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TO ALL KNOWN CLIENTS

Dear client

HARTLEY PENSIONS LIMITED – IN ADMINISTRATION ("THE COMPANY")

We write to provide you with an update in relation to the progress of the Court proceedings and engagement with Representative Respondents ("**RRs**") relating to the approval of an Exit and Administration Charge ("**EAC**") which the Company proposes to charge to clients' assets so as to cover the costs of an orderly transfer out of each client's SIPP to alternative SIPP operators.

We provide this update by way of Q&As but are very happy to speak to clients on an individual basis who would like further clarification. Should any clients wish to ask specific questions relating to the below, please email HartleyEAC@uhy-uk.com in the first instance.

Please note, we have been made aware that there has been information published on the FS Legal client portal and in the media which appears to be inaccurate. To the extent that any information provided in this letter is inconsistent with information that has been provided by FS Legal, we want to assure you that this letter provides you with an accurate and true overview of the current position.

1. **Why has the Company book of clients not been sold/transferred to a new operator?**

   The Company and its Joint Administrators (the "**JAs**") have engaged in a marketing process with a view to selling the Company SIPP book on to a single operator in an attempt to secure an orderly transfer of all clients to a single operator. The JAs have also attempted to negotiate with operators to arrange block transfers of certain SIPP schemes to new operators, so as to transfer all clients out of the Company in the most simple and cost effective manner. However, this process has not been successful as we have not been able to identify a single SIPP operator or group of operators who are currently able to take on the Company's client book for a number of reasons, including: the poor quality of the Company's records; management and employee capacity to onboard such a sizeable book; outdated IT infrastructure; reputational concerns surrounding the background to the Company and why it entered administration; the cost of putting in place the requisite infrastructure to onboard the client book; and concerns around residual liabilities attaching to the operator from unauthorised payments.

   Given that no single operator, or operators, are currently able to take on the entire or blocks of the client book, clients will be required to nominate their own preferred choice of operator to transfer their SIPP to. As such, clients will be transferred out on an individual basis to an operator of their choice.

2. What is an Individual Transfer Out Process?

As explained above, in the absence of an operator willing and able to onboard the Company's client book, clients will be transferred out by way of individual transfers. This means that we will be writing to all clients inviting them to nominate their chosen operator to which they would like their SIPP to be transferred. The JAs are currently talking to a number of operators with a view to sharing their contact details and information about the types of assets they accept so as to assist clients to make their own enquiries with these operators (or any other SIPP operator they want to transfer to) and subsequently advise the JAs of their nominated SIPP operator.

This process will cost more than a block transfer because of the increased costs to physically transfer all assets as opposed to SIPP schemes, hence why a block transfer was the preferred option.

We will be writing to clients shortly to provide details as to what steps each client will need to take to instruct the Company regarding which SIPP operator they wish their SIPP assets to be transferred to.

3. What is the purpose of the current Court Proceedings?

The Company has insufficient funds to cover the cost of an orderly individual transfer out of client assets. In fact, the Company will run out of money at the end of January 2024 and will either have to be dissolved or will move into liquidation, unless of course sufficient funds are raised to transfer client assets out to new operators. If either of these scenarios were to happen, there would be serious adverse consequences for clients, including the risk of a deregistration charge, inability to move assets and in the worst case, loss of assets.

The JAs have considered all options to fund an orderly transfer out of the SIPP book, including engaging with the FSCS, HMRC, the Official Receiver and the trustees who custody the client assets.

We can confirm that the only available option to fund the individual transfer out of client assets is the clients' themselves by way of the EAC. Clients should be aware that the JAs have consulted widely on this, including with an informal committee of clients, the current candidate RRs to the Part 8 Claim, and alternative RRs. No independent client representative or body has proposed any viable alternative to the EAC. Certain factions have opposed the EAC, but no one has suggested a viable alternative. A "Plan B" has been consulted on via the FS Legal portal but this is not a viable alternative as explained below.

The purpose of the current Court proceedings is to seek a declaration to ratify the EAC being charged to client SIPP assets, excepting certain clients whose rights and obligations do not form part of the current Court proceedings. The EAC will replace the current annual administration charge and will cover the costs of transferring your SIPP to a new solvent operator.

We will be writing to all clients shortly to provide a calculation of each client's estimated EAC. The total estimated EAC constitutes approximately 2.8% of the total assets under administration by the Company.

4. What are the Key Dates?

The substantive Court proceedings consist of a Part 23 Application to appoint RRs, which has been listed for **22 January 2024**; and a Part 8 Claim to ratify the charging of the EAC to assets held within the clients SIPPs, which has been listed for a 3 day window starting on **29 February 2024**. Subsequently, there is to be a further application for directions relating to the Part 8 Claim, but the main direction being sought is for the filing of an agreed statement of facts, which seeks to agree common grounds between the parties. That further application for directions will require a further hearing which we intend to be heard on an expedited basis. As matters stand, we anticipate that the hearing on 22 January 2024 will be effective only as to the question of expedition, and there will be an update on the client website once the date for the expedited hearing has been listed.

5. What is a Part 23 Application and what are the current issues with this Application?

The Part 23 Application has been made to appoint RRs to ensure that the interests of all clients are represented and protected within the Part 8 Claim process. The RRs act as a party to the proceedings and any order made against them will be binding on all clients who they represent and therefore they must act in the interests of the wider body of clients.

The following candidate RRs have expressed a willingness to be formally appointed as RRs:

- Ian Williams (Berkeley Burke Bespoke SIPP);
- David Griffiths (Greyfriars Preferred Retirement Account);
- Irene Coe (GPC SIPP);
- John Alexander Ward (Hartley SIPP); and
- Marc Nash (Lifetime SIPP).

These candidate RRs have appointed FS Legal as their legal representatives. Since the Part 23 Application was issued on 22 December 2023, the JAs have concerns as to the suitability of the above candidate RRs and their legal advisors, principally because they have confirmed in evidence that they do not know when they can fully engage with the Court proceedings because they are not yet fully funded.

For the reasons explained above, namely that the Company has insufficient funds to trade past the end of January 2024, the Court proceedings cannot be delayed due to FS Legal being unsure as to when they can properly engage in the proceedings. Further, one of the candidate RRs has expressly stated that they only wish to represent their own position which defeats the whole purpose of them acting as an RR.

6. What is the solution to the current potential delays to the Court proceedings?

As stated, the Company has insufficient funds to continue trading past the end of January 2024 without further funding. The JAs have sourced a loan facility to allow the Company to continue to trade until such time as an EAC is able to be charged (currently estimated to follow the conclusion of the Part 8 hearing in early March 2024), from which the loan can be repaid. However, given the uncertainty surrounding the current candidate RRs ability to obtain legal advice (FS Legal having confirmed that they cannot advise on the Part 8 until they are fully funded), the JAs are at present unable to drawdown on this facility. To do so would incur a

further debt to the estate without comfort that the Company has a clear strategy to be able to repay that debt. Indeed, the lender has written to the JAs to confirm that unless the loan can be repaid from the EAC, the facility will be withdrawn.

As such, the JAs see it appropriate to engage with alternative RRs who can be properly represented so that the basis for the EAC can be agreed prior to a drawdown on this loan. To be clear, the JAs have been very happy to engage with RRs as to the cost model to calculate the EAC and the quantum of the EAC, but having engaged with the current candidate RRs for over 6 months, it is unacceptable that they are still unclear on their position as to whether they can even agree to the EAC and proposed exit strategy. The JAs have engaged with some of the current candidate RRs for over a year as they were also involved in the informal committee of clients and as such there is no reason why the current proposed RRs should still be unclear on their position.

As such, the JAs have approached alternative RRs who have legal advisors who are willing and able to act, and further have confirmed that they are happy to be funded from the EAC. They are not conflicted from acting as their Counsel's advice has been funded separately and without condition from the insolvency estate. The alternative RRs have already instructed Counsel (something which FS Legal have been unable to do so far despite having raised over £117k), and are already in a position to confirm that they are agreeable to an EAC (subject to agreement over the quantum and calculation) and orderly transfer out strategy in advance of the hearing on 22 January 2024. This is hugely significant because the key issues to address before the Part 8 hearing will be to assess the quantum and methodology of calculating the EAC and ensure that an orderly transfer out of client assets can be administered. In these circumstances, the JAs would be able to drawdown on the facility and continue to trade through to the Part 8 hearing on 29 February 2024.

As such, the JAs are making an application to Court to appoint the alternative RRs and to remove the former candidate RRs. This decision has not been taken lightly but in circumstances where the current candidate RRs have been involved for over 6 months and are still unsure as to when they can engage in the Court proceedings, the JAs have had to intervene. The JAs have done this in the interests of clients to ensure they have RRs who are engaged and properly represented and can engage in the Court proceedings, rather than the alternative of forcing the Company into liquidation due to unnecessary delays and cost.

7. What is the Part 8 Claim?

Part 8 of the Civil Procedure Rules is intended to be used for the determination of claims that do not involve a substantial dispute of facts. We have been in discussions with the current candidate RRs for a number of months and it had been agreed with these RRs and FS Legal that this matter would proceed by way of a Part 8 so as to determine the basis for lawfully funding a process for an orderly transfer out of the client book to new operators, which would involve an imposition of the EAC.

The First Claimant to the Part 8 Claim is the Company, and the Second Claimants are the JAs. The current Defendants are Members of the SIPP Schemes who have agreed to act as RRs.

The Claimants are seeking declarations from the Court as to the following:

(1) the entitlement of the First Claimant to charge Members of the SIPP Schemes the EAC under the constituent documents of the SIPP schemes; and/or

(2) the entitlement of the First Applicant to amend the terms of the constituent documents of the SIPP Schemes so that it may charge the EAC.

The precise terms of the EAC and its quantum to be imposed under the contractual and trust terms applicable will be published in due course for assessment by the appointed RRs in order that they might make such arguments as to its legality as they see fit to make.

The JAs are incurring costs in continuing to administer the SIPPs, primarily to avoid detriment to SIPP clients and limiting potential creditor claims from these clients against the insolvency estate. The Company cannot transfer out clients without the EAC. Without it, the Company will either be dissolved or go into liquidation, which would lead to serious adverse ramifications for the clients far in excess of the value of the EAC.

If the Company is dissolved or placed into liquidation prior to the SIPPs being transferred, HMRC has the discretion to de-register the SIPPs under section 158 of the Finance Act 2004. As such, it is possible that the dissolution or liquidation of the Company could result in the SIPPs losing their registered status, which would mean that they would attract a 40% de-registration charge from HMRC as well as, for the individual SIPP client concerned, income tax becoming applicable on the returned assets. It is this eventuality that the EAC is designed to guard against.

There has been much discussion about the discretion of HMRC to deregister the SIPP in these circumstances. The JAs have had direct dialogue with HMRC on this point who have refused to comment on whether they would exercise their discretion or not. As such, the simple point is that there is a significant risk as to whether the SIPP would be deregistered, but HMRC's own guidelines stipulate that the SIPP can be deregistered in these circumstances. Any argument to the contrary is running a significant risk and in any event provides no solution as to how to transfer assets where the operator no longer exists. For the avoidance of doubt, HMRC have confirmed that liquidation could fall within the meaning of an operator no longer existing.

8. How is the EAC to be calculated?

Whilst the cost model has not yet been agreed, the current preferred models are a fixed fee per client model or a hybrid model where the EAC is calculated based on each client SIPP's individual asset holding.

For completeness, all cost models that have been considered are summarised below:

a) **Fixed fee per client** – this is a flat charge for all clients regardless of the type, value or number of assets that they hold in their SIPP. The fixed fee is calculated by taking the total trading shortfall of the Company, as identified by a cash flow model, and dividing this by the total number of clients affected by the Part 8. However, as not all clients have sufficient funds within their SIPP to cover the fixed fee, the JAs readjusted the cost model to take into account the shortfall for the clients that do not have sufficient funds. The current estimated fixed fee would be £4,820. In the event that a rebate is due back to clients because the overall costs of the transfer out are less than estimated, the rebate will be returned on a pro rata basis.

b) **Percentage charge** – this model is a fixed percentage of the total value of each of the SIPPs. A percentage has not been calculated because the RRs have always considered this to be an unfair model because it creates large differences between each client's charge and is not linked to the work or costs involved in transferring out a particular SIPP.

c) **A percentage charge subject to a cap of the value of assets under administration ("AuA")** - the JAs created a model which capped the maximum charge on a percentage based charge. This has since been discounted as the charge is still considered to create large difference of individual charges and is not associated with the work required to transfer each SIPP.

d) **Hybrid charge** – This model is based on the asset type of each client's SIPP holding. Each client would be charged the fixed element (see below table) plus further charges for each asset held in their SIPP (see below table). The asset fee is a per asset fee so for certain SIPPs will be charged multiple times, e.g. if a SIPP held two properties, and cash, the fee would be the fixed element plus 2 x property fee, plus cash fee. The new charges based on the asset type are estimates only and include the following:

Asset type	**Individual asset transfer amount per asset (£)**
Fixed element (trading costs)	3,157
Cash	138
Property	5,935
Loan	2,666
Platform	174
Non-platform	5,741
Toxic	207

Please note that the above are estimates and subject to change.

9. Client portal

We are aware that the following statement has been made on the FS Legal portal:

"We are concerned that UHY may seek to hold you all individually liable to your share of the proposed EAC, even those with toxic SIPPs and no assets. We have raised this concern with FCA and UHY. DWF, solicitors for UHY, have said UHY will not do this, however the Part 8 claim still clearly asks the Court to hold members liable. We want UHY to clarify exactly what it is they are asking for and to explain why the Trustee Companies have not been joined."

Each client will be expected to pay their share of the EAC and will have the option to pay from their SIPP or directly to the Administrators. Should there be insufficient funds within the SIPP, clients will not be pursued for the balance. However, they will not be allowed to draw down to diminish their SIPP value beyond the EAC. In the event that there is insufficient cash held in a SIPP, the JAs have the option to liquidate assets should the client not wish to pay personally.

The JAs do have serious concerns that the portal does not portray a true and accurate reflection of the nature of the EAC and how the transfer out process will be administered. We welcome any client who is unsure as to any statements made on the portal to contact the JAs directly for clarification at HartleyEAC@uhy-uk.com.

The FS Legal portal has also recently made statements pertaining to a Plan B. This proposed Plan B is based on Court proceedings and contractual relations which do not apply to the vast majority of the Company's SIPP schemes and therefore any comparison is not only misconceived, but also does not achieve the ultimate objective to transfer out client assets as it would leave the Company under funded to administer an orderly transfer out.

10. Next steps

The JAs have issued an application to Court to appoint the alternative RRs. The expectation was that RRs would be appointed at the hearing on 22 January 2024. However, as explained above, that is presently unlikely and the hearing on 22 January 2024 will instead be used to formally expedite the process to assist its prompt resolution without irremediable prejudice to SIPP clients.

Yours faithfully

Peter Kubik
Joint administrator

SPENCER WEST

18 January 2024

To: All SIPP Members and the FCA

Hartley Pensions Limited (in administration)

We are providing this communication by way of an update to all SIPP holders ("**Members**").

Background

Hartley Pensions Limited ("**HPL**") entered into administration on 29 July 2022 with Brian Johnson and Peter Kubik of UHY appointed as Joint Administrators ("**JAs**"). The JAs have been trading the business of HPL for the benefit of the Members and in accordance with the Proposals for achieving the statutory purpose of the administration of HPL approved on 5 October 2022.

At present HPL charges Members an annual administration charge in accordance with the terms of their respective agreements with HPL. The JAs have previously informed Members that these charges are insufficient to cover the continued trading of HPL as the operator. The JAs have been updating members on a regular basis with details of their proposals to achieve an orderly exit from administration which protects, as far as the circumstances allow, the Member's investments. The JAs have stated that HPL has insufficient revenues from trading to meet the costs which will need to be incurred to:

(i) Trade for a further period of c. 12 months to wind down the business of HPL in an orderly way; and
(ii) To, within the next 12 months, transfer the Members' SIPPs to another provider (together with the underlying investments held by various Trustees on trust for the Members).

The JAs have previously set out in updates to Members the steps they have taken since January 2023 to identify:

(i) The options to fund the costs of continued trading and professional fees whilst transferring the SIPPs to solvent operators; and
(ii) The appointment of representatives to act as representatives for the Members and to respond to the claim brought by HPL and the JAs in order to seek appropriate funding for the orderly wind down.

The JAs identified five proposed "Representative Respondents" ("**Proposed RR**") who are advised by FS Legal LLP (you will likely have seen communications from FS Legal LLP).

The JAs therefore issued a claim at court proposing to charge an exit and administration fee (the terms of which are to be decided by the Court at the final hearing) in order to fund the costs of an orderly wind down of HPL and transfer of the SIPPs to another operator.

The JAs/HPL have issued:

1. A Part 8 Claim for an order that HPL may charge Members a one-off exit and administration charge ("**EAC**") in place of the annual administration charges to fund the ongoing trading of HPL and to achieve the orderly transfer of the Members' SIPPs (and investments) to new operators; and
2. A Part 23 application for the Court to appoint the five Proposed RR who will be parties to the Part 8 Claim and to act as representatives for all of Members and will set directions for the payment of the costs to be incurred by the representatives (by way of a Prospective Costs Order and/or as an expense of the Administration).

The Part 23 application is listed to be heard by the Court 22 January 2024. This is then followed by the hearing of the Part 8 Claim listed for 2 days over a three day window from 29 February 2024.

The JAs have reported that HPL is now critically low on cash and will in fact run out of cash to continue trading at the end of January 2024. The JAs have access to funding from a third party to extend the trading beyond the end of this month but have advised that it would not be proper for them to accept this funding in the absence of a clear strategy to exit the administration other than by the liquidation or dissolution of HPL. Time is therefore of the essence.

Unfortunately, it seems that the JAs and FS Legal have been unable to come to an agreed position between them on the Part 8 Claim process and the timetable or on the funding for the Members' representation.

New Proposals for the progress of this matter

By the end of January 2024 HPL will run out of money if a clear exit strategy cannot be urgently agreed, so matters need to be progressed as a matter of urgency. The JAs have advised that delays have occurred with the Proposed RRs and/or that their advisors have not been able to commit to dealing with the issues within the current timetable. There is therefore a real risk that HPL will have no choice but to go into liquidation post January 2024 or worse still, be dissolved.

Five alternative Members have therefore consented to act as Respondent Representatives ("**New RRs**") in order to consider the most favourable outcome for all Members within the time available. The New RR's have instructed Spencer West LLP, to act on their behalf.

These New RRs are David Cust, Richard Gordon, Matthew Wheeler, Carol Wells and James Bruton and they are all Members. All contact with these New RRs will be via Spencer West LLP unless otherwise stated in future correspondence with Members.

The New RRs consented to act in this matter to ensure that the Members are fully represented in the decision making regarding:

(i) The exit from administration proposed by the JAs; and
(ii) the application for the EAC.

The New RRs wish to see the Members positions protected as far as possible in the circumstances given the potential for adverse outcomes for Members should HPL cease trading, enter liquidation or be dissolved.

For commercial reasons and, given HPL will shortly run out of funds, the JAs have agreed to their appointment as Representative Respondents in place of the Proposed RR and will issue an application, to amend the current Part 23 Application, to seek appointment of the New RRs with such application being heard at Court on 22 January 2024.

The New RRs believe it is in the best interests for all of the Members for the current timetable to be observed to avoid the risks associated with the liquidation or dissolution of HPL.

Spencer West LLP act wholly independently of the JAs in representing the New RRs. They have, on behalf of the New RRs (and as such the Members), instructed Counsel to advise them and to appear at the hearing on 22 January 2024. Counsel's advice is being prepared in short order to opine, independently of the JAs, on the legal and commercial basis for the Part 8 Claim. In the event that Counsel has no issues, in principle, with the Part 8 Claim itself, Counsel will appear at the hearing on 22 January 2024 to assist the Court and to seek the appointment of the New RRs to enable the mitigation of potential risks and loss to Members as are available in the circumstances.

Next Steps

Following the appointment of the New RRs Spencer West LLP and Counsel will review both the quantum of the trading costs and professional fees sought by the JAs for reasonableness, and review the modelling of the proposed EAC for fairness with the New RRs and will liaise with the New RRs and the Members, as a whole, on both the modelling and the quantum of the proposed EAC.

There will be a considerable amount of work to do in a very short space of time in preparation for the Part 8 Claim hearing starting on 29 February 2024. This work will include, but is not limited to:

1. A review of the quantum of costs sought by the JAs.
2. A presentation of and a review of the models by which the JAs propose to levy the EAC.
3. Working on an agreed statement of facts (and identifying any disputed issues of law or fact) with the JAs (and DWF as their advisors) to present to the Court.
4. Submitting evidence to the Court in relation to disputed issues.
5. Further applications to Court as necessary for directions.
6. Pre-hearing bundles and skeleton arguments and attendance at the hearing.
7. Communications with the New RRs and updates and other communications with the Members as a whole.

Future communications

Following the appointment of the New RRs all future communication shall be sent to the Members via a secure online portal the details of which shall be provided in due course.

Any questions regarding the proposed appointment of the New RRs should be directed to Spencer West at HartleyPensions@spencer-west.com to the extent that they are not addressed in the attached FAQs.

Yours sincerely,

Suzanne Brooker
Partner
SPENCER WEST LLP
Enclosure: FAQs

We are currently working hard on behalf of all SIPP holders' preparing for a Court hearing on 22 January 2024 (details of which are set out below). Your email is important to us and we shall respond as soon as we are able to. In the meantime we have listed some frequently asked questions below:

FAQ

1. **What is happening at the moment?**

As you will have no doubt seen from the UHY updates, Hartley Pensions Limited ("**HPL**") entered into administration on 29 July 2022 with Brian Johnson and Peter Kubik of UHY appointed as Joint Administrators ("**JAs**").

At present HPL charges SIPP holders an annual administration charge in accordance with the terms of their respective agreements with HPL. The JAs have previously informed SIPP holders that these charges are insufficient to cover the continued trading of HPL as the operator. As a consequence, the JAs have applied to Court to charge an exit and administration charge ("**EAC**") (the exact terms of which are to be decided by the Court at the final hearing) (the "**Part 8 Claim**") in order to fund the costs of an orderly exit from administration and the transfer of SIPPs (and investments) to new operators which protects, as far as the circumstances allow, the SIPP holders' investments. The JA's have also applied to Court for directions appointing 5 "Representative Respondents" to represent all of the SIPP holders.

We are working very hard on your behalf to prepare for a Court hearing on 22 January 2024 to appoint the 5 Proposed RRs to act on behalf of all the SIPP holders. This is then followed by the Part 8 Claim hearing on 29 February 2024 (listed for 2 days over a 3 day window) for an order that the SIPP holders may be charged a one-off exit and administration charge to fund the ongoing trading of Hartley Pensions Limited as detailed above.

2. **Why are there 2 sets of proposed Respondent Representatives?**

An original group of 5 RRs (represented by FS Legal) were proposed to represent the SIPP holders ("**Initial Proposed RRs**"). However, 5 new Representative Respondents ("**New RR**s") have put themselves forward to the JAs because of their concern over delays by the Initial Proposed RRs in progressing this matter. The New RRs have taken their own independent legal advice from Spencer West LLP and are willing to act immediately and on behalf of all of the SIPP holders. The JAs are asking the Court to appoint the New RRs at the hearing on 22 January 2024.

3. **What is the role of the Court on 22 January 2024?**

To listen to all parties' arguments (JAs/HPL; the Initial Proposed RRs; and the New RRs) and to make a decision based upon the facts before it whether to (i) appoint the New RRs (22 January 2024); and (ii) provide directions in respect of the Part 8 Claim and how it is to be managed in readiness for the final hearing which will start on or around 29 February 2024.

4. **What will happen after the representatives are appointed?**

Following their appointment by the Court they will become party to the Part 8 claim and will (amongst other things) agree a statement of agreed facts and any supporting evidence with the JA/HPL to be used by the Court at the hearing on 29 February 2024. They will attend the Part 8 hearing on behalf of the SIPP holders and provide evidence as necessary in order to secure the most favourable outcome for the SIPP holders. They will also liaise with the SIPP holders and deal with any relevant queries they may have in respect of the SIPPs.

5. Will I be able to have my opinion heard?

The Court is being asked to appoint 5 “Representative Respondents” who will be parties to the Court proceedings and to act as representatives for all of the SIPP holders. They will put forward your opinions.

6. How will I get updates?

A secure online portal will be available for you to access where regular updates will be posted. Further details will follow.

Spencer West LLP