

MTI Liquidators: Answers to questions of Nettalie Viljoen (Moonstone Information Refinery)

Question 1. MyBroadband reported that Judge Catherine Burton in the Insolvency and Companies Court of England and Wales recognised the South African liquidation on 19 December 2023. It goes on to say that the UK ruling comes after the South African liquidators received similar recognition in the US, Canada, Belgium, and Australia. Could you confirm this and share how this recognition will assist or empower the liquidators to claw back money from those living in countries besides South Africa who may have profited from Mirror Trading International (MTI). Do these rulings place the liquidator in a significantly better position to recoup creditors' lost funds?

ANSWER 1: The purpose of a recognition order abroad is indeed, to place the liquidator in a position to properly execute his statutory duties towards the estate and the body of creditors and, more specifically, to enable the joint liquidators of Mirror Trading International (Pty) Ltd (In liquidation) to investigate and pursue possible claims to the benefit of the creditors. To confirm, recognition has been obtained in the United States of America, the United Kingdom, Canada, Belgium, Australia and Namibia.

QUESTION 2. If these international rulings were not given, how would this have negatively affected the liquidators' ability to operate across international borders, as well as creditors' prospects of recouping at least part of their losses?

ANSWER 2: Without recognition of the liquidation order and the statutory powers of the liquidators in the relevant jurisdictions abroad, the liquidators will not be able to investigate and pursue possible claims to the benefit of the creditors.

QUESTION 3. Are there any other countries that the liquidators are currently waiting or trying to attain similar recognition from?

ANSWER 3: Yes, the liquidators have further identified various countries across South America, Europe, Asia, the Middle East and Africa wherein recognition of the liquidation order and statutory powers of the liquidators must be obtained, and have already taken progressive steps towards obtaining recognition.

QUESTION 4. In September last year, a United States federal court ordered MTI to pay more than \$1.7 billion (about R32.3bn) to tens of thousands of people who were defrauded in the US. According to a MyBroadband report, the liquidators shortly afterward applied to be recognised as the designated foreign representative in the United States. It was said that a deal was made with the liquidators not to take any action to collect payment while bankruptcy proceedings were underway. Could you please confirm this and briefly share what the deal entailed? What would it have meant for creditors living in South Africa (and other countries) had the US federal court order gone ahead?

ANSWER 4: Recognition in the United States of America was successfully obtained in March 2023. Subsequent to that, the liquidators entered into negotiations with the Commodity Futures Trading Commission ("CFTC") and entered into a consent order. It was agreed with the CFTC that their claim against the estate would be subordinated to the recovery actions to be launched by the joint liquidators. Had the order for the recovery of funds not been subordinated, it would have affected the dividends to be awarded to the proven creditors. It further would have hampered the liquidators' right to recover assets or

claims to the benefit of the creditors. The success achieved in this matter was a crucial step towards protecting the rights of creditors on a global scale.

In addition to your questions and the above answers supplied, a circular was today released by the liquidators containing the following information that you may also find of interest:

MTI: CIRCULATION TO CREDITORS 26 JANUARY 2024

UPDATE ON CLAIMS RECEIVED

1. The 7th Special meeting has been convened for January 26, 2024. Claims 6267 to 7267 are being tabled for this meeting.
2. We are finalising the 8th special meeting schedule, claims 7268 to 8268.
3. Claims received, printed, and registered up to 19 January 2024 total 8550 claims.
4. The Second Distribution account (page) is completed until claim number 7554. We aim to complete the distribution account by the end of March 2024 to include claims up to claim number 8268.

CALCULATION OF THE AMOUNT OF EACH CLAIM

5. The following summary is hereby made available to investors with claims against MTI:

Declaratory order and guideline to lodgement of claims by creditors or assessment of claims already lodged by creditors.

On 9 November 2023, the Honourable Acting Judge Maher handed down judgement in the declarator application relating to claims lodged in the estate and claims to be instituted and how the liquidators should deal with them.

In respect of claims lodged/to be lodged by investors, the order distinguishes between the three different classes of investors:

Class 1 investors:

- investors who received zero in return for their investment/s in MTI;
- claims should be lodged, calculated in Rand value of bitcoin, as at the date upon which the investor made the investment in MTI; and
- claims must comply with section 44 of the Insolvency Act.

Class 2 investors:

- investors who received a return on their investments but received less than what they invested;
- claims should be lodged, calculated in Rand value of bitcoin in an amount equal to their impoverishment, quantified as follows:

Value of investors' investment in MTI calculated in Rand value, as at the date upon which the investor made the relevant investment in MTI

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value of returns in Rand value, as at the date upon which MTI paid the relevant return (or portion thereof) to the investor

- claims must comply with section 44 of the Insolvency Act.

Class 3 investors

- investors who received returns that exceeded the amount of capital invested in MTI, (i.e. profiting from MTI)
- no claim against MTI, and any claims submitted will be rejected.

DIVIDENDS TO BE PAID TO CREDITORS

6. Dividends can only be paid once the Second liquidation and distribution account is finalised and lodged with the Master.

7. In terms of the First liquidation and distribution account, only SARS was paid as proven creditor, the amount in terms of the settlement, which was ratified by a court order, as previously disclosed.

8. The master then issues a query sheet with aspects which the Master needs clarification on and which the liquidators need to provide and present formal answers to the query sheet.

9. Once the Master is satisfied with the answers provided, the Master grants permission for the account to be advertised, after which the account lies open for inspection for 14 days.

10. If there are no objections to the account, the Master, at its discretion, confirms the account, after which dividends can be paid.

11. The liquidators are implementing a process where all rejected claims can be considered by the liquidators for the approval or amendment thereof, and all proven claims are to be accepted or amended if required to be in line with the declaratory order.

12. It is not possible to determine at this stage when this process will be finalised, but the liquidators do expect to be in a position to know approximately how long it will take in 4 – 8 weeks from the end of the month.

13. Once the liquidators can set a date for the Second liquidation and distribution account to be lodged, further communications will be circulated to all proven creditors.

ISSUED ON BEHALF OF THE MTI LIQUIDATORS

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