

ASIC SUBMISSION TO THE HON MICHAEL SUKKAR MP MINISTER FOR HOUSING AND ASSISTANT TREASURER

18 June 2019

ASIC ID: R20190000288582

BACKGROUND TO ASIC'S ACTIONS TO DATE REGARDING THE STERLING GROUP OF COMPANIES

TIMING: FOR INFORMATION

PURPOSE

For information only

KEY POINTS

- ASIC has an ongoing investigation into the collapse of the Sterling First group of companies, including the promotion of investments by the group.
- The Sterling First group raised investments in a registered Managed Investment Scheme (the Sterling Income Trust (SIT)) to which Theta Asset Management (Theta) was appointed as the Responsible Entity. The group later raised investments in Preference Shares under the banner of "Silverlink". Of the investors, 101 (approx. 65 via SIT and approx. 36 via Silverlink Shares) also entered into Sterling New Life Leases, with leases directly with landlords or with a Sterling company as head lessee. These are mostly elderly tenants. Rental payments were to be met from income earned on investments.
- On 30 April 2018, Theta withdrew the offer of investments in the SIT from the market, subsequent to surveillance activity by ASIC's Investment Managers and Superannuation team (IMS).
- On 27 August 2018, Theta commenced a voluntary winding up the SIT, subsequent to enquiries by ASIC as to its ongoing financial viability.
- On 3 May 2019 the Board of Directors of the holding company of the Sterling First group of companies appointed Voluntary Administrators (VAs) to most of the companies in the group. The VAs are two partners of Ferrier Hodgson in Perth. The Board made this appointment within one week after a meeting with ASIC at which ASIC expressed concerns about the solvency of the group.
- The VAs have been communicating with investors regarding likely returns on investment, which are expected to be low. Theta has been communicating with investors in the SIT. Rents of many of the 101 vulnerable tenants are currently overdue with tenants at risk of eviction.
- When ASIC became concerned early last week that the communication with investors by the VAs and Theta was not being coordinated well enough, or at least not understood, ASIC uploaded onto its website an [Update regarding its investigation](#).

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- The website also mentions ASIC's approach to the Macquarie Bank, secured creditor to the group, and Macquarie's agreement to make available its vulnerable client team to receive phone calls from the 101 vulnerable tenants to discuss their circumstances, despite the Bank having no obligation to do so and not being involved in the offer of Sterling New Life leases.
- The WA State Consumer Protection Commissioner has arranged officers to receive calls from tenants and also landlords, so as to provide them with advice regarding their rights under the Residential Tenancies Act (WA). That agency is also liaising with the State Housing Department to ascertain what priority might be given to these vulnerable tenants, and with a law firm to conduct pro bono informational seminars regarding external administration.

John Price
Commissioner
03 9280 3639
s 22

Natalie Dürr
Senior Executive Leader, Enforcement WA
s 22

ADDITIONAL INFORMATION

- The matter was first referred to ASIC on 21 March 2017 when the WA State Consumer Protection Commissioner raised concerns regarding the investments. It was assessed and referred in June 2017 to ASIC's Investment Managers and Superannuation team, which conducted a review of the Product Disclosure Statement regarding the investments. As a result of that review, on 9 August 2017 ASIC issued an interim stop order on the offer document, requiring the issuers to include additional information regarding the risks associated with the investment. On 29 August 2017 ASIC issued a final stop order on the document with the consent of Theta, the Responsible Entity for the relevant investment scheme. From 9 August 2017, no further investments could be made under that document.
- On 27 October 2017, the promoters elected to make a fresh offer of investments in the Sterling Income Trust (S I Trust) under a new offer document (New PDS). ASIC's surveillance continued, with some compulsory notices for documentation issued on Theta.
- On 30 April 2018, while the ASIC surveillance was ongoing, Theta elected to withdraw the offer of investments in the S I Trust under the New PDS from the market.
- From the time that ASIC issued the Stop Orders, and the associated Media Statement, it was a matter of public record that ASIC had some concerns regarding the investment.
- From 27 October 2017 until the withdrawal on 30 April 2018, approximately \$4M in further investment moneys were accepted into the S I Trust under the New PDS.
- According to ASIC's current information, a further \$6.877 million in investment funds were subsequently accepted for investment into Preference Shares offered by the Sterling Group under the banner of the Silverlink companies. These latter moneys were not accepted under the offer document withdrawn by Theta from the market after the ASIC surveillance. No offer document regarding these investments was lodged with ASIC. Upon becoming aware that these funds had been accepted, ASIC immediately shut down these fundraising activities (on 17 December 2018). ASIC is examining the circumstances in which these funds came to be accepted by the Sterling group, as part of its broader investigation.
- As this investigation involves a high level of public interest, ASIC will continue to update the information on its website with material developments.

ENDS

s 22

From: s 22 @asic.gov.au
Sent: Tuesday, 18 June 2019 4:03 PM
To: s 22
Cc: s 22 John Price; Natalie Durr s 22
Subject: AMS R20190000288582: ASIC's actions to date regarding the Sterling group of companies [DLM=Sensitive]
Attachments: AMS - Sterling - 18 June 2019.docx

AMS R20190000288582

Dear s 22

As requested, attached is a briefing for Minister Sukkar on ASIC's actions to date regarding the Sterling group of companies.

The contacts for this briefing are Commissioner John Price and Senior Executive Leader, Natalie Durr.

Regards
s 22

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