up distribution to 100% of accepted claims, then the Liquidators shall, and shall procure Cryptopia, first to apply the Unclaimed Holdings to reimburse charged costs on a per account holder basis and then make a top-up distribution on a pari passu basis in relation to any remaining shortfall claims.
- 2.10 Notwithstanding any other orders or directions, the Liquidators are permitted, and shall procure Cryptopia, not to make a distribution of cryptocurrency to any account holder who resides in a country or territory, where, at the date of the proposed distribution, it would be a criminal offence for the Liquidators or

Cryptopia to be a party to the transfer of cryptocurrency to that country or territory.<sup>1</sup>

### 3. Review process

- 3.1 If the Liquidators reject a claim in whole or in part, the Liquidators shall prepare a written statement of reasons for doing so, and send it as soon as reasonably practicable to the account holder.
- 3.2 If an account holder is dissatisfied with the Liquidators' decision with respect to their claim, the account holder may, at any time up until the Final Cut-off Date, request a review to determine if the decision should be reversed or varied (**Review**):
- (a) an application must be filed with the Liquidators within 20 days of the account holder receiving the statement under paragraph 3.1.
  - (b) One of either Rachel Pinny or Paul Chisnall, barristers of Wellington or any substitute barrister appointed by the Liquidators provided that the substitute has at least 7 years' experience in commercial disputes and/or trust law (the **Reviewer**) may be selected to carry out a review of the Liquidators' decision to decline the claim or decline the claim in part. Any review will be conducted pursuant to the provisions of Schedule 2 to this application.
  - (c) neither the Company nor the Liquidators shall be personally liable for costs incurred by an account holder or any other person in respect of such an application.
- 3.3 Unless the Court otherwise orders:
- (a) every account holder shall bear the cost of proving their own entitlement, including costs incurred in providing documents or evidence; and
  - (b) costs incurred by the Company and by the Liquidators, in assessing an account holder's entitlement, including the costs of and occasioned by any review, are payable from the relevant trust as costs properly attributable to the distribution of the trust.

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<sup>1</sup> For completeness, no distributions are proposed to be made to persons when to do so would be contrary to the law of New Zealand.

- 3.4 A claim may be varied as to the amount claimed at any time prior to the distribution from the trusts, by agreement between the account holder and the Liquidators or by Review.
- 3.5 If any account holder who has:
- (a) Been invited to accept their balance and has not by the Soft Cut-off Date disputed that balance; or
  - (b) disputed their balance, and has not provided any substantiating evidence within 20 days of disputing that balance,
- then the Liquidators and Cryptopia are justified in treating any such account holder as having accepted their balance as assessed by the Liquidators.
- The Liquidators have the power, at their discretion, to agree to extend the 20 day period for providing evidence to substantiate an account holder's dispute.
- 3.6 If the Liquidators cause the Company to act in accordance with these directions, neither the Company nor the Liquidators shall be liable, in respect to any distribution made in accordance with these directions, to any account holder of the Company:
- (a) of whom the Liquidators were not aware as at the Soft Cut-off Date (and, for these purposes, the Liquidators shall be entitled to proceed on the footing that they are not aware of any account holders who failed to submit an account holder money claim by the Soft Cut-off Date);
  - (b) who it is later established (by agreement or by the Reviewer) has an entitlement, but who failed to file an application to review the rejection of their claim within the time specified above; or
  - (c) whose entitlement is later agreed or established by the Reviewer as being greater than the accepted part of its claim, but who failed to file an application with the Liquidators to review the rejection of its claim within the time specified above.
- 3.7 Nothing in this Order shall prejudice the right of an account holder to prove in the liquidation as an unsecured creditor.
- 3.8 The Liquidators shall act in accordance with this Order solely as agents of the Company in its capacity as trustee of the bare trusts, and nothing in this Order or in determining account holder money claims or distributing the

money held in the bare trusts in accordance with this Order shall result in the Liquidators assuming personal liability as trustees.

#### **4. Low / no value trusts**

- 4.1 Permitting the Liquidators, and Cryptopia, to take no steps in connection with distribution of any cryptocurrency that has no or low realisable value and thus no basis for contribution to the costs of distribution.
- 4.2 Fixing the first date at which the Liquidators are to assess realisable value for the purposes of the above direction at no later than 4 weeks before the proposed date of commencement of the first distribution to account holders pursuant to Direction 2.1.
- 4.3 Permitting the Liquidators, who shall procure Cryptopia, to allocate trust administration costs to any low value trusts and to apply the realisable value of any such trusts towards the share of the costs for such trusts as calculated in accordance with Direction 6.
- 4.4 Permitting the Liquidators to review and revise their assessment of the realisable value of any cryptocurrency before undertaking any further distributions to account holders.

#### **5. Low account balances**

- 5.1 The Liquidators, and Cryptopia, are entitled to treat account holders who have an account balance equivalent to or less than the actual or anticipated cost of the trust administration as having no right to participate in the distribution of cryptocurrencies by the Liquidators.

#### **6. Allocation of trust administration costs to account holders**

- 6.1 Permitting the Liquidators, and Cryptopia, to allocate the incurred and future costs and expenses of and incidental to the recovery, preservation, protection and distribution of the cryptocurrency available for distribution by trust and, within each trust, by each account holder contributing the same value towards such costs.

*[illustrative example:* Costs are allocated to each trust in proportion to the number of users in that trust. For example: if Trust A has two account holders, Trust B has eight account holders, and Costs to Date relating to both trusts totalled \$10, then Trust A would be allocated \$2 of trust administration costs, and Trust B would be allocated \$8. This

cost allocation is to be applied regardless of the value of each account holder's holding in each trust.]

6.2 The direction in 6.1 shall apply notwithstanding that the allocation and payment of such costs may result in the realisable value of cryptocurrency in a trust all being applied towards the costs allocation and no cryptocurrency is then available for distribution from that trust to account holders.

## **7. Providing for future trust administration costs**

7.1 Permitting the Liquidators and Cryptopia to:

- (a) withdraw from each trust holding cryptocurrency of realisable value a quantity of cryptocurrency sufficient in value in the aggregate to meet the Liquidators' projected costs and expenses to complete (further) distributions of cryptocurrency and to dispose of any Unclaimed Holding as directed by the Court; and
- (b) convert to fiat currency the cryptocurrency withdrawn pursuant to the above direction and:
  - (i) hold the fiat proceeds of sale on interest bearing deposit; and
  - (ii) apply such fiat proceeds to costs incurred and payable by or on behalf of the Liquidators in relation to the trust administration costs;
  - (iii) refund to the relevant trusts any surplus available at the conclusion of the trusts' administration, pro rata according to their respective contributions.

7.2 The allocation of the Liquidators' projected costs and expenses to account holders shall be the same as for incurred trust administration costs; namely by trust and by each account holder in number (as provided for in Direction 6.1), or such other cost allocation model as the Court shall direct.

## **8. Cost reimbursement to BTC and DOGE trusts (and the Company)**

8.1 After calculating the allocation of trust administration costs and expenses to each trust, permitting the Liquidators, and Cryptopia, then to deduct from each trust holding cryptocurrency of realisable value, other than the BTC and DOGE trusts respectively, a quantity of cryptocurrency to reimburse the BTC and DOGE trusts and Cryptopia Ltd (in part or in full, as available



Cryptocurrency in each trust allows) for the trust administration costs incurred to the date of the making of this direction that had been funded from sales of BTC and DOGE pursuant to the Court orders dated [X, Y, and Z] and funds advanced by Cryptopia Ltd.

- 8.2 The allocation of the incurred trust costs and expenses for the purposes of reimbursement to the BTC and DOGE trusts shall be the same as for incurred trust administration costs; namely by trust and by each account holder in number (as provided for in Direction 6.1), or such other cost allocation model as the Court directs.
- 8.3 In calculating the value to be reimbursed, the Liquidators shall take into account the respective contributions to the trust administration costs that are to be allocated to the BTC and DOGE trusts respectively, for which no recovery from other trusts shall be made.

*Illustrative example:* Total trust administration etc costs are \$100, funded from BTC (\$40) and DOGE (\$40) and \$20 from Cryptopia Ltd. Contributions to trust administration etc costs are calculated as:

BTC - \$45

DOGE - \$30

The other trusts - \$25.

Then \$25 will be recovered from the rest of the Cryptocurrency trusts and \$20 will be repaid to Cryptopia, the other \$5 will be paid to the DOGE trust. Finally, the BTC trust will pay the DOGE trust a further \$5.

## **9. Post appointment deposits**

- 9.1 The Liquidators, and Cryptopia, are permitted to treat deposits of cryptocurrency after the commencement of the liquidation as company property unless claimed by the relevant account holder before the Soft Cut-Off Date. If so claimed, the foregoing paragraphs, with any necessary changes, are to be applied to such account holders.

## **10. Application of Anti-Money Laundering legislation**

- 10.1 The Anti-Money Laundering and Countering Financing of Terrorism Act 2009 does not apply to the transfer of cryptocurrency assets to account holders via a wallet-to-wallet transfer by a financial institution in liquidation.

## **11. Leave reserved**

11.1 Leave is reserved for the Liquidators, any account holder or unsecured creditor (including counsel appointed by the Court to represent the interests of either stakeholder group) to apply to the Court to set aside or vary any of the directions and orders made pursuant to this Application.

11.2 Any such application shall be on not less than 72 hours' notice.

## **12. Costs**

12.1 That the costs of and incidental to this application for the Applicants and counsel appointed by the Court to represent the interests of account holders and unsecured creditors, be paid as trust administration expenses.

## **13. The grounds on which each order is sought are as follows:**

- (a) The applicants are the Liquidators of Cryptopia appointed pursuant to s 241(2)(a) of the Companies Act 1993 (**Act**).
- (b) The Liquidators were appointed by special resolution of shareholders on Tuesday 14 May 2019.
- (c) Gendall J delivered judgment in proceeding CIV 2019-404-544 on 8 April 2020. In summary, he found that Cryptopia, as bare trustee, held cryptocurrency on trust for the benefit of accountholders. Each cryptocurrency coin type was held on a separate trust for the benefit of accountholders with holdings of that particular coin.
- (d) Since then, the Liquidators, with the assistance of a specialist third party organisation, have spent time and resource rebuilding the wallet environments for the [x] cryptocurrencies, to ensure that they were (i) secure, (ii) capable of being distributed, and (iii) known in the sense that the Liquidators could verify the relevant holding, and therefore what they are able to distribute.
- (e) That reconciliation and wallet environment work is now complete and the Liquidators would like to distribute as much as is possible of the currencies in their possession to those who have registered to receive them.

- (f) The Liquidators have established a claims portal through which accountholders of Cryptopia are able to register their claims for the return of cryptocurrency.
- (g) The Liquidators have also established a process for the determination of account holders' claims, including a speedy and binding process for resolving disputes over account balances.
- (h) The Liquidators propose a flexible and iterative approach to assessing realisable value of the various currencies to allow for the possibility of both decreases and increases in values of cryptocurrencies before distributions are made.
- (i) The Liquidators have corresponded extensively with account holders to request that they register their claims via the claims portal.
- (j) As to the direction in 2.10 the liquidators are concerned to avoid any risk of criminal liability in other jurisdictions and need to reserve their position regarding distribution to account holders located in such jurisdictions.
- (k) As to low and no value trusts, there is a need not to expend further costs on administering trusts that cannot support such costs and likewise with account holders with holdings that are lower in value than the costs of distributing their holdings back to them.
- (l) As to the allocation of the trust administration costs, the Liquidators have considered different options and have concluded that the fairest option is to charge those costs to each account holder in each trust.
- (m) As to the proposed provision of future trust administration costs, the Liquidators consider it prudent to mitigate against the risk of a material drop in the value of one or more of the Cryptocurrencies leaving them with insufficient funds to complete the proposed distributions and / or imposing a greater costs burden on remaining trusts of value. If not all funds are required, or there results to be a Unclaimed Holding from which to fund costs then costs taken in advance can be refunded to the relevant trusts.
- (n) As to the reimbursement of the BTC and DOGE trusts (and Cryptopia) for trust administration costs funded from the sale of their cryptocurrencies, these orders are appropriate to ensure that the trust

administration costs burden does not fall solely to these two high-value trusts when costs have been allocated on a by trust by account holder basis across all trusts holding cryptocurrencies of realisable value.

- (o) The Liquidators anticipate that a high number of account holders, representing a substantial value in cryptocurrencies, will choose not to participate in the claims and distribution process. Nevertheless, pending the granting and coming into effect of orders setting a 'cut-off' date for the lodging of claims by account holders, they have assessed and allowed for costs on the basis that *all* account holders may participate in the distribution process.
- (p) The allocation of costs of administering the various trusts that is proposed by the Liquidators is on a 'by trust by account holder' basis. This is regarded by the Liquidators as the fairest way to allocate costs in the first instance. This is because most costs are driven by the number of users, regardless of the value of their holdings and in which currencies those holdings may be held.
- (q) A Soft Cut-off Date for the distribution is required in order for the trustee to be able to distribute cryptocurrency to participating account holders, without incurring personal liability to those who have not participated to date, but which preserves the right for those account holders to participate at a later date up until the Final Cut-off Date.
- (r) If the Final Cut-off Date orders are made and implemented, the Liquidators will then be able to calculate the number of participants in the distribution process. If there are unclaimed holdings in any trust after the deadline for claims to have been completed, then the Liquidators propose to distribute sufficient of those unclaimed holdings by way of reimbursement to eligible account holders of the costs that they had contributed to the trust administration and a further distribution if there remains a shortfall between their accepted claim and distribution(s) made to them. This is to the extent that eligible account holders would receive up to 100% of their holdings, net of costs, as at January 2019 pre-Hack, but taking into account any post-Hack transactions, by way of distributions.
- (s) There is a significant variance between the number of account holders who have taken at least one step in the claims process (~130,000) and those who have completed ID verification and balance acceptance

(~30,000). There needs to be finality to the distribution process. Consequently, and in addition to the proposed Final 'cut-off' date for making claims, the Liquidators also seek orders permitting them to proceed with finalisation of distributions and allocation of costs on the basis that they are justified in treating any account holder who has commenced but failed to complete the claims process as having no entitlement to receive a distribution.

- (t) Those account holders who deposited or on whose behalf deposits were made of cryptocurrencies to Cryptopia after the Liquidators' appointment should be entitled to the return of their deposited cryptocurrencies. Nevertheless, if they do not claim for the return of such deposits then the Liquidators should be entitled to treat such as belonging to the relevant trust.

**14. This application is made in reliance upon:**

- (a) the affidavits filed on behalf of the Liquidators in proceeding CIV 2019-404-544, and the affidavit of David Ian Ruscoe dated 31 July 2023;
- (b) Part 19 of the High Court Rules 2016;
- (c) Sections 133–135 Trusts Act 2019, and section 284 of the Companies Act 1993; and
- (d) *In re MF Global UK Ltd (No 3)* [2013] 1 WLR 3874; *In Re Benjamin* [1902] 1 Ch 723; *In re Berkeley Applegate (Investment Consultants) Ltd* [1989] 1 Ch 32; *In re Instant Cash Loans Ltd* [2021] EWHC 1164 (Ch); *Halifax New Zealand Limited (in liquidation) v Loo* [2021] NZHC 1113; *In re Condon, ex parte James* [1874-80] All ER Rep 388, [1874] 7 WLUK 50; *Maginness v Tiny Town Projects Ltd (in liq)* [2023] NZHC 494.

**Dated** at Wellington this 31<sup>st</sup> day of July 2023.



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**Scott Barker / Bridie McKinnon**  
Solicitors for the applicants

This document is filed by **Scott Barker**, solicitor for the applicants whose address for service is at the offices of Buddle Findlay, Level 17, the Aon Centre, 1 Willis Street, Wellington, 6011. Documents for service on the abovenamed may be left at that address or may be:

1. posted to the solicitor at PO Box 2694, Wellington 6140; or
2. left for the solicitor at a document exchange for direction DX SP20201, Wellington;
3. transmitted to the solicitor by facsimile to 64 4 499 4141; or
4. sent to the solicitor by email at [scott.barker@buddlefindlay.com](mailto:scott.barker@buddlefindlay.com), [bridie.mckinnon@buddlefindlay.com](mailto:bridie.mckinnon@buddlefindlay.com) and [brooke.marriner@buddlefindlay.com](mailto:brooke.marriner@buddlefindlay.com).

## **SCHEDULE 1: NOTICE TO ACCOUNT HOLDERS (DIRECTION 2.2)**

### **CRYPTOPIA LIMITED (IN LIQUIDATION) – IMPORTANT NOTICE FOR ACCOUNT HOLDERS TO REGISTER CLAIMS BEFORE SOFT CUT-OFF DATE**

1. The liquidators of Cryptopia Limited (in liquidation) provide this notice to account holders (You) about the need to register your claim in the Cryptopia claims portal by **[Soft Cut-off date]**.

#### **Background**

2. In January 2019, the Cryptopia exchange was hacked. Cryptopia closed after the hack, re-opened for a short period, and was then placed into liquidation in May 2019.
3. On 8 April 2020, the High Court of New Zealand held that Cryptopia held the cryptocurrency on trust for the benefit of account holders. A separate trust was held to exist in respect of each coin type.
4. The liquidators have undertaken significant work in securing, reconciling and administering the cryptocurrency held on trust for account holders (Cryptocurrency). On 31 July 2023 the liquidators filed an application with the High Court for directions as to distribution to account holders. Judgment was given on **[date]** by **[judicial officer]**. The orders can be found **[here]**.

#### **Distribution process**

5. The liquidators will conduct a phased distribution process.

#### *Interim Distribution*

6. The liquidators **[have already undertaken]** a distribution to a subset of account holders. On **[date]**, account holders who had registered and accepted their balance in the BTC and DOGE trusts with a holding of more than **[USD500]** were invited to participate in the Interim Distribution. The liquidators distributed a maximum of **[50]%** of those account holders' cryptocurrency holdings. Cryptocurrency was transferred via a wallet-to-wallet transfer.

#### *Phase One Distribution*

7. This phase is open to all eligible account holders. To be eligible for a distribution an account holder must:

- (e) Be in a trust (coin type) that has sufficient value.
  - (f) Have an account balance equivalent to or greater than their cost allocation.
  - (g) Have registered their claim in the Cryptopia claims portal before **[Soft Cut-off date]**.
  - (h) Have completed identity verification and completed the balance acceptance / dispute process in the Cryptopia claims portal.
8. Eligible account holders will, after **[Soft Cut-off Date]** receive a notice in the Cryptopia claims portal advising them of the amount that will be deducted from each of their holdings for trust administration costs. Eligible account holders will then receive a distribution of their holdings, less a deduction of allocated trust administration costs. Distribution will be done via a wallet-to-wallet transfer.

*Effect of not registering by **[Soft Cut-off date]***

9. If as an account holder you have not registered your claim in the Cryptopia claims portal by **[Soft Cut-off date]**, then:
- (i) The liquidators can proceed as if you are not a beneficiary, per orders from the New Zealand High Court.
  - (j) Cryptocurrency that cannot be attributed to an account holder who has registered a claim in the Cryptopia claims portal will be considered unclaimed holdings.
  - (k) After **[Soft Cut-off Date]**, the liquidators will use any unclaimed holdings in a trust to cover trust administration costs for that trust. Eligible account holders will only be allocated trust administration costs if there is not sufficient value in the unclaimed holdings to bear all administration costs of the trust.
10. Nothing prevents claims from being received, considered and resolved after the passing of **[Soft Cut-off Date]**. If you, as an account holder, register a claim after **[Soft Cut-Off Date]** you would still receive a distribution, but only if there is still cryptocurrency in the relevant trust(s) after trust administration costs have been removed. It is possible that, if you do not register your claim, some or all of your cryptocurrency will be used to cover trust administration costs and may not be available to be distributed to you.



### *Phase Two Distribution*

11. The Final Cut-Off Date for all claims will be **[Final Cut-Off Date]**. After this date, the liquidators will wind up the trusts.
12. At this time, the liquidators may be able to conduct a further distribution if:
  - (l) There are account holders who have started the claims process but abandoned it.
  - (m) Trust administration costs are less than anticipated, and the trusts will need to be reimbursed.
  - (n) The liquidators are able to recover some of the Cryptocurrency stolen in the January 2019 hack.
13. The liquidators will issue a further notice to account holders closer to the time.

### **Distribution details**

#### *Cryptocurrency Entitlement Date*

14. The entitlement of each account holder to your respective Cryptocurrency is calculated as at 14 May 2019.

#### *Review process*

15. There is a review process available for account holders who wish to dispute their balance.
16. You may make a claim with supporting evidence. The liquidators may accept that claim. If the liquidators reject the claim in whole or in part, the liquidators must prepare a written statement of reasons for doing so and send it to the account holder **[you]** within **[20 days]**.
17. If you are dissatisfied with the liquidators' decision, you may, at any time up until the final cut-off date of **[Final Cut-off Date]**, request a review to determine if the decision should be reversed or varied.
18. Details of the review process (which has been sanctioned by orders of the High Court) will be available in the Cryptopia claims portal.
19. This review process does not extinguish your legal right to prove your claim in the New Zealand High Court.

**Low / no value trusts & low account balances**

20. The liquidators will not make distributions for coins in trusts that have no or low realisable value and cannot bear all of the costs of trust administration. The liquidators will assess realisable value of each trust first at **[date]** before the Phase One Distribution, and will continuously review realisable values before making distributions.

**David Ruscoe**

**Russell Moore**

**Liquidator**

**Liquidator**

**SCHEDULE 2 TO APPLICATION: RULES GOVERNING REVIEW PROCESS  
(DIRECTION 3.2)**

- (a) The account holder seeking a review of the Liquidators' decision must:
  - (i) select either one of the Reviewers named in paragraph 3.2(b) to carry out the review; and
  - (ii) pay to **[Trust account]** the sum of NZD750 on account of the Reviewer's costs.
- (b) The Liquidators will then confirm with the Reviewer their availability to carry out a review within the stipulated timeframe and on receipt of that confirmation, the appointment of that Reviewer shall take effect.
- (c) If the selected Reviewer is unavailable or unable to act for any reason, then another Reviewer shall (subject to availability) be appointed. If neither of the Reviewers is available, then the Liquidators may appoint further barristers to act as Reviewer, provided they have at least 7 years' experience in commercial disputes and / or trust law.
- (d) The Reviewer shall determine the procedure for the determination of the dispute and the Liquidators and the account holder (**Parties**) shall cooperate with the Reviewer.
- (e) The Reviewer shall use their best endeavours to issue their determination (with reasons) within 28 days of **[the final deadline for provision of evidence and submissions]**.
- (f) The Reviewer's determination is (in the absence of manifest error) final and binding.
- (g) The account holder shall pay the Reviewer's fees and expenses (such as translation costs), in the first instance.
- (h) The Reviewer may withhold their determination until their fees are paid in full by the account holder.
- (i) The Liquidators may, in their absolute discretion, pay the Reviewer's fees and expenses, from funds set aside for trust administration, if the account holder fails so to do within 20 days of the Reviewer issuing their fees invoice.

- (j) If the Liquidators pay the Reviewer's fees and expenses pursuant to clause (i) above, then the Liquidators are authorised to reimburse themselves for such fees and expenses from the account holder's holding(s) with Cryptopia.
- (k) The Reviewer is entitled to rely on their own expertise and judgement in making their decision.
- (l) The Reviewer is not restricted to the evidence and submissions of Parties.
- (m) The Reviewer shall have the power, at their discretion, to direct that the costs of the review be reimbursed from the relevant trust if the account holder is successful in their review.