

## **3<sup>rd</sup> Activity Report by the Liquidators**

**15<sup>th</sup> November 2010**

### 1. Court Proceedings

Following the lawsuit which the liquidators filed on 17<sup>th</sup> March 2010, the Court decided that a first point which needed settling was the request made by the liquidators in their lawsuit on the handing over by the parties in dispute, of the full set of documents which the liquidators requested. These proceedings are ongoing.

A second point, which was requested by the liquidators, was the merger into one single proceeding, of the two lawsuits which were filed for procedural purposes with the civil section and commercial section of the Court.

The Court has communicated to the different parties a timeframe within which they have to position themselves in these two points. The liquidators hope that these matters can be settled in 2010.

Copies of the lawsuit have been provided to the shareholders upon their written request. The liquidators were informed that a German translation of the lawsuit was made at the initiative of some shareholders and without any cost incurred to the fund.

### 2. Share Holder / Investors

A shareholders' general meeting will be held on 16 December 2010. The liquidators will provide a status on the current proceeding, both in Luxembourg and elsewhere. An unaudited financial situation as of 31 December 2009 will be presented.

The liquidators have made ongoing efforts to meet shareholders' in the liquidators' offices, as well as respond to single investors' queries as long as such investors could provide a) proof of their holdings and b) link of their holding to a registered shareholder.

The liquidators have not met with individual investors. At this point in time of the proceedings, they consider that the downstream distribution chain via the shareholders as per the fund's register is sufficient to cater for the investors' information requirements. Also, the liquidators have not accepted any changes to the share register as transmitted to them since the opening of the liquidation.

### 3. Interaction with the Supervising Judge

The liquidators regularly meet with the Supervising District Court Judge to discuss the actions taken and planned. These meetings occur on a regular basis.

### 4. Interaction with concerned parties since the last activity report

Since the filing of the lawsuit, the liquidators have not met with the parties concerned, but instead, are in regular contact with their legal representation.

### 5. Liquidators Recent / Current Activities

Apart from the Court proceedings, the liquidators have had other activities in their efforts to retrieve the assets of the fund

#### 5.1. Communication with Shareholders

Communication with shareholders is being made either via the website: [www.heraldluxinliquidation.lu](http://www.heraldluxinliquidation.lu) , or in direct meetings with shareholders on the premises of the liquidators in Luxembourg. The purpose for the liquidators is to keep the different parties at the same level of information.

#### 5.2. Registered Address of the Fund

The liquidators have transferred the registered address of the fund from 40 avenue Monterey, L- 2163 Luxembourg to 6 Place de Nancy, L-2212 Luxembourg. This was published in the Luxembourg Memorial on 10<sup>th</sup> November 2010.

#### 5.3. US Parties

##### 5.3.1. US Legal Representation

The liquidators have appointed, in close concertation with the supervising judge, a US based legal council in order to make representations with the trustee and with ongoing US based legal proceedings.

##### 5.3.2. Trustee and his legal Councils

The proceedings in respect of the trustee concern two items: a) his request for documents of the fund as well as b) the funds legal position vis à vis the customer claim as filed in early 2009.

The trustee has received a copy of the law suit as filed in Luxembourg.

#### 5.4. Efforts to recover assets

The liquidators have been approached by different parties from various jurisdictions who expressed their interest in purchasing the claim which the fund has against the Madoff estate. Whilst the details of these discussions are confidential, the liquidators have defined a process which needs to be followed in order for a eventual settlement to occur. The process includes both the shareholders' general meeting, as well as the supervising judge as stakeholders in the decision making process.

#### 5.5. Reconciliation of Shareholder / Investor positions

The reconciliation of the shareholders and investors positions is an ongoing process in view of the increasing demands for information from single investors.

Luxembourg, 15<sup>th</sup> November 2010

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