



cutting through complexity

BBY Limited

(Receivers and Managers Appointed) (In Liquidation)
ACN 006 707 777

Client monies investigations Liquidators' Supplementary Report

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Glossary

The terms and acronyms set out on pages 3 to 5 of the Liquidators Client Monies Investigations Report dated 22 December 2015 continue to be used throughout this supplementary report, unless otherwise defined below. The following additional terms are used within this supplementary report.

Adjusted BBYFUNDING Ledger	The GBST BBYFUNDING ledger report incorporating journals from the FINREMIT ledger that appear to relate to Equity/ETO Funding Transactions.
BBYNZ	BBY (NZ) Limited, a subsidiary of BBY Holdings Pty Ltd.
Berndale	Berndale Securities Limited, BBYL's former third party ASX clearing participant.
Client Matching Process	A process by which transaction descriptions were matched with client account references (refer to section 9.2.2).
CSA Report	The Liquidators' Client Monies Investigations Report dated 22 December 2015.
Equity/ETO Funding Transactions	Regular funding provided from particular BBYL bank accounts (referred to as ' <i>BBY Corp</i> ' accounts) to the Equity/ETO business, and returns of those funds (refer to section 5.1.2).
IB	Interactive Brokers product line.
IBL	Interactive Brokers LLC, the operator of the IB Platform.
IB Platform	The online trading platform operated by IBL and used by BBYL to offer the IB product line.
Saxo Platform	The online trading platform operated by SCMA and Saxo Bank A/S, used by BBYL to offer the Saxo product line.
Transaction Matching Process	The transaction matching matrix methodology described in section 5.2.4 of the CSA Report as "Method A", by which transactions between BBYL bank accounts were identified at various levels of match quality.
Termination Period	1 February 2015 to 17 May 2015, the period of transactional activity reviewed in respect of the Saxo termination funds flows.

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Executive summary

Background

The Liquidators' Client Monies Investigations Report ("**the CSA Report**") was published on 22 December 2015, detailing the findings of our investigations as to the operation of the CSAs maintained by BBYL, its dealings with client monies, and its dealings with counterparties.

Purpose of this report

This report acts as a supplementary report to the CSA Report, providing an update on the Liquidators' investigations into the affairs of BBYL, including BBYL's dealings with client monies and counterparties, with a view to providing further information to the Court and representative defendants in the proceeding.

The Liquidators received written questions and requests for further analysis from a number of the parties to the proceeding following publication of the CSA Report. A large proportion of the information set out in this report has previously been communicated to the parties in our written response to those requests.

This supplementary report must be read in conjunction with the CSA Report. The terms and acronyms set out on pages 3 to 5 of the CSA Report continue to be used throughout this supplementary report.

This supplementary report has been filed in the proceeding and served on each of the representative defendants, who represent the interests of various classes of creditors. This supplementary report has also been published on KPMG's dedicated BBYL web page at <http://www.kpmg.com/au/bbyl> which also contains other information for clients and creditors.

Further information about our investigation methodology (section 1)

In section 1 of this report, we provide a detailed explanation of the various approaches we adopted in analysing the BBYL bank transaction data in arriving at the findings set out in the CSA Report. This information is presented in order to provide further detail to the parties in relation to our analytical approach.

We commenced our analysis of the bank transaction data by investigating whether funds were moving between CSAs associated with different product lines. The transaction matching matrix that we developed (described in section 5.2.4 of the CSA Report as "Method A") identified a large number of funds movements between CSAs in different product lines (horizontal movements) which suggested that there were business as usual ("**BAU**") reasons for such movements. As a result, we investigated patterns and common description formats within the data, in order to identify patterns and descriptions associated with non-BAU transactions. We then undertook a targeted search to identify transactions with description keywords which appeared to be associated with non-BAU transactions.

The transactions about which we made findings in the CSA Report were principally derived from 6 populations of transactions set out in section 1.2.1 of this report as well as ad hoc enquiries and "deep dive" investigation of specific events and transactions. In section 1.2.2 we set out the proportion of transactions (by value and number) in each of those populations on which we reported in the CSA Report. In section 1.1.4 we set out an explanation of our approach analysing the Other Trust accounts.¹

Investigations conducted since completion of the CSA Report (section 2)

In section 2 of this report we outline further information we have received from banks since publication of the CSA Report, and provide an outline of the areas of investigation that we have progressed since publication of the CSA Report. The results of those investigations are set out in this report.

Firestone convertible loan note payments (section 3)

In section 2.4.1 of the CSA Report, we observed that BBYL underwrote a \$25 million convertible note issue by Firestone Energy Limited in September 2009 and that the issue was undersubscribed, leading to BBY Companies acquiring convertible notes. In section 6.10.6 of the CSA Report we reported our preliminary investigations into the manner in which the BBY Companies funded the convertible loan notes, and noted that without bank statements for the period October 2009 to October 2011 we could not confirm the source of those funds.

Since the CSA Report, we have obtained additional historical bank statement data dating from January 2011, which we have analysed. In section 3 we set out our findings about how the BBY Companies funded acquisition of the convertible loan notes in that period. We performed that analysis to address the possibility that the notes were funded from client monies. Of the 6 payments in

¹ Refer to **Appendix 2.1** for a full listing of BBYL bank accounts and account pool categorisations.

respect of the loan notes occurring after 1 January 2011 (for which we now have bank statement data), all appear to have been funded from the BBYL Operating account ending 0891. The last payment was made on 21 June 2011.

eBridge Buffer account funds movements in 2011 and 2012 (section 4)

Section 6.9.4 of the CSA Report included observations on the bank statement data received in the week prior to publication of the CSA Report relating to the Saxo product line. We reviewed that information prior to publication of the CSA Report in order to understand the deficit in Saxo client funds apparent as at about 1 April 2014. We identified that deficit after observing that approximately \$20 million was transferred by BBYL to SCMA from sources other than Saxo CSAs in the period 1 April 2014 to 12 December 2014. The sources of those payments were set out in section 6.9.1 of the CSA Report.

In section 4 of this report, and with the benefit of additional information received from the relevant banks, we set out the findings of our investigation of the following matters.

Source of funds in the eBridge Buffer account ending 0256 (section 4.2.1)

With the benefit of additional information received from the relevant banks, we identified payments totalling \$25 million that appear to have been made from Saxo Bank A/S to the Stonebridge Securities Limited FX account ending 0184, and from that account to the eBridge Buffer account ending 0256, in the period 1–16 March 2011 (prior to the acquisition of Stonebridge by BBYL). This suggests that \$25 million of the funds held in the eBridge Buffer account as at 16 March 2011 related to Saxo client funds "withdrawn" from the Saxo Platform prior to the sale of Stonebridge to BBYL later in 2011.

Documents relating to acquisition of Stonebridge by BBYL in 2011 also suggest that the funds in the eBridge Buffer account in May 2011 were referable to Saxo clients. We sampled 40 transactions in the eBridge Buffer account for the period March 2011 to December 2011 and did not identify any transactions of interest or transactions which suggested that the eBridge Buffer account contained client monies referable to non-Saxo product line accounts.

Based on the above information, it appears that the eBridge Buffer account was regarded as a Saxo CSA by Stonebridge and contained Saxo client monies.

International withdrawals (section 4.2.2)

At the time of publication of the CSA Report, we identified international transfers totalling \$24 million from the eBridge Buffer account ending 0256 in the period 5 August 2011 to 11 May 2012. NAB has since confirmed that those funds were transferred in 8 individual transactions to Saxo Bank A/S.

Investigation of the \$12 million transfer from the eBridge Buffer account ending 0256 (section 4.3)

On 2 December 2011, \$12 million was transferred from the eBridge Buffer account ending 0256 to the BBYL Equities Trust account ending 8694. This deposit was designated '*Transfer in from BBY Corp*' in BBYL's bank movement schedules, a designation consistent with the provision of funding to the Equity/ETO business.

Our investigations reveal that BBYL commenced self-clearing on the ASX on Monday 5 December 2011 and that BBYL made a payment to ASX Clear in respect of ETO margin of \$9.5 million from the BBYL Equities Trust account ending 8694 on 2 December 2011 in respect of positions for which BBYL assumed clearing obligations (the same day the amount of \$12 million was deposited into the BBYL Equities Trust account ending 8694 from the eBridge Buffer account ending 0256).

Client trust funds were paid by Berndale, BBYL's third party clearer until 2 December 2011, to the BBYL Equities Trust account ending 8694 over the period 2 December 2011 to 29 December 2011 (totalling \$6.2 million). This suggests that the \$12 million transferred to the BBYL Equities Trust account ending 8694 was not client money referable to the ETO clients whose positions were migrated from Berndale to BBYL.

It appears that the transfer of \$12 million to the BBYL Equities Trust account ending 8694 is the first instance in which monies were provided to BBYL's Equity/ETO business from a source described as '*BBY Corp*'. We conducted the further investigations described in section 5 (and summarised below) into '*BBY Corp*' funding.

Investigation of the \$8.2 million transfer from the eBridge Buffer account ending 0256 (section 4.4)

Trust account 4 ending 5357 (an Other Trust account) had a nil balance on 29 June 2012, following which deposits totalling \$21.4 million were received. These deposits included:

- \$8.2 million transferred from the eBridge Buffer account ending 0256;
- funds from the BBYL Equities Trust account ending 8694 (into which \$12 million had been paid from the eBridge Buffer account ending 0256, as described above);
- funds from the Smartrader Ltd account ending 874, into which \$6.5 million had been received from Saxo Bank A/S on 21 May 2012; and
- funds from the Equity/ETO Client Trust account ending 541.

Further deposits totalling \$5 million were received directly into Trust account 4 ending 5357 from SCMA in November 2012.

Funds in Trust account 4 ending 5357 were subsequently transferred, in the period June 2012 to June 2013, via Other Trust accounts to a variety of BBYL House accounts, including the Operating account ending 0891 from which business expenses were met. We set out the net effect of these funds movements in section 4.4.4 and illustrate them in the funds flow diagram in section 4.4.1. Based on our analysis, the ultimate sources of those funds appear to have included:

- Saxo client monies transferred from the eBridge Buffer account ending 0256 to Trust account 4 ending 5357 on 29 June 2012;
- Saxo client monies received into Trust account 4 ending 5357 from SCMA;
- monies transferred from the Smartrader Ltd Saxo '*Protection Trust*'² account ending 874 (including amounts received from Saxo Bank A/S) to Trust account 4 ending 5357; and
- monies transferred from Equity/ETO CSAs to Trust account 4 ending 5357.

'BBY Corp' transfers between 2011 and 2015 (section 5)

In section 6.2.4 of the CSA Report we noted that there appeared to be a regular funding pattern between the General Trust account ending 002 and the Trust 4 account ending 372 (on one hand) and the Equity/ETO Client Trust account ending 541 (on the other). Those transactions were often described as transfers to or from '*BBY Corp*' in BBYL's bank movement schedules. In the CSA Report we noted that the transfers appeared to be "*funding movements related to funding of aged Equity client debts*". In this report we describe those kinds of transactions as **Equity/ETO Funding Transactions**.

Our further investigations, set out in section 5 of this report, reveal that this practice dates back to 2011 commencing with the payment of \$12 million to the BBYL Equities Trust account ending 8694; and involved a number of accounts other than the General Trust account ending 002 (including Trust account 4 ending 5357).

The analysis we describe in section 5.2 of this report was carried out to determine the net effect of those regular Equity/ETO Funding Transactions between 2011 and 2015. We analysed a number of ledgers maintained in GBST that appeared as if they may relate to Equity/ETO Funding Transactions to determine whether any appeared to be a complete and reliable record of such transactions. In summary:

- we have prepared a ledger, called the **Adjusted BBYFUNDING Ledger** in this report, based on the "BBYFUNDING" ledger maintained in GBST which appears to relate to Equity/ETO Funding Transactions, and incorporating some additional journal entries from the ledger "FINREMIT" which our investigations suggest also relate to Equity/ETO Funding Transactions;
- most journal entries on the Adjusted BBYFUNDING Ledger net to nil. Of the journal entries that do not, two relate to a CBPL margin payment made on 6 May 2015 that was posted to the BBYFUNDING ledger but which does not appear to be an Equity/ETO Funding Transaction; and
- we set out in section 5.2.6 the balance of the Adjusted BBYFUNDING Ledger as at 17 May 2015, depending on whether those two journal entries (and some other transactions in May 2015) are included on the ledger.

The Aquila transaction in June 2014 (section 6)

In section 6 of this report, we provide a revised funds flow diagram relating to the Aquila transaction which provides additional working to illustrate the basis upon which we stated, in the CSA Report, that the opening balance of the Trust 4 account ending 372 on 25 June 2014 included the amounts withdrawn from the Saxo Buffer account and a Futures CSA on 13 June 2014 as part of the Aquila transaction.

Update to the 16 December 2014 transaction of interest (section 7)

In section 7 of this report, we provide further information about the transaction shown on page 88 of the CSA Report, in which a total of \$1.37 million was transferred from Saxo, IB, FX, Futures and Other Product CSAs, via Other Trust accounts, to the Equity/ETO Client Trust account ending 541.

Based on further investigation, we conclude that the amount of \$4,092,210 transferred from the General Trust account ending 002 to the Equity/ETO Client Trust account ending 541 (including the \$1.37 million withdrawn from non-Equity/ETO CSAs) was restored, indirectly, from the Equity/ETO Client Trust account to the General Trust account as part of a larger transfer of \$4,868,209 on 17 December 2014.

We continue to classify this as a transaction of interest as we have not identified any funds movements which suggest that the amounts initially withdrawn from non-Equity/ETO CSAs (totalling \$1.37 million) were ever restored to those CSAs.

² Refer to page 70 of the CSA Report.

Further transactions of interest in December 2014 (section 8)

In section 8 of this report, we describe two further transactions of interest that we identified in the course of our further investigations. Those transactions were:

- a transfer of \$600,000 from the General Trust account ending 002 to an FX CSA on 18 December 2014 for the purpose of meeting a client payment; and
- a transfer of \$300,000 from an FX CSA to the Equities Trust 2 account ending 415 on 17 December 2014 for the purpose of meeting the end of day trust obligation.

Analysis of IB funds movements, the WLP Omnibus account and the IB Buffer account (section 9)

In the CSA Report we noted that the WLP Omnibus account ending 137 was an account which received deposits from Saxo clients, but which also appeared to have been utilised by IB clients who deposited funds into that account prior to those funds being transferred to the IB Buffer account ending 321. We also noted that the IB Buffer account transacted regularly with the WLP Omnibus account in respect of bulk client transactions.

In section 9.2 we provide a snapshot of transactions on the WLP Omnibus account ending 137 in the period 30 May 2014 to 15 May 2015 in order to give an overview of the bank accounts with which that account transacted. That analysis suggests that the most significant inflows into the WLP Omnibus account ending 137 were client deposits and that the most significant outflows were to the IB Buffer account ending 321 (\$1.3 million in that period) and the Saxo Buffer account ending 356 (\$6.2 million in that period).

In section 9.3 we provide a snapshot of transactions on the IB Buffer account ending 321 in the period 30 May 2014 to 15 May 2015 in order to give an overview of the bank accounts with which that account interacted. That analysis suggests that the most significant inflows to the IB Buffer account ending 321 were from the WLP Omnibus account ending 137 (\$1.3 million in that period) and the Saxo Buffer account ending 356 (\$2.6 million in that period).

We also obtained information from IBL including records of payments made by BBYL to IBL (and credited to a master account in BBYL's name on the IB Platform) and payments made by IBL to BBYL (and debited to BBYL's master account on the IB Platform). Our analysis of a sample of payments from BBYL to IBL (including 83% of all AUD payments to IBL) did not identify any transactions that we consider to be transactions of interest. The majority were funded from the IB Buffer account ending 321 and the Smartrader Ltd account ending 6087, the NAB account previously operated by BBYL for the same purposes as the IB Buffer account.

We observed that when IB client deposits were made to the WLP Omnibus account ending 137, in many instances BBYL would credit the client's sub-account using funds already standing to the credit of its master IB Platform account, and transfer (sometimes in bulk) the client's deposit to the IB Buffer account ending 321. This did not involve any immediate transfer of funds from BBYL to IBL. Instead, BBYL would make payments to clients in respect of funds withdrawn by the client from the balance of the IB Buffer account ending 321, and credit funds deposited by clients to their sub-accounts on the IB Platform using amounts standing to the credit of the BBYL master IB Platform account. In this way it was only necessary for BBYL to transfer funds to IBL, or receive funds from IBL, when significant client payments or withdrawals occurred, or when necessary to ensure that both the IB Buffer account ending 321 and the master IB Platform accounts had sufficient balances to facilitate client deposits and withdrawals.

We conducted a detailed investigation of all deposits to the IB Buffer account ending 321 in a 2-month period in 2014 and were able to:

- match the vast majority of those deposits with one or more credits to client sub-accounts on the IB Platform; and
- verify, for the vast majority of those credits, a corresponding client deposit into the WLP Omnibus account ending 137 (and a transfer of those funds to the IB Buffer account ending 321) or a corresponding debit from a Saxo Platform account held by the same client (and a transfer of those funds from the Saxo Buffer account ending 356 to the IB Buffer account ending 321).

We consider those funds flows to be BAU.

We did not identify any further transactions of interest in the course of our investigations.

Saxo termination in 2015 (section 10)

In section 10 of this report, we describe our analysis of transactions on the Saxo Buffer account ending 356 in the termination period (1 February 2015 to 17 May 2015). We categorised all transactions into one of 9 categories based on key words and phrases contained in the bank statement descriptions to provide an overview of transactions on the Saxo Buffer account ending 356 in that period. We set out a list of the potential transactions of interest that we identified in this way, with references to the parts of the CSA Report in which we reported on those transactions, as well as additional email correspondence we identified in relation to 3 of those transactions.

Our analysis suggests that 62% of the funds withdrawn from the Saxo Buffer account ending 356 in the termination period were paid to clients; 17% were transferred to another BBYL product line account by clients; and 10% were potential transactions of interest that we investigated.

BBY (NZ) Limited and BNZ bank accounts (section 11)

In sections 6.2.4–6.2.8 of the CSA Report we set out a number of bank accounts held with BNZ. In section 5.2.1 of the CSA Report we explained that those accounts were held in the name of BBY (NZ) Limited.

In section 11 of this report, we describe our analysis of internal transfers between the BNZ accounts and international transactions between those accounts and accounts maintained by BBYL. Our investigation of international transactions between the BNZ accounts and BBYL accounts suggests that a funds transfer matrix analysis³ is not reliable and that confirmation of remitters and recipients would require time-consuming and costly bank confirmation of individual transactions.

In **Appendix 11.2** we set out our findings in respect of a number of example transactions, which provide insight into the reasons for internal transfers between accounts designated for particular product lines. The transactions we investigated suggest, as expected based on our analysis of the BBYL bank accounts, that there are BAU reasons for funds transfers between accounts in different product lines. It appears from our analysis that the BNZ accounts were considered to be, and utilised as, part of the product lines to which they were designated in the same way as CSAs maintained by BBYL in Australia.

We note that the investigations set out in Appendix 11.2 suggest that:

- NZD\$500,000 paid to SCMA as part of the 'Saxo upload' (illustrated on page 104 of the CSA Report) was originally sourced from the BNZ Margin FX account ending 026; and
- NZD\$2 million was transferred from the BNZ Saxo account ending 028 to the BBYL NZD-denominated Saxo Buffer account on 8 April 2014. That amount also appears to have been used for the 'Saxo upload' after effecting a currency conversion to AUD via the BBYL FX CSAs.

Both transactions are illustrated in a revised funds flow diagram for the 'Saxo upload' in **Appendix 10.2**.

Update on shortfall calculation, counterparty recoveries and open positions (section 12)

In section 4.3 of the CSA Report we provided a comparison between the estimated amount of client claims for each product line as at 15 or 18 May 2015 and the assets available or likely to become available to meet those claims (including cash in CSAs and recoveries from counterparties). That comparison was calculated using the balance of CSAs on the appointment date, 17 May 2015. We summarised post-appointment transactions in a separate table in section 4.4 of the CSA Report.

In section 12.1 of this report we provide an updated comparison between the estimated amount of client claims for each product line as at 15 or 18 May 2015 and the assets available or likely to become available to meet those claims using the balance of CSAs as at 29 April 2016 (that is, including post-appointment transactions) and the more recent information received about the value of potential recoveries.

Client claims analysis (section 13)

In section 13 of this report we set out an analysis of:

- the number and quantum of client claims for each product line, broken down by estimated claim value (section 13.1);
- the currencies in which client claims are denominated compared with funds available in those currencies; and
- the age of Equity/ETO product line claims and the time at which the first claim for each client arose.⁴

³ Described in section 5.2.4 of the CSA Report as "Method A".

⁴ This analysis was requested by a party to the proceeding.

1 Further information about our investigation methodology

Following publication of the CSA Report we received requests from parties to the proceeding for further information about our methodology and the manner in which we arrived at the findings set out in the CSA Report. In this section we set out further detail about our approach to the investigations and analysis that we undertook.

1.1 Analysis of bank transactions

The findings set out in the CSA Report resulted from a range of investigative and analytical processes. Those processes are described in section 5.2 of the CSA Report. One of those processes was analysis of bank transaction data for BBYL bank accounts. That data was analysed by a number of different methods and in an iterative way during the course of our investigations. The methods we applied to analysing the bank transaction data were:

- key word searches;
- generic reference searches;
- collation and profiling of bank transactions;
- identification and testing of data patterns;
- investigation of top 60 bank transactions by value; and
- data matching and transaction matching matrix (funds transfer matrix).

1.1.1 Identification and investigation of data patterns

We began our analysis of the bank transaction data by determining whether there were funds movements between CSAs for different product lines. To ascertain the volume and frequency of movements between bank accounts in different account pools (that is, product line CSAs, House accounts and Other Trust accounts)⁵, we developed a transaction matching matrix⁶, which was a significant exercise and went through various iterations. That matrix correlated entries in the bank transaction data across different levels of match quality to identify transfers between BBYL bank accounts. We also created an interactive funds flow tool,⁷ which illustrated the volume and value of funds movements between account pools, to gain an understanding of the interactions between account pools.

The results of the matrix analysis suggested, in light of the volume of matched transactions (in number and value) between CSAs in different account pools, that there were BAU reasons for horizontal funds movements between product pools. Detailed investigation of each of the 10,027 funds movements identified by the transaction matching matrix (across all match qualities) was not a practical approach for us to adopt.

In order to identify and differentiate BAU transactions from non-BAU transactions, we analysed the transaction matrix matches and bank transaction data to identify patterns within the data and common bank statement description formats. In reviewing the data to identify patterns, we:

- reviewed and considered the top 60 bank transactions by value;
- examined repeated high volume patterns, round sum high value transfers and noteworthy peaks in transaction volumes in particular accounts over time; and
- investigated the disclosures we received from former employees of BBYL in Confidential Exhibits 53 and 54 to the CSA Report.

The descriptions and patterns identified within the bank transaction data were then investigated by reviewing a random sample of transactions with those descriptions, or forming part of those patterns, in order to gain an understanding of whether those patterns and descriptions related to either BAU or non-BAU transactions. Many of the high value transactions we identified related to the Aquila transaction or to the daily funding patterns associated with the Equities/ETO business.

The patterns that we identified were:

- the daily funding patterns involving the Equities and ETOs product line, including facilitation funding, margin payments and receipts and "*BBY Corp*" transfers.⁸ These involved a high volume of high value funds movements between the Equity/ETO CSAs and a number of the House and Other Trust accounts. From our review of the BBYL bank movement schedules, review

⁵ The account pools are set out in **Appendix 2.1**.

⁶ Refer to section 5.2.4 of the CSA Report for details of our transaction matching approach and preparation of the funds transfer matrix.

⁷ An interactive electronic chart which visually displays funds flows between accounts.

⁸ Refer to section 6.2.4 of the CSA Report and Appendices 53 to 56 of the CSA Report.

of daily email correspondence and review of other documentation (such as ASX review reports and correspondence), we mapped out detailed funds flow diagrams of the daily Equity/ETO funds flows;⁹

- the use of client or transaction references and/or product line references for BAU transactions.¹⁰ We identified a high volume of bank transactions with descriptions containing references which matched the format of the client account numbers used in the various product ledgers. We reviewed the BBYL books and records and conducted email searches in order to gain an understanding of the references used in the bank statement descriptions;¹¹
- the use of generic transaction descriptions for transactions that do not appear to be BAU.¹² During our review of a number of the bank statements and transfers of rounded sums captured by our transaction matching matrix, we noted a number of transactions with generic descriptions (i.e. descriptions not containing any reference to a product line, client code or payment reference number). From our further investigations into many of those transactions, including review of email correspondence relating to the transfers, we established that there did not appear to be a BAU reason for these transactions;
- the "borrowing" patterns described on pages 83–85 of the CSA Report. During our investigations into transactions with generic bank statement descriptions, we identified funds flows which followed a pattern in which funds from CSAs corresponding to a number of product lines were combined in a House or Other Trust account, used for funding of transactions relating to the Equity/ETO business, and then returned on the same day;¹³ and
- a pattern in which "borrowed" funds were restored by way of transfer of the same amount from the receiving account to the original remitting account. During our investigations into the funds movements set out in section 6 of the CSA Report, we identified instances where funds 'borrowed' from CSAs or Other Trust accounts were restored back, by way of transfer of exactly the same amount, to the same CSA from which the funds were originally derived.¹⁴

Identification of particular descriptions and patterns which appeared to relate to non-BAU transactions allowed us to subsequently apply a targeted approach to the bank statement data in an attempt to identify non-BAU transactions of interest.

1.1.2 Targeted searches and analysis

Using our understanding of the patterns and key words that appeared to relate to non-BAU transactions, we carried out a series of targeted analysis to identify further non-BAU transactions. Our targeted analysis included investigation of:

- transfers identified within the transaction matching matrix which included a generic transaction description.¹⁵ We isolated this sub-population of the bank statement data after identifying a pattern involving the use of generic descriptors for non-BAU transactions; and
- transfers identified within the transaction matching matrix with a bank statement description in the general form "TO 553980002" or "FROM 553980002" (using the '002 account number as an illustrative example).

We also carried out a large number of key word searches over the bank transaction descriptions that correlated with particular significant transactions or entities (for terms including "AQA", "Aquila", "GARF", "FICEMA", "Jaguar", "Rosewall", "Firestone" and so on) during our investigations.

1.1.3 Investigation of particular transactions

When we investigated particular transactions, we examined and considered the primary bank statement data on both the debit and credit side of the transaction; reviewed other transactions occurring on or about the date of the transaction in both the sending and receiving accounts; considered the running balance on each account; and conducted targeted email searches in respect of the transaction value, bank statement description, date and other identifiers in order to locate any relevant email correspondence or relevant documentation in the books and records of BBYL.

As explained on page 113 of the CSA Report, the bank statement data does not contain timestamps (nor do the BBYL bank movements workbooks). The data retrieved from the STG and NAB banking business online portals appears to record all credits for a given day before all debits for that day. Therefore, we cannot conclusively determine the chronological order in which transactions occurred on a given day on any account. In the event that there are multiple deposits and multiple payments of varying values through an account on a particular day, we cannot determine, dollar for dollar, which deposits contributed to which payments on that day.

⁹ Confidential Exhibits 53 to 56 to the CSA Report.

¹⁰ Refer to section 5.3 of the CSA Report.

¹¹ For example, Saxo (referred to as "EB" for "eBridge"¹¹) account numbers in the format "S70002911", Equity (referred to as "EQ") account numbers in the format "152580", IB (referred to as "IB") account numbers in the format "U1121461", FX (referred to as "FX") account numbers in the format "70003105", and Futures (referred to as "FUT") account numbers in the format "38700065".

¹² Refer to section 5.2.4 of the CSA Report (page 61).

¹³ The pattern is set out visually on pages 83 and 85 of the CSA Report.

¹⁴ Instances of this pattern appear on pages 76, 77, 83 and 85 of the CSA Report.

¹⁵ See table of generic transaction descriptions set out on page 61 of the CSA Report.

Where we have endeavoured to determine the ultimate destination of particular monies, we have done so on the basis that it is reasonable to follow money deposited into one account, and subsequently transferred to another account, into the latter account:

- if the transfer to the latter account would not have been possible but for the deposit into the former account;
- where the amount of the transfer is exactly the same as a prior deposit into the relevant account; or
- where email correspondence suggests that a particular transfer was made for a particular purpose.

That is the approach that we adopted in analysing and presenting the funds flow diagram for the Aquila transaction.

1.1.4 Investigation of transactions to and from the Other Trust accounts

Our analysis of the bank transaction data applied to all bank accounts, including Other Trust accounts. We did not include a separate category of findings for transactions involving Other Trust accounts because those findings fell within one of the existing categories.

So far as Other Trust accounts are concerned, the pattern that emerges from the transactions of interest we identified involves use of Other Trust accounts as conduits for funds that are ultimately destined for another CSA or to meet a particular external liability.

We were requested by a party to the proceeding to confirm that we had conducted an exhaustive investigation of transfers between Other Trust accounts and product line CSAs. We have not conducted a detailed investigation of every transaction. We have conducted a detailed investigation where our analysis indicated what appeared to be a transfer of client monies from a product line CSA into an Other Trust account, in an attempt to determine the use to which those monies were put. We refer to the transaction matching matrix at Appendix 49 to the CSA Report, and note the following in relation to the transfers identified with "high" or "medium-high" match quality from CSAs to Other Trust accounts, which comprise:

- for **Equity/ETO CSAs**, transfers totalling over \$108 million, likely in connection with the daily funding pattern on which we reported.¹⁶ It was not practical for us to conduct a detailed and exhaustive investigation of each and every underlying transaction;
- for **FX CSAs**, transfers totalling a relatively modest amount. The total amount of \$106,000 transferred from the AUD FX CSA comprises four separate payments:
 - (i) \$26,000 transferred on 16 December 2014;¹⁷
 - (ii) three payments totalling \$80,000 in respect of which the bank statement descriptions for the sending and receiving accounts were quite different, producing some doubt as to whether the "matched" bank statement entries in truth constitute a single transaction. We did not further investigate these transactions having regard to:
 - the fact that the descriptions appeared, on their face, to be consistent with BAU transactions;
 - the relatively modest amount of those transfers; and
 - an expected turnaround of up to 4 weeks to obtain bank confirmation that the bank statement entries constituted a single transfer;
- for **Futures CSAs**, two transfers totalling \$7,557,000:
 - (i) \$6.8 million withdrawn from a Futures CSA on 13 June 2014 to fund the Aquila transaction;¹⁸
 - (ii) \$757,000 withdrawn from a Futures CSA as part of the 16 December 2014 transaction;¹⁹
- for **Saxo CSAs**, transfers totalling \$2,815,000 from the Saxo Buffer Account, the most significant of which were:
 - (i) \$1.8 million withdrawn on 13 June 2014 to fund the Aquila transaction;²⁰ and
 - (ii) \$900,000 transferred to the General Trust account on 18 September 2014, reviewed as part of our analysis of the "upload" of funds to SCMA in the latter half of 2014, but which appears to have been reversed on 24 September 2014 by a transfer of the same amount from the General Trust account to the Saxo Buffer Account;
 - (iii) for the WLP Omnibus Account, two transfers totalling \$366,400:
 - \$14,400 transferred to the Trust 3 account in connection with the 16 December 2014 transaction;²¹ and
 - \$352,000 transferred to the General Trust account on 19 December 2014. We have considered this transfer and the withdrawal of \$4,114,881 from the General Trust account on the following day. The withdrawal of \$4,114,881

¹⁶ Refer section 6.2.4 of the CSA Report, including Appendices 53 to 56 to the CSA Report.

¹⁷ Refer to the 16 December 2014 transaction set out at pages 86-88 of the CSA Report.

¹⁸ Refer pages 93 and 96 of the CSA Report.

¹⁹ Refer pages 86-88 of the CSA Report.

²⁰ Refer page 96 of the CSA Report.

²¹ Refer page 88 of the CSA Report.

appears to be part of a longer sequence of transfers between BBYL accounts in the period 17 December 2014 to 22 December 2014. In respect of these transactions, we made enquiries of NAB to obtain further information about the initial source of the payments, however the information received was not sufficient to determine the sequence or purpose of the payments. We also did not locate any email correspondence or other material in the books and records of BBYL that shed light on the purpose of the payments;

- for the **IB Buffer account**, a transfer of \$554,000 on 16 December 2014;²² and
- for the **Carbon Trading CSA**, a transfer of \$20,372 on 16 December 2014.²³

1.1.5 Reconciliation of general ledger, product ledgers and bank transactions

In section 5.2.4 of the CSA Report we explained that one possible approach to identifying transactions of interest would be to undertake a full data matching and reconciliation exercise between the following sources of information:

- the bank transaction data;
- general ledger data maintained in the SAP accounting system;
- client ledger data for each product line, which is maintained in different software systems provided by a variety of vendors.

That approach was described as "Method C" and we set out a number of reasons that we did not undertake that exercise prior to publication of the CSA Report. We were requested by a party to the proceeding to provide an estimate of the time and cost likely to be incurred in undertaking that exercise for the Equity and ETO product lines only.

We estimate that the initial phase of an attempt to fully reconcile historical transactions affecting CSAs for the Equity and ETO product lines for the period December 2011 to May 2015 would cost in excess of \$300,000 and require approximately 3 months' work. That estimate is for a preliminary investigation only, based on the following steps:

1. Collating and analysing all required sources of information, including liaising with GBST to provide historical information.
2. Developing a model to match the various sources of data.
3. Interrogating the preliminary results of the matching process, revising the assumptions underlying the matching model, iterative development of the matching model and commencement of forensic investigation of irreconcilable information.

We consider that only after taking the above steps would it be possible to make a meaningful assessment of the extent to which it is possible to reconcile historical transactions for the Equity and ETO product lines for the period December 2011 to May 2015 with the available information and the total time and cost likely to be incurred in attempting to do so.

1.2 The transactions on which we reported

1.2.1 Data populations

The transactions and findings set out in the CSA Report were not identified by applying a single set of criteria to the transaction matching matrix. Our investigations were multifaceted and iterative, and involved each of the processes described in section 5.2 of the CSA Report.

The key sources and data populations from which the transactions on which we reported in the CSA Report were identified were:

- the following sub-populations of the bank statement data:
 - the top 60 bank transactions by value (**Population 1**);
 - transactions matched by the transaction matching matrix with one of the generic transaction descriptions set out on page 61 of the CSA Report (**Population 2**);
 - transactions matched by the transaction matching matrix with a bank statement description in the general form "[account number]" or "FROM [account number]" (**Population 3**);
 - the results of key word searches performed on bank statement descriptions;
- potential transactions of interest highlighted to us by the disclosures in Confidential Exhibit 53 to the CSA Report (**Population 4**) and Confidential Exhibit 54 to the CSA Report (**Population 5**);
- outstanding reconciling items on product reconciliations as at 15 May 2015, identified from our review of the BBYL books and records (**Population 6**);

²² Refer page 88 of the CSA Report.

²³ Refer page 88 of the CSA Report.

- transactions identified during "deep dive" examination of particular events of interest (most notably, the Aquila transaction and the Saxo upload); and
- transactions identified as a result of ad hoc enquiries and email searches conducted throughout the course of our investigations.

The threshold of \$100,000 mentioned on page 71 of the CSA Report was only applied to the transactions included in Populations 4 and 5, given the that AUD-equivalent impact of some of those items was as low as \$1,600. We did not treat \$100,000 as a general threshold below which we did not conduct any investigation.

1.2.2 Coverage analysis

We have conducted an analysis, where possible, of the proportion of the transactions in the data populations outlined above that were reported in the CSA Report.

The results of that analysis are summarised in the table below:

Population	Number of transactions	Proportion reported on		Supporting analysis
		By value	By number	
1 Top 60 bank transactions (by value)	60	70%	32%	Appendix 1.1
2 Matched transactions with generic descriptors	115	93%	83%	Appendix 1.2
3 Matched transactions in 'to/from' format	57	97%	42%	Appendix 1.3
4 Funds transferred by verbal direction (CE 53)	18	76%	50%	Appendix 1.4
5 Saxo discrepancy transactions (CE 54)	19	90%	79%	Appendix 1.5
6 Reconciling items as at 15 May 2015	42	83%	74%	Appendix 1.6

The proportion of transfers of less than \$100,000 in each of the populations are set out in the appendices referenced above.

1.2.3 Transactions of interest

The transactions identified as "transactions of interest" in the CSA Report, together with the findings and other transactions of interest set out in this report, comprise all of the transactions identified as satisfying our criteria for transactions of interest.

We cannot exclude the possibility that there are other transactions, of which we are not aware, which would constitute transactions of interest. We consider it unlikely, but also cannot exclude the possibility, that there were occasions on which a series of smaller transactions were made for the purposes of "masking" a larger transaction of interest, which we have not identified. We also cannot exclude the possibility that particular transactions that we have identified as "uncorrected" were in fact corrected by indirect means that are not readily identifiable.

The product reconciliations are not reliable records of unreconciled transactions. For example, the \$6.8 million withdrawn from a Futures CSA in connection with the Aquila transaction does not appear as a reconciling item on the Futures product reconciliation as at the date of our appointment. Further, although it appears that there were no historical issues with reconciliation of the balance of the Equity/ETO Client Trust account ending 541 and the end of day trust obligation reported by GBST Shares, that reconciliation process did not include any investigation by BBYL staff of the ultimate source of funds transferred to the Equity/ETO Client Trust account ending 541.

1.2.4 Typographical errors

- On page 91 of the CSA Report we reported on a transaction under the heading "*FUTURES to HOUSE \$0.35 million (31 March 2015) – Unexplained transfer (C26)*". That transaction occurred on 31 March 2015 and the references to 31/03/2014 in the funds flow diagram should be references to 31/03/2015.
- On page 88 of the CSA Report, the amount withdrawn from the Operating account ending 401 should read \$40,996 (not \$14,400 as shown).
- On page 85 of the CSA Report, the reference to the IB Buffer account should read "IB Buffer a/c 321" (not "IB Buffer a/c 268").

2 Investigations conducted since completion of the CSA Report

2.1 Further information obtained from banks

The schedule at **Appendix 2.1** sets out a revised summary of BBYL bank accounts and their account pool categorisation, including the additional bank account information and statements that we have obtained since publication of the CSA Report.

Historical bank statements received since publication of the CSA Report could only be provided by the respective banks in hard copy or PDF format. Therefore, in order to facilitate analysis of the bank statement data dating from 1 January 2011, we carried out a process of conversion of the hard copy and PDF bank statements into electronic format. We have used the historical bank statement data dating from 1 January 2011 to conduct the further specific investigations set out in this report.

Bank statements were also obtained in relation to a number of BNZ bank accounts in the name of BBY (NZ) Limited, which is discussed further in section 11 of this report.

2.2 Continued investigations and analysis

The information set out in this report:

- addresses requests for further information and analysis received from a number of the parties to the proceeding in relation to the CSA Report; and
- records our findings in relation to further investigations.

The areas of investigation that we have progressed are summarised as follows:

- **Firestone convertible loan note payments:** Further analysis was carried out with the benefit of historical bank statement data, in order to complete our investigations into the source of funds from which the loan notes were originally purchased on behalf of BBY Nominees. This was to address the possibility that the convertible loan notes were funded from CSA funds. Our analysis is set out in section 3 below.
- **eBridge Buffer account funds movements in 2011 and 2012:** Further investigation of the funds movements from the eBridge Buffer account in and around 2011 was carried out. Following receipt and conversion of historical bank statements, we were able to conduct further investigation in this regard, the results of which we set out in section 4 below. Our further analysis focused on the following aspects of the eBridge Buffer funds movements:
 - Investigation of significant deposits into the eBridge Buffer account in 2011;
 - Confirmation of the payees in respect of the significant international transfers made from the eBridge Buffer account in 2011 and 2012;
 - Investigation of the \$12 million transferred to the Equities Trust account in December 2011; and
 - Investigation of the \$8.2 million transferred to Trust account 4 in June 2012.
- **'BBY Corp' transfers between 2011 and 2015:** In light of the transfer of \$12 million from the eBridge Buffer account to Equity/ETO (described as "BBY Corp" in the BBYL bank schedules), and with the benefit of access to historical bank records, we conducted further investigations into the extent of "BBY Corp" funding in the Equity/ETO business between 2011 and 2015. The primary focus of these investigations was to establish whether the \$12 million transferred from the eBridge Buffer account was 'repaid' by the Equity/ETO product line. Our analysis is set out in section 5 below.
- **The Aquila transaction in June 2014:** We added additional workings to the Aquila funds flow diagrams and identified further email correspondence in connection with the chain of transfers of \$2.5 million following settlement of the trade. Our analysis is set out in section 6 below.
- **Update to the 16 December 2014 transaction of interest:** We carried out additional analysis in relation to the transaction of interest set out at section 6.6.3 of the CSA Report ("the 16 December 2014 transaction") and also extended the funds flow diagram relevant to this transaction. Our analysis is set out in section 7 below.
- **Further transactions of interest in December 2014:** During our further investigations and analysis, we identified two further transactions that we classify as transactions of interest. These transactions are outlined in section 8 below.
- **Analysis of IB funds movements, the WLP Omnibus account and the IB Buffer account:** Further analysis in relation to the IB funds flows and the use of the WLP Omnibus and IB Buffer account has been carried out. This analysis is set out in section 9 below.
- **Saxo termination in 2015:** We carried out further analysis in relation to the funds flows during the termination and close out of BBYL's relationship with SCMA. Our analysis is set out in section 10 below. Given the high volume of generally small value transactions, detailed investigation of every transaction has not been carried out.

- **BBY (NZ) Limited and BNZ bank accounts:** Section 11 sets out some information in relation to BBY (NZ) Limited and the results of our analysis in relation to the extent of interactions between the BBYL Australian bank accounts and the BNZ bank accounts in the name of BBY (NZ) Limited.
- **Update on shortfall calculation, counterparty recoveries and open positions:** Section 12 of this report includes an update on our surplus / shortfall calculation, including an update on funds held by, and received from, counterparties to date, and the status of open positions and securities held by counterparties.
- **Client claims analysis:** Section 13 of this report includes a breakdown of client claims in each product line by estimated claim value, and an analysis of the currencies in which claims are denominated.

3 Firestone convertible loan note payments

We conducted further analysis in relation to the Firestone convertible loan note payments, with the benefit of historical bank statement data, in order to complete our investigations into how the purchase of the loan notes was funded on behalf of BBY Nominees Pty Ltd. The objective of our investigation was to address the possibility that the convertible loan notes were funded from client monies.

3.1 Payments made on behalf of BBY Nominees

Following conversion of the historical BBYL bank statement data dating from 1 January 2011, we were able to identify a number of the payments made in consideration for the Firestone convertible loan notes (discussed in section 6.10.6 of the CSA Report) and the BBYL account(s) from which funds appear to have been paid to acquire the loan notes.

As set out on page 107 of the CSA Report, we identified a BBYL schedule titled 'Firestone Energy Ltd Register of Noteholders',²⁴ which appears to detail 23 payments made in respect of the loan notes between October 2009 and October 2011. For the 6 payments made after 1 January 2011, we were able to identify 6 corresponding transactions within the bank statement data, as follows:

Entity	Date	Bank statement description	Amount	Remitting account
BBY Nominees Pty Ltd	24/01/2011	Internet Transfer Pymt-Id 18258599 9351 Fse Jan11draw	\$600,000.00	NAB Operating Account ending 0891
BBY Nominees Pty Ltd	21/02/2011	Internet Transfer Pymt-Id 18690174 9379 Fse Feb11	\$573,333.00	NAB Operating Account ending 0891
BBY Nominees Pty Ltd	21/03/2011	Internet Transfer Pymt-Id 19149707 9411 Fse MAR11	\$398,333.00	NAB Operating Account ending 0891
BBY Nominees Pty Ltd	20/04/2011	Internet Transfer Pymt-Id 19676565 9439 Fse Apr11	\$61,209.94	NAB Operating Account ending 0891
BBY Nominees Pty Ltd	23/05/2011	Internet Transfer Pymt-Id 20181567 9475 Fse May11	\$230,716.00	NAB Operating Account ending 0891
BBY Nominees Pty Ltd	21/06/2011	Internet Transfer Pymt-Id 20691989 9510 Firestone	\$230,833.00	NAB Operating Account ending 0891
Total			\$2,094,424.94	

These 6 payments total approximately \$2 million and appear to have been paid from BBYL's NAB Operating account ending 0891 (House).

NAB Operating Account ending 0891 had an opening balance of over \$2 million on 1 January 2011.²⁵ We note that the majority of large deposits coming into this account in the period 1 January 2011 and 30 June 2011 appear to be fortnightly remittance of commissions from Berndale,²⁶ BBYL's third party ASX clearing participant at that time (refer to section 4.3.1 below).

From our review of the activity on the NAB Operating account ending 0891 around the time of the payments set out above, the loan note payments do not appear to be attributable to, or reliant on, any specific deposits of funds.

²⁴ 09-10-02 Conv Note Register.xlsx.

²⁵ The date from which our current bank statement data starts.

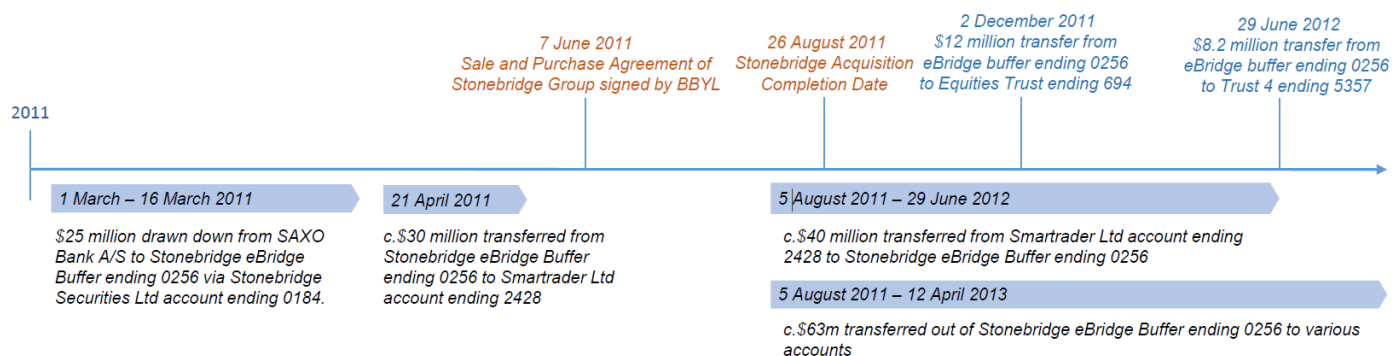
²⁶ Our identification of Berndale commissions payments was based on the bank statement descriptions and supporting email correspondence identified in relation a sample of these transactions. An example of email correspondence identified in relation to one of the Berndale commission receipts is included at **Exhibit 3.1**.

4 eBridge Buffer account funds movements in 2011 and 2012

4.1 Background

In section 2.4.2 of the CSA Report we explained that in August 2011 BBYL acquired the private client advisor network, staff and product platforms of Stonebridge Group, the former Tricom Securities business. The acquisition was referred to internally by BBYL as "Project Rock". BBYL and Stonebridge entered into a Sale and Purchase Agreement on 7 June 2011. The acquisition completed on 26 August 2011 and resulted in BBYL acquiring Stonebridge's Equities, ETOs, Futures, FX, Saxo and IB businesses, which included its eBridge online trading platform.²⁷

The timeline below compares the key transaction dates with the timing of significant movements of Saxo funds identified during our investigations:



We identified a Disclosure Letter dated 7 June 2011 issued by Stonebridge to BBYL which qualifies the representations and warranties provided by Stonebridge under the Sale and Purchase Agreement. Schedule 1 to the Disclosure Letter is a list of various emails and other disclosures made by Stonebridge to BBYL. The disclosures and other documents relating to the Stonebridge acquisition relevant to the amount of trust funds held by Stonebridge are **Appendix 4.1**, **Appendix 4.2** and **Exhibit 4.1**.

We also located a number of due diligence reports (**Exhibit 4.2** to **Exhibit 4.9**) relating to:

- compliance with ASIC licence conditions;
- compliance with ASX directions; and
- stress testing capital adequacy and derivatives monitoring frameworks.

Section 2.6 of the Phase 2 due diligence report assessed Stonebridge's compliance in relation to dealing with client monies. The assessment methodology involved interviewing the Head of Operations, reviewing relevant policy documents, walking through the processes undertaken by Stonebridge and review of a sample of end of day trust account reconciliations and end of day futures client segregated balances reconciliations to determine whether the processes were performed in accordance with Stonebridge's policy. No material non-compliance issues relating to client monies were identified in that report.

4.2 International transfers into and from the eBridge Buffer account ending 0256

In section 6.9.6 of the CSA Report, we set out a funds flow diagram of our observations in respect of some large withdrawals made from the eBridge Buffer account ending 0256 between August 2011 and April 2013. Since publication of the CSA Report, we have received additional information from NAB in respect of funds deposited into the eBridge Buffer account in March 2011 and about the recipients of international transfers made from the eBridge Buffer account between August 2011 and May 2012 (shown on the funds flow diagram we included on page 105 of the CSA Report). The further information we have received is set out below and reflected in a revised funds flow diagram set out in section 4.2.3 below.

4.2.1 Source of funds in the eBridge Buffer account ending 0256

From our review of the eBridge Buffer account bank statements, we identified the following three significant deposits into the account, totalling \$25 million, in March 2011 prior to the acquisition of Stonebridge by BBYL:

²⁷ The term "eBridge" refers to the eBridge Online Trading Platform purchased by BBYL as part of the acquisition of the Stonebridge Group. In the Sale and Purchase Agreement dated 7 June 2011, the IB Platform is referred to as the "eBridge Professional Platform" and the Saxo Platform is referred to as the "eBridge Trader Platform". We understand that the eBridge Online Trading Platform was previously called "Total Trader" which was established in 2003 through a partnership between the Stonebridge Group (previously Tricom Equities Ltd) and Saxo Bank.

- \$5,000,000 on 3 March 2011
- \$10,000,000 on 11 March 2011
- \$10,000,000 on 16 March 2011

We received confirmation from NAB that these amounts were transferred to the eBridge Buffer account from the Stonebridge Securities Limited FX account ending 0184.

From our review of the bank statements for the Stonebridge Securities Limited FX account ending 0184, we identified the following three deposits into this account, which also total \$25 million, in March 2011:

- \$5,000,000 on 1 March 2011
- \$10,000,000 on 11 March 2011
- \$10,000,000 on 16 March 2011

We received confirmation from NAB that these were international transfers to the Stonebridge Securities Limited FX account from Saxo Bank A/S (Denmark). This may suggest that \$25 million of the funds held in the eBridge Buffer account as at 16 March 2011 related to Saxo client funds drawn down from the Saxo Platform prior to the sale of Stonebridge to BBYL. The above transactions have been incorporated in the updated funds flow diagram in section 4.2.3 below.

The materials in Schedule 1 to Stonebridge's Disclosure Letter include an email with an attachment which appears to record funds relating to Saxo clients of Stonebridge on 25 May 2011, prior to its acquisition by BBYL (see **Exhibit 4.1**). The "*cash held in ... trust accounts with Stonebridge*" described in that email includes:

- \$34,000,000 in an account described as "*AUD Buffer New – NAB*" (the balance of the NAB High Interest account on 25 May 2011 was exactly \$34,000,000);
- \$1,709,331 in an account described as "*AUD Buffer Existing – NAB*" (the start of day balance of the eBridge Buffer account on 25 May 2011 was \$1,647,585 and the end of day balance was \$1,880,996); and
- smaller sums relating to CSAs denominated in foreign currencies.

The attachment to the email also appears to record the unrealised value of positions held with SCMA, cash held by SCMA, and the amount of unbooked transactions. We compared:

- the balances of the CSAs according to that attachment with the balances according to bank statements; and
- the unrealised value of positions, cash and unbooked transactions held with SCMA according to records provided to us by SCMA,

and calculated a variance of only 1 per cent. This suggests that all funds in the eBridge Buffer account (and the other accounts indicated in the attachment to the email) were referable to Saxo clients at that time.²⁸ The details of our calculations are set out in **Appendix 4.3**.

We investigated a random sample of 40 transactions on the eBridge Buffer account in the period March 2011 to December 2011 with transaction descriptions that appeared to include references to other product lines. Of those transactions, we were able to identify supporting correspondence for 7 transactions.²⁹ We did not identify any transactions of interest or any transactions which suggested that the eBridge Buffer account contained client monies referable to non-Saxo product line accounts.³⁰ We were unable to identify sufficient information to allow us to reach a conclusion in relation to the remaining 33 transactions.

Based on all of the above information, it appears that the eBridge Buffer account was regarded as a Saxo CSA by Stonebridge and contained Saxo client monies.

4.2.2 International withdrawals

We have confirmed the recipients of \$24 million of international transfers out of the eBridge Buffer account ending 0256 in 2011 and 2012 as shown on the funds flow diagram in section 6.9.6 of the CSA Report. Information we received from NAB confirms that the

²⁸ This is also supported by email correspondence that we identified (**Exhibit 9.5**) which suggests that when BBYL migrated certain bank accounts from NAB to STG, the STG bank account corresponding to the eBridge Buffer account ending 0256 was the Saxo Buffer account ending 356.

²⁹ We note that completion occurred in August 2011 and it is possible that emails relating to transactions on the account pre-completion do not exist in the data available to us.

³⁰ Of those 7 transactions: for 4 transactions the correspondence suggested that the transaction represented a transfer between the client's Saxo account and another product line account; for 2 transactions the correspondence suggested that the transaction related to a Saxo client; and for 1 transaction the correspondence suggested that the transaction was a deposit in error that was subsequently withdrawn from the eBridge buffer account.

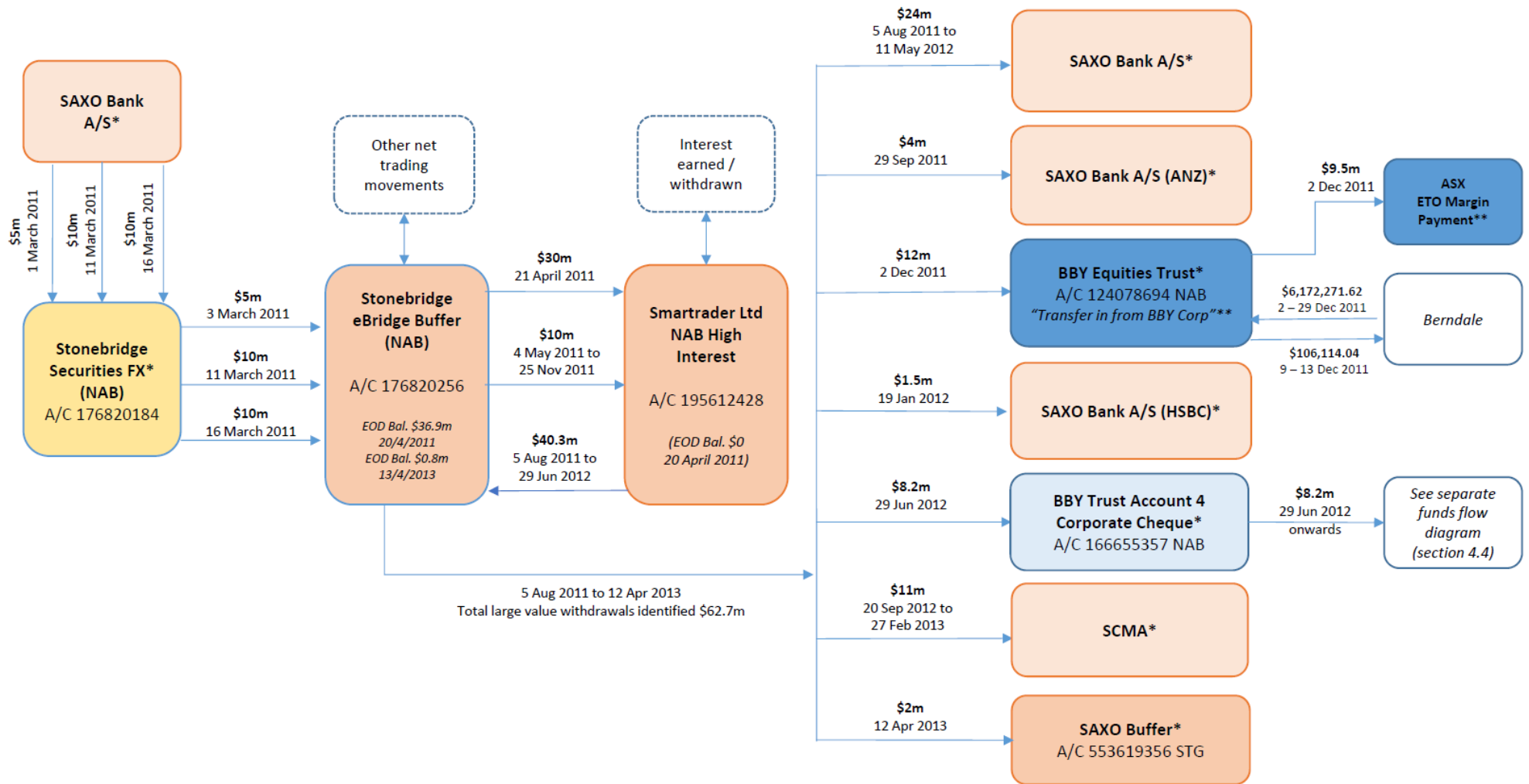
funds were transferred to Saxo Bank A/S. The table below outlines each of these transfers and the recipient information provided by NAB:

Date	Remitter	Remitting account	Amount \$AUD	Recipient as confirmed by NAB	Instructions for further credit ³¹
05/08/2011	Stonebridge Securities Ltd	eBridge Buffer a/c 0256	\$5,000,000	Saxo Bank A/S Denmark (ANZ a/c)	-
11/08/2011	Stonebridge Securities Ltd	eBridge Buffer a/c 0256	\$5,000,000	Saxo Bank A/S London (DB a/c)	-
20/03/2012	Smartrader Ltd	eBridge Buffer a/c 0256	\$2,000,000	Saxo Bank A/S Denmark (ANZ a/c)	Smartrader Ltd Acct 53222m/CAUD
03/04/2012	Smartrader Ltd	eBridge Buffer a/c 0256	\$2,000,000	Saxo Bank A/S Denmark (ANZ a/c)	Smartrader Ltd Acct 53222m/CAUD
19/04/2012	Smartrader Ltd	eBridge Buffer a/c 0256	\$2,000,000	Saxo Bank A/S Denmark (ANZ a/c)	Smartrader Ltd Acct 53222m/CAUD
19/04/2012	Smartrader Ltd	eBridge Buffer a/c 0256	\$2,000,000	Saxo Bank A/S Denmark (ANZ a/c)	Smartrader Ltd Acct 53222m/CAUD
19/04/2012	Smartrader Ltd	eBridge Buffer a/c 0256	\$1,000,000	Saxo Bank A/S Denmark (ANZ a/c)	Smartrader Ltd Acct 53222m/CAUD
11/05/2012	Smartrader Ltd	eBridge Buffer a/c 0256	\$5,000,000	Saxo Bank A/S Denmark (ANZ a/c)	Smartrader Ltd Acct 53222m/CAUD
Total			\$24,000,000		

This information has been incorporated in the updated funds flow diagram in section 4.2.3 below.

³¹ This is the instruction included on the bank transfer form, detailing the Saxo Platform account to which the funds are to be credited once received by Saxo Bank.

4.2.3 eBridge Buffer account: funds movements (March 2011 – April 2013)



* Recipient details confirmed by NAB
 ** Source: "Bank Movements ALL (2) 2012.xlsx"

4.3 Investigation of the \$12 million transfer from the eBridge Buffer account ending 0256

In section 6.9.4 of the CSA Report, we set out our observations in respect of a transfer of \$12 million from the eBridge Buffer account to the Equities Trust account ending 8694. That transfer is illustrated in the funds flow diagram in section 4.2.3 above. We set out below the results of our further investigations in relation to this transaction.

4.3.1 BBYL's migration from Berndale to self-clearing

Historically, BBYL³² and Stonebridge Securities³³ engaged Berndale Securities Limited ("Berndale") as their third party ASX clearing participant. In 2010, Berndale, a subsidiary of Bank of America Merrill Lynch, announced it would cease clearing share trades on behalf of small and mid-sized brokers. BBYL subsequently determined that it would seek admission as an ASX clearing participant.

From our review of relevant email correspondence we identified, we have summarised the key events relating to the end of BBYL's clearing relationship with Berndale and BBYL's migration to self-clearing, which are set out in the diagram below:



It appears that BBYL began discussions with Berndale regarding migration planning in February 2011.³⁴ BBYL then began discussions with the ASX in relation to becoming an ASX Clearing and ASX Settlement Participant³⁵ and engaged GBST to provide an equities clearing and settlement platform³⁶ in March 2011. An internal project team was established under the name of "Project Cricket Transition Committee" to assist with the migration from third party clearing to self-clearing.³⁷

BBYL notified its clients of the transition to self-clearing on 7 October 2011 via email³⁸ and its application to become an ASX Clear and ASX Settlement Participant was approved by the ASX on 30 November 2011.³⁹ The migration was to commence with the transfer of open positions from Berndale to BBYL post-market Friday 2 December 2011, with BBYL to commence as a clearing participant on Monday 5 December 2011. ASX announced that BBYL had commenced as a clearing participant on 5 December 2011.⁴⁰

We understand from ASX that migration from one clearing participant to another involves the following steps:

- The transfer of positions, collateral and HINs as recorded in the systems of ASX;⁴¹
- The provision of margin by the incoming clearing participant in respect of those positions (for which the incoming clearing participant assumes clearing obligations); and
- The subsequent return to the outgoing clearing participant of margin provided by it for those positions (for which it ceases to have clearing obligations).

4.3.2 Funding from 'BBY Corp' – \$12 million

As set out in section 6.9.4 of the CSA Report, and illustrated in the funds flow diagram in section 4.2.3 above, \$12 million was transferred from the eBridge Buffer account ending 0256 to the Equities Trust account ending 8694 on 2 December 2011, the day

³² See **Exhibit 4.10 & Appendix 4.4.**

³³ See **Exhibit 4.11.**

³⁴ See email correspondence at **Exhibit 4.12.**

³⁵ See email correspondence at **Exhibit 4.13.**

³⁶ See email correspondence at **Exhibit 4.14.**

³⁷ See email correspondence at **Exhibit 4.15.**

³⁸ See email correspondence at **Exhibit 4.16.**

³⁹ See email correspondence at **Exhibit 4.17.**

⁴⁰ See ASX announcement at **Exhibit 4.18.**

⁴¹ We were informed by ASX that unsettled equities trades cleared by the outgoing clearing participant prior to the migration are not migrated. The responsibility for the clearing of those trades remains with the outgoing clearing participant notwithstanding that settlement of those trades is scheduled to occur after the migration date.

the transfer of client positions from Berndale to BBYL began as part of BBYL's migration to self-clearing. This transaction was described as '*Transfer in from BBY Corp*' in BBYL's bank movements schedule.⁴²

We were advised by NAB that the Equities Trust account ending 8694 was opened on 23 November 2011. According to the bank statements, the deposit of \$12 million on 2 December 2011 was the first transaction on this account. The table below sets out information received from NAB in respect of that transfer:

Date	2 December 2011
Amount	\$12,000,000.00
Details	Transfer to BBY Limited Australia (BBY Limited Trust Account)
Recipient BSB and account	083-004, 124078694
Narrative on statement	Saxo Buffer new REF 2371-1140 800146 a/c 53222m

The reference "53222M" included in the transaction description appears to be a reference to BBYL's master platform account with SCMA. We have observed reference to "53222M" in relation to a separate transaction in which funds were "*recalled*" by BBYL from Saxo Bank A/S in May 2012 (refer to **Exhibit 4.19**) and in the "*instructions for further credit*" field of the information received from NAB in relation to several of the payments to Saxo Bank A/S described in section 4.2.2 above.

This reference may have been used in relation to the transfer of \$12 million from the eBridge Buffer account to the BBYL Equities Trust account to indicate the original source of the funds. We have not identified any email correspondence relating to this transfer.

The transfer of \$12 million from the eBridge Buffer account to the BBYL Equities Trust account coincided with a deposit into the eBridge Buffer account of the same amount on the same day, which appears to be the result of a withdrawal of the same amount from the NAB High Interest account ending 2428.⁴³ As shown in the updated funds flow diagram in section 4.2.3 above, the funds on deposit in the NAB High Interest account as at 2 December 2011 were in turn sourced from the eBridge Buffer account, which received \$25 million from Saxo Bank A/S in March 2011.

4.3.3 Margin payment – \$9.5 million

As set out in section 6.9.4 of the CSA Report, a payment of \$9.5 million⁴⁴ was made out of the Equities Trust account ending 8694 on 2 December 2011, following receipt of the amount of \$12 million transferred from the eBridge Buffer account discussed in section 4.3.2 above. The description of this payment, in the BBYL bank movement schedule,⁴⁵ is '*payment out to ASX – margin requirement*'.

ASX has confirmed to us that the migration from Berndale to BBYL commenced on 2 December 2011 and was effective from 5 December 2011. ASX also confirmed that BBYL paid \$9.5 million to ASX Clear via Austraclear on 2 December 2011 in relation to margin on ETO positions.⁴⁶ **Appendix 4.5** includes an ASX Austraclear Cash Report, Settlement Instruction Report and Daily Financial Summary in relation to that payment to ASX Clear. Copies of email correspondence that we have identified relating to this margin payment are included at **Exhibit 4.20**, **Exhibit 4.21** and **Exhibit 4.22**. Those emails do not provide any explanation of how the margin payment was funded by BBYL.

4.3.4 Migration from Berndale to BBYL – client monies funds flows

As BBYL made payment of \$9.5 million in respect of ETO margin on 2 December 2011 for positions to be migrated to it, we would expect BBYL to either have, or expect to receive from Berndale as part of the migration process, a comparable amount of client cash collateral (subject to fluctuation in the margin obligation of the underlying clients).

In order to gain an understanding of the funds flows between BBYL and Berndale in respect of the migration, we conducted key word searches across the BBYL bank statement data and bank movement schedule.⁴⁷ We identified 25 bank transactions between 2 December 2011 and 21 May 2012, with '*Berndale*' in the transaction description, involving a number of different BBYL bank accounts. We conducted email searches in order to identify correspondence to assist us in determining what the transactions related to. Based on the email correspondence that we identified, we categorised the 25 transactions as follows:

Category	Number of transactions	Net value
Funds flows from Berndale to BBYL relating to the migration from Berndale to BBYL as clearing participant	18	\$6,066,157.58

⁴² Bank Movements All Dec 2011 to June 2013.xls.

⁴³ These transactions are incorporated in the summarised funds flows at section 6.9.6 of the CSA Report and can be seen on the bank statements included at Confidential Exhibits 102 and 103 to the CSA Report.

⁴⁴ Section 6.9.4 of the CSA Report reads "\$9.2m", which we corrected to "\$9.5m" in para. 17 of our correspondence to the parties, addressed to Clayton Utz and dated 11 March 2016.

⁴⁵ Bank Movements All Dec 2011 to June 2013.xls.

⁴⁶ Cash market margin (CMM) was not introduced until June 2013: <http://www.asx.com.au/services/clearing/asx-clear-margining.htm>.

⁴⁷ Bank Movements All (2) 2011 and 2012 Transactions.xls.

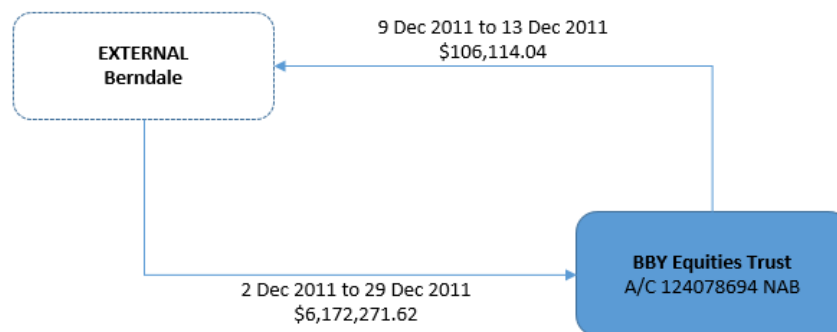
Category	Number of transactions	Net value
Commissions payments from Berndale to BBYL Operating account ending 0891	5	\$1,433,960.74
Client payment	1	\$411,723.00
Unknown	1	\$5,000.00

A schedule of the 25 transactions and the above categorisations is set out at **Exhibit 4.23**.

The table below sets out one transaction from each category and references the email correspondence we identified in relation to the transaction, on which our categorisation was based:

Date	Account name	Account no.	Bank statement description	Amount	Categorisation	Email ref.
06/12/2011	BBY Ltd Equities Trust Account	124078694	1977752 Berndale 192425	\$568,301.04	Clearing participant migration	Exhibit 4.24
21/12/2011	BBY Ltd Operating Account	169290891	1979802 Berndale 192490	\$383,598.12	Commissions payment	Exhibit 4.25
07/12/2011	BBY Ltd Trust Account 1	169133546	1978199 Berndale 192425	\$411,723.00	Client payment	Exhibit 4.26
08/12/2011	BBY Ltd (renamed from Smartrader Ltd)	176820184	1978352 Berndale 192425	\$5,000.00	Unknown	No email correspondence identified.

We conducted further review of the 18 transactions which appear to relate to the migration from Berndale to BBYL. The diagram below summarises these transactions, which total a net inflow to the BBYL Equities Trust account ending 8694 of \$6.1 million:



We identified email correspondence in relation to 8 of the 18 Berndale funds movements described above. The email correspondence suggests that the funds paid into the Equities Trust account ending 8694 relating to 'Berndale', during the period 2 December 2011 to 29 December 2011, related to the payment of margin from Berndale to BBYL in respect of client positions for which BBYL became clearing participant.⁴⁸ The email correspondence suggests that the funds paid out of the Equities Trust account ending 8694 relating to 'Berndale', during the period 9 December 2011 to 13 December 2011, related to payments made to Berndale to cover client obligations on some remaining trades where there were settlement issues.⁴⁹

These funds flows in the period 2 December 2011 to 29 December 2011 suggest that the \$12 million transferred to the BBYL Equities Trust account ending 8694 on 2 December 2011 was not client money referable to the ETO clients whose positions were migrated from Berndale to BBYL as clearing participant. Those funds appear to have been gradually received between 2 December 2011 and 29 December 2011.

4.4 Investigation of the \$8.2 million transfer from the eBridge Buffer account ending 0256

In section 6.9.4 of the CSA Report, we set out our observations in respect of a transfer of \$8,229,694.94 from the eBridge Buffer account to Trust account 4 ending 5357 (an 'Other Trust' account) on 29 June 2012. That transfer is illustrated in the funds flow diagram in section 4.2.3 above. Conversion of BBYL bank statement data dating from 1 January 2011 into electronic format allowed us to perform further investigation, including an analysis of the bank statement data for Trust account 4 ending 5357, in order to attempt to establish:

1. The purpose of the transfer to Trust account 4;

⁴⁸ See example email correspondence at **Exhibit 4.24**.

⁴⁹ See example email correspondence at **Exhibit 4.27**.

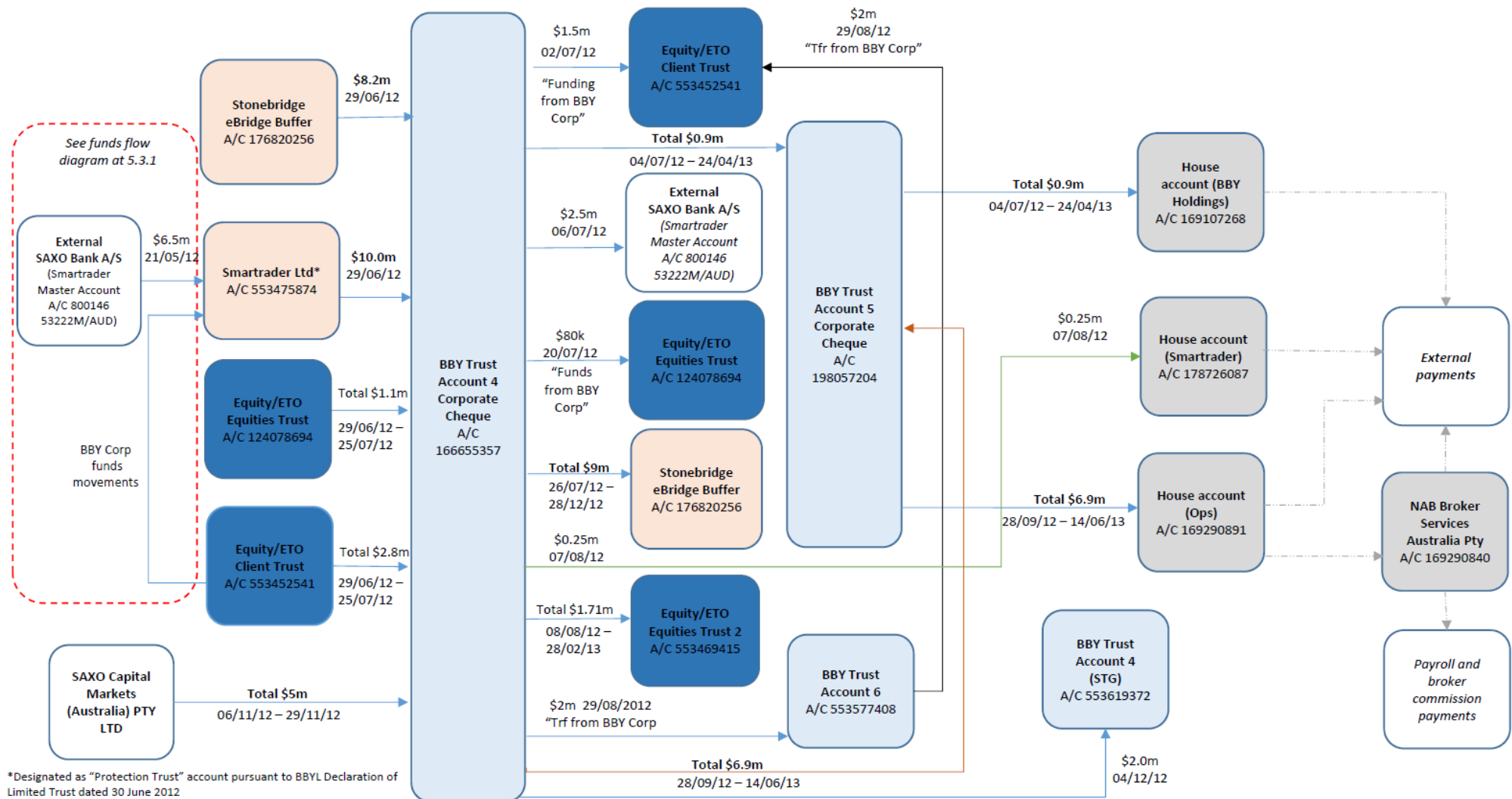
2. The ultimate destination for the \$8.2 million; and
3. The purpose(s) for which the \$8.2 million was used.

Trust account 4 ending 3557 was opened on 25 February 2010 and closed on 23 November 2015. From review of the bank statements and the transaction descriptions, the account appears to have been used for ad hoc purposes relating to client trades between 4 November 2011 and 29 June 2012.

The opening balance on the account on 29 June 2012 was nil, which was followed by deposits into the account on that day totalling \$21.4 million, including the \$8.2 million described above.

In section 4.4.1 below we set out a funds flow diagram which summarises funds movements for the period 29 June 2012 (when the \$8.2 million was deposited) to 14 June 2013 (the date by which the majority of the \$21.4 million of deposited funds had been expended). In section 4.4.2 below we summarise the key deposits into Trust account 4 in that period and in section 4.4.3 below we summarise the key withdrawals from Trust account 4 in that period.

4.4.1 Funds flow diagram: BBYL NAB Trust account 4 (ending 5357) summary of funds movements 29 June 2012 – 14 June 2013



4.4.2 Key deposits into Trust account 4 (ending 5357): 29 June 2012 to 14 June 2013

The most significant deposits into Trust account 4 ending 5357 on 29 June 2012 were:

1. approximately \$8.2 million transferred from the **eBridge Buffer account** ending 0256 (also set out on the fund flow diagram on page 105 of the CSA Report). The table below sets out the information received from NAB in respect of this transfer:

Date	29 June 2012
Amount	\$8,229,694.94
Details	Transfer to BBY Limited (BBY Trust account 4)
Recipient BSB and account	082-057, 16665-5357
Narrative on statement	Your Ref 8193-8573 EB TO bby trust

On the same day, 29 June 2012, there was a deposit of \$6,229,694.94 into the eBridge Buffer account which corresponds with a withdrawal of the same amount from the NAB High Interest account ending 2428.⁵⁰ It appears that the withdrawal from the High Interest account was calculated to empty the NAB High Interest account (and would have emptied that account, but for a deposit of \$19,675.59 on the same day);

2. \$10 million transferred from the **Smartrader Ltd account** ending 874 (see **Exhibit 4.28**).⁵¹ Prior to that transfer, on 21 May 2012, \$6.5 million was transferred into the Smartrader Ltd account ending 874 from **Saxo Bank A/S** (see **Exhibit 4.19**);⁵²
3. approximately \$993,000 transferred from **Equities Trust account** ending 8694. In the email correspondence at **Exhibit 4.29** this amount was described as 'cash available' in 'NAB Trust'. The narrative for this transfer on BBYL's bank movements schedule⁵³ is 'Paid Finance Funding'. Together with additional deposits made in the period 29 June 2012 to 25 July 2012, deposits from the Equities Trust account ending 8694 total \$1.1 million; and
4. \$2.2 million transferred from **Equity/ETO Client Trust account** ending 541. In the email correspondence at **Exhibit 4.30** this amount is described as "Cash balance available in StGeorge Trust". To the extent that the funds transferred may have been surplus to the Equity/ETO trust obligation at the relevant time, that surplus may have been attributable to the transfer of \$12 million from the eBridge Buffer account to the BBYL Equities Trust account on 2 December 2011. The narrative for this transfer on BBYL's bank movements schedule⁵⁴ is "Finance Funding Payment". Together with additional deposits made in the period 29 June 2012 to 25 July 2012, deposits from the Equity/ETO Client Trust account ending 541 total \$2.8 million.

Email correspondence sent on 2 July 2012 refers to the above deposits made on 29 June 2012 and states that "Trust 4... is the temporary location of the Saxo funds" (see **Exhibit 4.31**).

The other significant deposits into Trust account 4 ending 5357 during the period 29 June 2012 (the date on which the \$8.2 million of funds were transferred into that account from the eBridge Buffer account) and 14 June 2013 (the date by which the majority of the \$21.4 million of deposited funds had been expended), were two deposits totalling \$5 million from SCMA in November 2012.

4.4.3 Key withdrawals from Trust account 4 (ending 5357): 29 June 2012 to 14 June 2013

In an attempt to establish the use of the funds described in the email correspondence in **Exhibit 4.31** as the "Saxo funds" in Trust account 4, we investigated the activity on that account between June 2012 and June 2013 through a review of the bank statement data, investigation of particular transfers, and key word and value searches of mailbox data.

A summary of the significant withdrawals from Trust account 4 during this period is set out below:

1. a total of \$3.3 million transferred to **Equity/ETO accounts**, most of which appear to relate to 'BBY Corp' transfers according to the narratives in BBYL's bank movements schedule.⁵⁵ 'BBY Corp' transfers are discussed further in section 5 below. The total of \$3.3 million comprised:
 - \$1.5 million transferred to the Equity/ETO Client Trust account ending 541 on 2 July 2012 (described as 'Funding from BBY Corp' in the bank movement schedule);
 - approximately \$80,000 transferred to the Equities Trust account ending 8694 on 20 July 2012 (described as 'Funds from BBY Corp' in the bank movement schedule); and

⁵⁰ These transactions are incorporated in the summarised funds flows at section 6.9.6 of the CSA Report and can be seen on the bank statements included at Confidential Exhibits 102 and 103 of the CSA Report.

⁵¹ This account was designated a 'Protection Trust' account pursuant to the Declaration of Limited Trust dated 30 June 2012 described on page 70 of the CSA Report. The 'Protection Trust' bank accounts are also referred to in the Online Trader PDS relating to the Saxo product line (Appendix 17 to the CSA Report).

⁵² STG confirmed that the remitter of these funds was "53222M/CAUD Smartrader Limited Master".

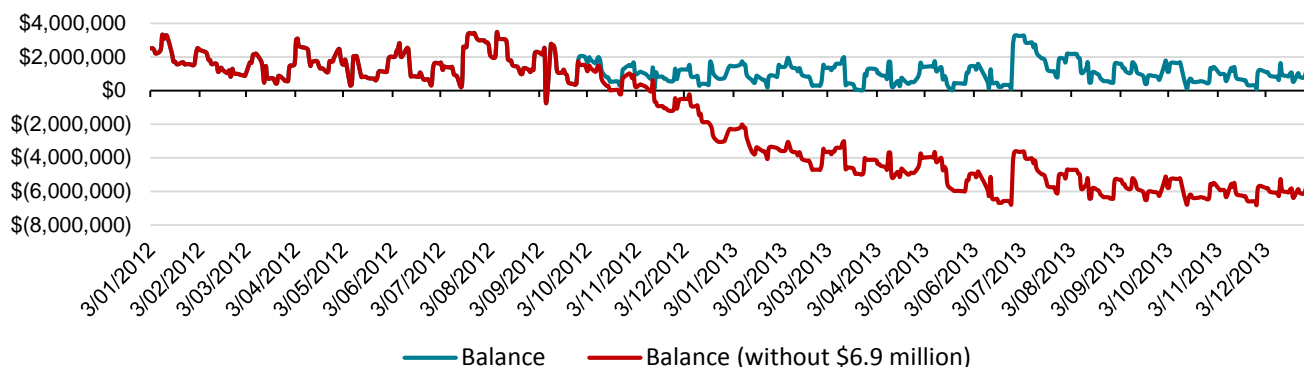
⁵³ Bank Movements All (2) 2012.xls.

⁵⁴ Bank Movements All (2) 2012.xls

⁵⁵ Bank Movements All (2) 2012.xls

- a total of \$1.71 million transferred to the Equities Trust 2 account ending 9415 in the period 8 August 2012 to 28 February 2013;
2. \$2.5 million transferred to “Saxo”⁵⁶ on 6 July 2012 (see **Exhibit 4.32**);
 3. a total of \$9 million transferred to the **eBridge Buffer account** ending 0256 in the period 26 July 2012 to 28 December 2012. **Exhibit 4.33** is an email in relation to the largest of these transfers, being a transfer of \$6 million on 28 December 2012, which suggests that payment was made to the eBridge Buffer account in order to facilitate a payment to SCMA;
 4. \$2 million transferred to **Equity/ETO Client Trust account** ending 541, via Trust account 6 ending 408, referenced as “Trf from BBY Corp”⁵⁷ on BBYL’s bank movements schedule. The deposit into Trust account 6 and the transfer to the Equity/ETO Client Trust account occurred on the same day (when the balance of Trust account 6 was otherwise nil),⁵⁸ and
 5. a total of \$6.9 million transferred to BBYL Operating account (House) ending 0891, via Trust account 5 ending 7204. In **Appendix 4.6** we set out details of the underlying transfers. That analysis shows that, in almost all instances:
 - the transfers from Trust account 4 to Trust account 5 and from Trust account 5 to the Operating account were of the same amount and occurred on the same day; and
 - the balance of Trust account 5 was nil (or approximately nil) at the time funds were transferred from Trust account 4.

Below we set out a chart of the running balance of the Operating account from 2012 to 2013, inclusive and exclusive of the transfers from Trust account 5 totalling \$6.9 million.



We note that there is a regular and distinct pattern of payments in respect of commissions and brokerage for the Saxo product line in 2012 and 2013 involving international deposits (monthly) into the Stonebridge Securities Ltd account ending 0184 from SCMA and subsequent transfers of those amounts to the Operating account. The bank statement descriptions contain the words “Saxo comm”. Those commission payments equated to approximately \$250,000 a month. Based on all of that information, we conclude that the payments totalling \$6.9 million were not referable to Saxo commissions or brokerage.

4.4.4 Summary of deposits and withdrawals

Based on the foregoing analysis, it does not appear that funds were gathered in Trust account 4 for the purpose of making a single payment. Rather it appears that funds on deposit in Trust account 4 were applied, on and from 29 June 2012, for a variety of purposes.

We cannot determine which deposits into Trust account 4 ending 5357 are attributable to which withdrawals given the level of activity on this account and the range of accounts to which funds were transferred in the period 29 June 2012 to 14 June 2013. The table below shows the total value of transfers to and from Trust account 4 ending 5357 by account type between 29 June 2012 and 14 June 2013. The closing balance of the account on 14 June 2013 was \$161,036.75.

⁵⁶ The transfer reference in relation to this payment includes “ACCT53222M/CAUD” which is the same as the reference of the funds received from Saxo Bank A/S as outlined in section 4.2.1.

⁵⁷ Bank Movements All (2) 2012.xls

⁵⁸ Bank Movements All (2) 2012.xls

Accounts	Funds transferred into NAB Trust account 4 from these accounts (\$m)	Funds transferred out of NAB Trust account 4 to these accounts (\$m)	Net effect (\$m)
Equity/ETO CSAs	(7.9)	5.3	(2.6)
House accounts	-	8.1	8.1
Saxo accounts / Saxo	(19.1)	11.5	(7.6)
— <i>eBridge Buffer account</i>	(8.2)	9.0	0.8
— <i>SAXO Capital Markets (Australia) Pty Ltd</i>	(5.0)	-	(5.0)
— <i>Smartrader Ltd account / Saxo Bank</i>	(5.9)	2.5	(3.4)
Trust account 4 (STG)	-	2.0	2.0
Total	(27.0)	26.9	(0.1)

A significant proportion of funds appear to have been transferred to BBYL House accounts, primarily the NAB Operating account ending 0891 (\$8.1 million). As outlined in section 6.2.1 of the CSA Report, the NAB Operating account was the account used by BBYL for the purposes of meeting operational expenses of the business.

From our review of the bank statements, we note that regular transfers were made from the NAB Operating account to the NAB Broker Services Australia (BSA) account ending 0840. There are regular payments from the BSA account containing the description “410847”, which are made shortly after deposits received from the Operating account.⁵⁹ This reference appears to relate to payroll payments as it is the reference number used by BSA’s payroll provider, MircoPay Meridian (see **Appendix 4.7** and **Appendix 4.8**).

From our review of the running balance on the BSA account bank statements, we note that there are instances in which a deposit of funds from the NAB Operating account was required in order to make payroll payments. In other instances there appeared to be sufficient funds in the BSA account to make payroll payments. Given the level of activity through both the Operating account and the BSA account in this period, we are not able to quantify the amount of funds from the Operating account which appear to have contributed to the BSA payroll payments.

4.4.5 The operation and control of Trust account 4

We have identified email correspondence which suggests that a small number of key BBYL personnel had control of this account, completed the finance reconciliations and were the only individuals who received statements for this account (see **Exhibit 4.34** and **Exhibit 4.35**).

⁵⁹ For example, we observe that the net payroll amounts for 14 August 2013 of \$80,122.52 (see **Appendix 4.7**) and 21 November 2012 of \$85,831.00 (see **Appendix 4.8**) appear in the bank statements of the BSA account ending 0840.

5 'BBY Corp' transfers between 2011 and 2015

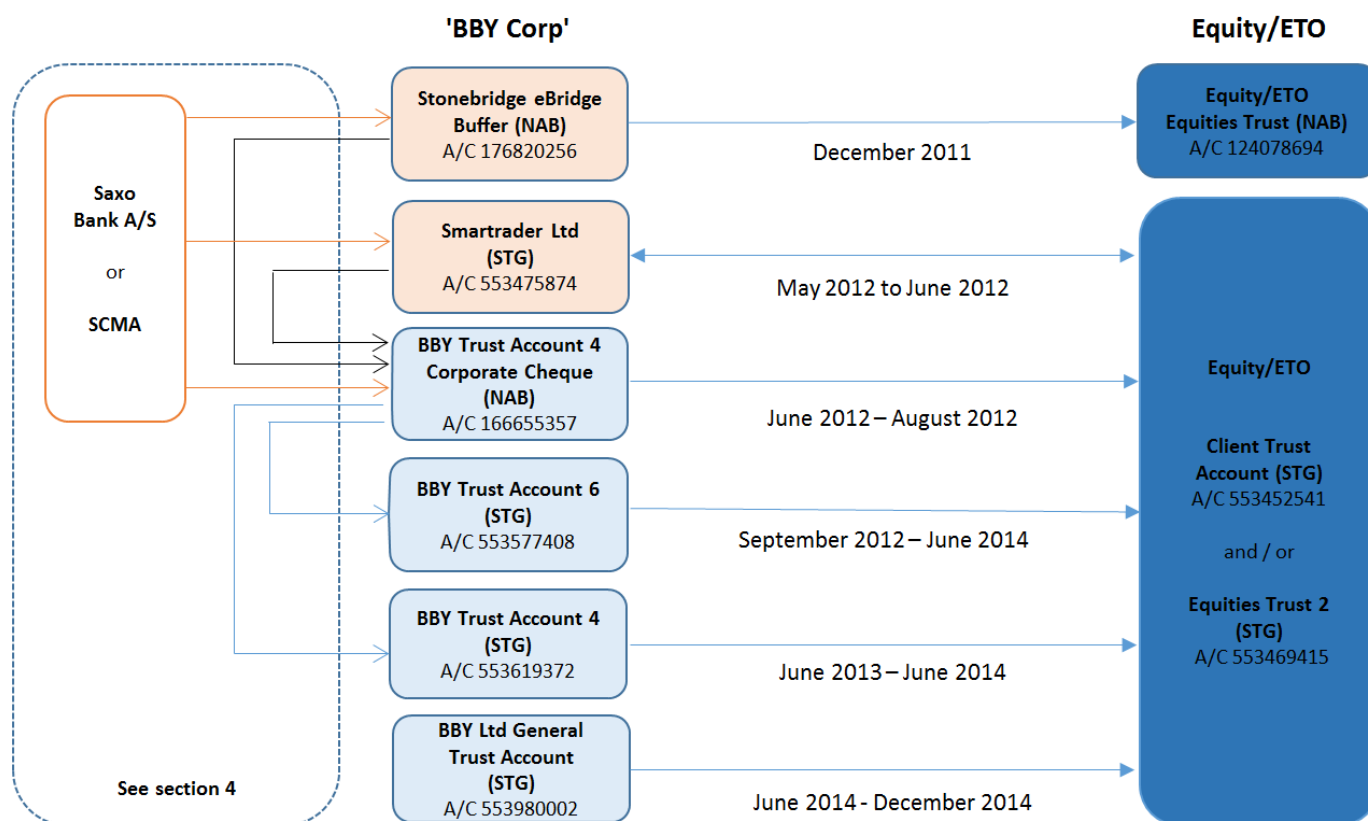
5.1 Overview of 'BBY Corp' transfers

5.1.1 Background

In section 6.2.4 of the CSA Report, we reported regular transfers between the Equity/ETO CSAs and the STG Trust account 4 (between February 2013 and June 2014) and the General Trust account ending 002 (between June 2014 and December 2014).⁶⁰ Those transfers were often described as transfers to or from 'BBY Corp' in BBYL's bank movement schedules. In the CSA Report we noted that the transfers appeared to be "funding movements related to funding of aged Equity client debts".⁶¹

In section 6.2.4 of the CSA Report, we also noted that we had been unable to "trace the source of funds in Trust Account 4 back to 2013 due to limitations of availability of electronic bank statements". Since obtaining historical bank statement data dating from 1 January 2011, we have been able to analyse 'BBY Corp' transfers prior to 2013. Our further analysis indicates that:

- these transfers commenced on 2 December 2011 with the deposit of \$12 million to the Equities Trust account ending 8694 (discussed in section 4.3 above, and shown in the funds flow diagram on page 105 of the CSA Report); and
- these transfers occurred between a variety of BBYL bank accounts referred to as 'BBY Corp' (on the one hand) and Equity/ETO CSAs and House accounts used for the Equity/ETO business (on the other) between December 2011 and May 2015.⁶²



To identify the bank accounts referred to as 'BBY Corp' we conducted key word searches on the BBYL bank movements schedules covering the period 2011 to 2015,⁶³ to identify transfers with descriptions referring to 'BBY Corp' and which appeared to relate to

⁶⁰ CSA Report, page 67.

⁶¹ CSA Report, page 86. Prior to about March 2015, payments required to be made by BBYL to ASX for ETO margin and Equity settlements were transferred from the Equity/ETO Client Trust account ending 541 to the Facilitation account ending 106 via the General account ending 576 each trading day. Because BBYL was required to settle trades where its underlying client had not put it in funds, this practice could lead to the balance of the Equity/ETO Client Trust account at the end of a trading day being less than the amount BBYL regarded itself as obliged to hold on trust for clients. If that occurred, BBYL would transfer the amount necessary to meet that obligation (the "trust obligation") from other sources that included the accounts apparently described as 'BBY Corp' in the bank movement schedules (refer to Appendix 53 to the CSA Report).

⁶² Our sample testing identified the 6 'BBY Corp' remitting accounts illustrated, however our analysis of the Adjusted BBYFUNDING Ledger (described further below) suggests that in early 2015 the General account ending 576 was also treated as a 'BBY Corp' remitting account (refer also to pages 83, 85 and 89–90 of the CSA Report).

⁶³ BBY bank movements Schedules - "Bank Movements All Dec 2011 to June 2013.xls", "Copy of Bank Movements 2013-14 FY 2.xlsx" and "Copy of Bank Movements 2015 Current.xlsx"

funding for the Equity/ETO business. We selected a sample of 20 such transactions covering the period 2011 and 2015 and correlated these with bank statement data to confirm the remitting bank account. The results are illustrated in the diagram above. We identified six BBYL bank accounts to and from which 'BBY Corp' transfers appear to have occurred between December 2011 and December 2014. Those accounts were the eBridge Buffer account ending 0256 (also refer to section 4.3 above); the Smartrader Limited account ending 874 (also refer to section 5.3 below);⁶⁴ Trust account 4 ending 5357; Trust account 6 ending 408; Trust account 4 ending 372 (also refer to section 6.2.4 of the CSA Report); and General Trust account ending 002 (also refer to section 6.2.4 of the CSA Report).

The arrows in the diagram above indicate the direction in which it appeared that funding was being provided. The arrow from Equity/ETO CSAs to the Smartrader Limited account ending 5874 relates to the 7 May 2012 transaction described in section 5.3 below.

5.1.2 References to 'BBY Corp'

During our investigation into 'BBY Corp' transfers we observed instances in which the reference 'BBY Corp' was used by BBYL employees in relation to the following different kinds of transactions:

1. Regular funding to the Equity/ETO business from sources described as 'BBY Corp' (and return of those funds), as discussed in section 5.1 above and section 6.2.4 of the CSA Report ("**Equity/ETO Funding Transactions**"). This appears to be the most common use of the reference 'BBY Corp' and it is with Equity/ETO Funding Transactions that the remainder of this section is concerned.⁶⁵
2. Payments of brokerage, commissions and other amounts payable to House from Equity/ETO CSAs.
3. The "sweep" of surplus funds from the Equity/ETO Client Trust Account ending 541 account to the General account ending 576, as outlined in section 3.2.4 of the CSA Report.
4. Payments to or from an account managed by BBYL's Corporate Finance division in relation to a share placement. In these instances it appears that BBYL's Corporate Finance division is also referred to as 'BBY Corp'.

Because the reference 'BBY Corp' is used in a number of different ways, it is not possible to isolate and identify all Equity/ETO Funding Transactions based on BBYL's bank movement schedules alone. The limitations we encountered when we attempted to do so are set out in **Appendix 5.1**.

5.2 Analysis of net effect of Equity/ETO Funding Transactions

5.2.1 Methodology

We attempted to ascertain the net effect of Equity/ETO Funding Transactions in the period 2 December 2011 to 17 May 2015. To do so, we conducted an analysis of GBST ledgers that appear to relate to Equity/ETO Funding Transactions. We obtained a full record of the following GBST ledgers: BBYFUNDING, BBYCORP and FINREMIT. We took the steps described below to verify the accuracy and completeness of those ledgers as records of Equity/ETO Funding Transactions.

We note that the transfer of \$12 million from the eBridge Buffer account to the Equity Trust account on 2 December 2011 is the earliest identifiable transfer referencing 'BBY Corp'. BBYL's bank movement schedules commence on that day and BBYL did not clear its own equities or ETO trades or incur clearing obligations to ASX Clear until it commenced as a clearing participant on 5 December 2011 (refer to sections 4.3.1 to 4.3.4).

5.2.2 Analysis of ledgers

We obtained a trial balance from GBST (listing all ledgers) and identified the following potentially relevant ledgers:

- BBYCORP (because this corresponds with the description often given in the BBYL bank movement schedules);
- BBYFUNDING (because the name of this ledger suggested that it may be relevant); and
- FINREMIT (because we observed that the "books and records update" column of the BBYL bank movement schedules sometimes referred to this ledger for transfers including 'BBY Corp' in the description).

⁶⁴ This account is listed as a Saxo 'Protection Trust' account per BBYL Declaration of Limited Trust dated 30 June 2012.

⁶⁵ Based on the investigations we describe further below, the majority of Equity/ETO Funding Transactions appear to involve the transfer of funds to or from Equity/ETO CSAs. However, some Equity/ETO Funding Transactions appear to involve transfers to and from House accounts used for the Equity/ETO business, such as the General account ending 576 (see, for example, pages 83 and 85 of the CSA Report). It appears that those transfers may have occurred as a result of BBYL's change in practice in about March 2015, when it ceased using monies in the Equity/ETO Client Trust account ending 541 to reimburse the Facilitation account ending 106 (via the General account ending 576) in the way described in footnote 61. By ceasing to use monies in the Equity/ETO Client Trust account ending 541 for that purpose, there would be no need for additional end of day funding of that account to meet the trust obligation. Instead, it appears funding was provided to the General account ending 576.

We carried out a detailed analysis of those ledgers for the period 1 January 2011 to 17 May 2015 in order to ascertain the types of transactions that were recorded in each of these ledgers by BBYL and to determine whether any of the ledgers contained a complete record of Equity/ETO Funding Transactions between 2011 and 2015. The results of our analysis are set out below.

5.2.3 BBYCORN ledger

A copy of the BBYCORN ledger report is attached at **Appendix 5.2**. This ledger appears to have been used to record transfers that occurred in June 2014 during the Aquila transaction (and not at other times).

The ledger report shows the deposit and re-payment of the following three amounts:

- \$29 million “CMM Funding Movement 12062014”
- \$3.2 million “CMM Margin Requirement 13062014”
- \$10 million “CMM Funding Movement 13062014”

Each of these amounts are shown on the Aquila funds flow diagrams set out in **Appendix 6.1**.

As only the above 6 transactions (deposits and repayments) are recorded on this ledger, it is apparent that this ledger was not used to record the Equity/ETO Funding Transactions described in section 5.1 above. As at the date of our appointment, the balance of the BBYCORN ledger was nil.

5.2.4 BBYFUNDING ledger

A copy of the BBYFUNDING ledger report is attached at **Appendix 5.3**. This ledger report contains 618 journal entries and appears to reflect regular Equity/ETO Funding Transactions. The first journal entry on this ledger corresponds with the \$12 million transferred from the eBridge Buffer account to the Equities Trust account ending 8694 on 2 December 2011.

The closing balance on the ledger as at 17 May 2015 was \$10.4 million, apparently representing a net movement of \$10.4 million to the Equity/ETO business.

In order to test the accuracy and completeness of this ledger, we conducted:

- a comparison between the journal entries listed on the BBYFUNDING ledger and the bank transaction data, in order to confirm that the journals reflected actual transfers of funds; and
- a comparison between the journal entries listed on the BBYFUNDING ledger and Equity/ETO Funding Transactions recorded in the BBYL bank movements schedules, in order to assess the completeness of the BBYFUNDING ledger.

Comparison with bank transactions

There were 37 ledger entries (out of the total of 618 entries) for which we could not identify a corresponding movement of funds within the bank transaction data.⁶⁶ Of the 37 entries, 32 net to nil and appear to be journals that were reversed.⁶⁷ However there are 5 ledger entries with no corresponding reversing entry, totalling \$1.468 million, set out in the table below.

The results of our investigations into these journals are summarised in the table below. A detailed explanation for each journal is included in **Appendix 5.4**.

Date	Journal ref.	Journal description	Journal value	Comment	Notes
08/02/2013	J 9460	JNL9460 FUNDING 8/2/13	-\$116,870.57	Accounted for by a bank transfer relating to this journal and J 9474.	Note 1
11/02/2013	J 9474	JNL9474 CORRECTION JNL BAL TFR FROM BBY CORP WAS \$150/- NOT	-\$33,129.43	Accounted for by a bank transfer relating to this journal and J 9460.	Note 1
18/06/2013	J 13939	JNL13939 LOAN FROM FINANCE FOR DAILY FUNDING 18062013	-\$53,457.43	Typographical error with correcting journal entry.	Note 2
06/11/2014	J 38575	JNL38575 LOAN FROM FINANCE 06112014	-\$539,216.88	Accounted for by a bank transfer relating to this journal and another journal, subsequently reversed by a different journal.	Note 3
17/12/2014	J 40328	JNL40328 LOAN FROM FINANCE	-\$725,999.00	Appears to relate to two separate transfers of \$221,199 and \$504,800 (see section 7.3).	Note 4

⁶⁶ These were matched based on value. In some instances it is difficult to confirm which bank transaction the journal refers to, particularly where the value is a round figure.

⁶⁷ The reversing journals contain the narrative “REVERSE JNL”.

Based on the above analysis, the BBYFUNDING ledger appears to represent bank transactions that in fact occurred.

Completeness testing

In order to test the completeness of the BBYFUNDING ledger, we selected a random sample of 20 transfers referencing 'BBY Corp' from the BBYL bank movements schedules and confirmed whether these movements were reflected in the BBYFUNDING ledger. From our sample of 20 transfers, we were unable to identify five transactions in the BBYFUNDING ledger report.

The table below outlines these 5 transactions, our comments, and references any relevant email correspondence we identified in relation to each transaction.

Date	Remitting account	Receiving account	Bank schedule narrative	Amount	Comment	Relevant email
07/5/2012	Equity/ETO 553452541	Smartrader 553475874	'Payment to BBY Corp'	\$4,111,491.55	N/A.	None identified.
10/5/2012	Smartrader 553475874	Equity/ETO 553452541	'Transfer from BBY Corp'	\$1,000,000.00	Appears to be an Equity/ETO Funding Transaction.	Exhibit 5.1
24/5/2012	Smartrader 553475874	Equity/ETO 553452541	'Funds from BBY Corp'	\$1,400,000.00	Appears to be an Equity/ETO Funding Transaction.	Exhibit 5.2
25/5/2012	Equity/ETO 553452541	Smartrader 553475874	'Funds Tfr to BBY Corp - Return of borrow'	\$1,400,000.00	Appears to be an Equity/ETO Funding Transaction.	Exhibit 5.2
02/7/2012	Trust Ac 4 166655357	Equity/ETO 553452541	'Funding from BBY Corp'	\$1,500,000.00	Appears to be an Equity/ETO Funding Transaction.	Exhibit 5.3

Based on the above analysis, we conclude that the BBYFUNDING ledger records some but not all Equity/ETO Funding Transactions.

5.2.5 FINREMIT ledger

As we identified transactions on the BBYL bank movement schedules which appeared to be Equity/ETO Funding Transactions but were recorded as having been posted to the FINREMIT ledger, and because the BBYFUNDING ledger appeared to be incomplete, we investigated the types of transactions posted to the FINREMIT ledger.

A copy of the FINREMIT ledger report is attached at **Appendix 5.5**.⁶⁸ This ledger report contains 740 journal entries and, from the journal narratives, appears to reflect commissions and brokerage payments to House.

From our review of email correspondence relevant to the key word "FINREMIT", we identified email correspondence between the BBYL ETO Supervisor and the Head of Clearing on 10 August 2012 regarding reconciliation of the FINREMIT ledger (see **Exhibit 5.4** and **Exhibit 5.5**). This email, and the attached workbooks, suggest that a number of Equity/ETO Funding Transactions had been posted to the FINREMIT ledger, instead of the BBYFUNDING ledger. The attachments to this email include a draft journal voucher which appears to outline a series of journals requested to be posted in GBST to reverse the journals incorrectly posted to FINREMIT and post amended (correct) journals to BBYFUNDING. However, from our review of both the BBYFUNDING and FINREMIT ledgers, neither the reversals nor correcting journals appear to have ever been posted. The journals proposed to be reallocated to the BBYFUNDING ledger, from the FINREMIT ledger, total \$9.177 million (a net outflow from Equity/ETO).

We were able to identify journals on the FINREMIT ledger relating to each of the five transactions outlined in section 5.2.4 above, which is consistent with Equity/ETO Funding Transactions having been posted to the FINREMIT ledger.

Comparison with bank transactions

In order to test the accuracy and completeness of the FINREMIT journals identified by the BBYL ETO Supervisor as requiring reallocation to the BBYFUNDING ledger, we carried out a comparison between the journals and the bank transaction data, in order to determine whether the journals reflect transfers of funds that actually occurred.

Of the 20 FINREMIT journals proposed to be reallocated to the BBYFUNDING ledger, we identified only the following ledger entry for which we could not identify a corresponding movement of funds within the bank transaction data:

Date	Journal ref.	Journal description	\$ Value
29/06/2012	J 4257	JNL4257 TRANSFER FUNDS BBY CORP	999,817.28

We identified email correspondence that appears to be relevant to this journal entry (**Exhibit 5.6**). According to that email correspondence, on 29 June 2012 the "available cash" in the "NAB Trust" account (being the opening balance less the amount of unrepresented cheques) was \$992,817.28. On the same day, the Finance Manager requested that \$992,817.28 be transferred to Trust

⁶⁸ The FINREMIT ledger report was provided to us in a text file format, which we converted to excel for the purposes of our analysis and to append to this report.

account 4 ending 5357. This transfer is reflected in the bank statement data. This amount is exactly \$7,000 less than the relevant journal entry and it appears that the journal entry was the result of a typographical error. A correcting journal entry of -\$7,000 was posted on 2 July 2012.⁶⁹

5.2.6 Reallocation of FINREMIT journals

In order to ascertain the net movement of funds due to Equity/ETO Funding Transactions as at the date of our appointment, we have incorporated the journals identified by the ETO Supervisor as requiring reallocation to the BBYFUNDING ledger (based on the records attached to the email dated 10 August 2012 at **Exhibit 5.5**) into the BBYFUNDING ledger to produce an "**Adjusted BBYFUNDING Ledger**". We have relied upon the working papers attached to that email to determine the FINREMIT journal entries posted prior to August 2012 requiring reallocation to the BBYFUNDING ledger.

We reviewed the journals posted to the FINREMIT ledger between August 2012 and 17 May 2015 to identify any further journals within this ledger that appeared to relate to Equity/ETO Funding Transactions as opposed to commissions or brokerage. FINREMIT journal entries containing '*BBY Corp*' or '*Funding Movement*' in the narrative appear to cease from August 2012, with the exception of the two journal entries set out in **Appendix 5.6**. For the reasons set out in that appendix, we do not consider that these entries relate to Equity/ETO Funding Transactions and therefore have not incorporated either entry into the Adjusted BBYFUNDING Ledger.

Based on the methodology described above, the balance of the Adjusted BBYFUNDING Ledger as at 17 May 2015 is as follows:

Balance of Adjusted BBYFUNDING Ledger		\$
Balance of BBYFUNDING ledger as at 17 May 2015		(10,428,924.00)
Reallocation of Equity/ETO Funding Transaction journals included on FINREMIT ledger		9,177,573.98
Balance of Adjusted BBYFUNDING Ledger as at 17 May 2015		(1,251,350.02)

This would represent a net transfer of \$1,251,350.02 from the '*BBY Corp*' remitting accounts to the Equity/ETO business as at 17 May 2015. The Adjusted BBYFUNDING Ledger is **Appendix 5.7**.

Completeness testing

In order to test the completeness of the Adjusted BBYFUNDING Ledger, we selected a random sample of 105 transfers from the BBYL bank movements schedules referencing '*BBY Corp*'⁷⁰ and confirmed whether these movements were reflected in the Adjusted BBYFUNDING Ledger. A sample of 105 was selected so that, together with the sample of 20 transactions on the BBYFUNDING ledger investigated (as described in section 5.2.4 above), the equivalent of 20% of all entries on the Adjusted BBYFUNDING Ledger were investigated.

We were unable to locate 8 of the 105 '*BBY Corp*' transfers listed on the BBYL bank movement schedules in the Adjusted BBYFUNDING Ledger. The table below outlines these 8 transactions and the results of our investigation of those transactions.

Date	Remitting account	Receiving account	Bank movements schedule narrative	Amount	Comment	Notes
10/01/2012	Equity/ETO 124078694	House Ops 169290891	"Payment to BBY Corp Account"	-\$896,657.91	Payment of commissions and other amounts due to House.	Note 1
10/01/2012	Other Trust 166655349	Equity/ETO 124078694	"Transfer Credits refund BBY Corp A/C – April"	\$8,000.00	Reference to BBYL Corporate Finance.	Note 2
31/01/2012	Equity/ETO 124078694	House Ops 169290891	"Payment to BBY Corp"	-\$345,150.03	Payment of commissions to House.	Note 3
25/02/2012	Equity/ETO 553452541	Other Trust 166655330	"RTGS to BBY Corp Trust2 a/c- Victory Mines Placement"	-\$75,000.00	Reference to BBYL Corporate Finance.	Note 4
30/04/2012	Equity/ETO 124078694	House Ops 169290891	"Payment to BBY Corp - EXGYY Fees"	-\$84,844.27	Reference to BBYL Corporate Finance.	Note 5
23/08/2012	Equity/ETO 553452541	House Ops 169290891	"Payment to BBY Corp re Invoice C383 Diggers & Dealers"	-\$1,000.00	Payment of an amount due to House.	Note 6
01/07/2013	Equity/ETO 553452541	House Gen 553452576	"Payment from BBY Corp"	-\$87,610.93	End of day surplus sweep.	Note 7

⁶⁹ The description of this journal is "JNL4269 ADJ JNL 4257 VALUE S/B 992817.28 NOT 999817.28" which suggests that this entry is to correct the initial journal of \$999,817.28 to \$992,817.28.

⁷⁰ "Bank Movements All Dec 2011 to June 2013.xls", "Bank Movements 2013-14 FY 2.xlsx" and "Bank Movements 2015 Current.xlsx".

Date	Remitting account	Receiving account	Bank movements schedule narrative	Amount	Comment	Notes
06/11/2013	Other Trust 166655349	Equity/ETO 553452541	"Transfer funds from BBY Corp re SXA for [client] Client AC BBYCLEAR"	\$22,249.76	Reference to BBYL Corporate Finance.	Note 8

For a detailed explanation in relation to each transaction refer to **Appendix 5.8**.

As the table above shows, the 8 transactions that we identified do not appear to be Equity/ETO Funding Transactions. The references to 'BBY Corp' in the narratives for those transactions appear to be used in connection with commissions and brokerage payments, BBYL's corporate Finance division, and the "sweep" of surplus funds from Equity/ETO CSAs. We did not identify any evidence which suggests that the Adjusted BBYFUNDING Ledger is incomplete as a record of Equity/ETO Funding Transactions.

Reliability testing

In order to test the reliability of the Adjusted BBYFUNDING Ledger as a record of only Equity/ETO Funding Transactions (and not other kinds of transactions), we identified 16 entries on the Adjusted BBYFUNDING Ledger for which there were not corresponding journals in the opposite direction netting to nil (refer to **Appendix 5.9**).

For the majority of the journals in the ledger there is a single opposite journal of exactly the same amount, netting to nil. In a small number of cases there are several journal entries posted at around the same time which together net exactly to nil. Because all other journal entries net to nil, the 16 entries that we identified account for the final balance of the Adjusted BBYFUNDING Ledger. For each of those journals, we:

- confirmed that the entries were recorded on the BBYL bank movement workbooks;
- confirmed that the entries reflected actual bank transactions; and
- carried out searches for email correspondence relating to the transactions.

The table in **Appendix 5.10** summarises our investigations into each of the 16 ledger entries we identified.

We found that each of the 16 entries were recorded in the relevant BBYL bank movement schedules and that each entry appeared to reflect a bank transaction. All of the ledger entries appeared to relate to Equity/ETO Funding Transactions, with the exception of the following two ledger entries:

Jrnl date	Jrnl ref.	Journal description	Jrnl value \$
06/05/2015	J 45273	JNL45273 PAYMENT TO ASX RE CBPL PAYMENT REQUIREMENT 06052015	3,471,076.00
08/05/2015	J 45357	JNL45357 FROM EXCESS RE CBPL PAYMENT REQUIREMENT 06052015	(2,700,000.00)

These transactions appear to relate to the payment of CBPL margin from the Facilitation account ending 106 to ASX Clear on 6 May 2015. It appears that a loan of \$2.7 million was drawn down from the OD Excess account with STG and paid to the Facilitation account on 6 May 2015. CBPL margin of \$3,471,076 was paid from the Facilitation account to ASX Clear on the same day (refer to **Exhibit 5.38** and **Exhibit 5.39**).⁷¹

It is not clear why these transactions were posted to the BBYFUNDING ledger since it does not appear that the payments related to the 'BBY Corp' remitting accounts that we identified.⁷² Neither appear to be Equity/ETO Funding Transactions.

We note that there are 3 further transactions on the BBYL bank movements schedule⁷³ after 6 May 2015 for the Facilitation account ending 106 for which the "Books & records update" column includes reference to the BBYFUNDING ledger, but which are not included on that ledger,⁷⁴ as follows:

Trans. date	BBYL bank movement schedule narrative	Transaction value \$	Books & records update
07/05/2015	CBPL Margin Payment	(\$2,636,268.00)	DR BBYFUNDING CR FACSTG
08/05/2015	Intraday Margin Call to ASX	(\$2,001,446.90)	DR BBYFUNDING CR FACSTG
13/05/2015	Transfer from GENSTG	\$3,106,667.04	DR BBYFUNDING CR FACSTG

The first two transactions relate to payment of margin to ASX Clear from the Facilitation account ending 106 on 7 and 8 May 2015. For the same reason as stated above, these transactions do not appear to be Equity/ETO Funding Transactions.

⁷¹ From our review of the bank statements, we note that the closing balance of the Facilitation account on 6 May 2015 would have been (\$8.2 million), in excess of the facility limit of \$8 million, but for the deposit of \$2.7 million.

⁷² **Exhibit 5.39** shows that the Head of Clearing instructed both of these transactions to be posted to the BBYFUNDING Ledger.

⁷³ Bank Movements 2015 Current.xlsx, tab "FAC AC 553453106".

⁷⁴ We do not have access to sufficient GBST ledger information to confirm the ledger to which these transactions were posted, if any.

The last transaction appears to relate to payment from the General account ending 576 to the Facilitation account ending 106 of the amount of the surplus "swept" from the Equity/ETO Client Trust Account ending 541 on 13 May 2015. This transaction does not appear to be an Equity/ETO Funding Transaction.

The impact of including or excluding these transactions from the Adjusted BBYFUNDING Ledger is set out below:

Adjusted BBYFUNDING Ledger		\$
Balance of Adjusted BBYFUNDING ledger at 17 May 2015 (excluding posted journals relating to margin)		(2,022,426.02)
Add journal reflecting payment of CBPL margin to ASX on 06/05/2015 (J45273)		3,471,076.00
Add journal reflecting funds received from OD Excess account on 06/05/2015 (J45357)		(2,700,000.00)
Balance of Adjusted BBYFUNDING ledger at 17 May 2015 (including posted journals relating to margin)		(1,251,350.02)
Add journal to reflect payment of CBPL margin to ASX on 07/05/2015		2,636,268.00
Add journal to reflect payment of margin to ASX on 08/05/2015		2,001,446.90
Balance of Adjusted BBYFUNDING Ledger at 17 May 2015 (including additional journals relating to margin)		3,386,364.88
Add journal to reflect funds paid from Equity/ETO Client Trust account ending 541 to Facilitation account ending 106, via General account ending 576 on 13/05/2015		(3,106,667.04)
Balance of Adjusted BBYFUNDING Ledger at 17 May 2015 (including "Transfer from GENSTG")		279,697.84

If the margin-related transactions posted to the BBYFUNDING ledger that do not appear to be Equity/ETO Funding Transactions are excluded from the Adjusted BBYFUNDING Ledger, the balance represents a net movement of approximately \$2 million to the Equity/ETO business.

If all of the margin-related transactions described above are included (including those not actually posted to the ledger), the ledger represents a movement of approximately \$3.4 million from the Equity/ETO business. Including the deposit of funds into the Facilitation account ending 106 on 13 May 2015 reduces the balance to \$279,697.84.

Further observations

Each of the transactions set out in sections 6.4 to 6.7 of the CSA Report which relate to the Equity/ETO business and were not considered BAU are included on the Adjusted BBYFUNDING Ledger.⁷⁵ These transactions include instances in which the Equity/ETO Funding Transactions appear to have been:

- funded out of the running balance of the 'BBY Corp' remitting account (as opposed to coinciding with a transfer of funds from other sources into the remitting account for the purpose of making the particular transfer);⁷⁶ and
- indirectly funded from other product line CSAs by way of other transfers occurring on the same day.⁷⁷ We note that in each of those instances there were otherwise insufficient funds in the 'BBY Corp' remitting account.

It is not possible solely from review of the GBST ledgers referred to above to determine whether client monies from non-Equity/ETO product lines were used for Equity/ETO Funding Transactions. Those ledgers do not record all transactional activity on the 'BBY Corp' remitting accounts. However we note that:

- the Equity/ETO Funding Transaction on 2 December 2011 involved a transfer directly from the eBridge Buffer account (which contained Saxo client monies);
- the most significant inflows into Trust account 4 ending 5357 in the period 29 June 2012 to 14 June 2013 (summarised in section 4.4.4 above) were from Saxo product line sources;
- funds in Trust account 4 ending 5357 appear to have subsequently flowed into the Trust 6 account ending 408 and the Trust 4 account ending 372 (each of which were also identified as 'BBY Corp' remitting accounts), as shown in the funds flow diagram in section 4.4.1 above; and
- our detailed investigations into particular transactions (set out in the CSA Report) have identified instances in which client monies used for Equity/ETO Funding Transactions were returned to the CSAs from which they originated, as well as instances in which they appear not to have been returned to CSAs.

We also note that our analysis of Trust account 4 ending 5357 in the period 29 June 2012 to 14 June 2013 (summarised in section 4.4.1 above), shows that in that period significant sums were transferred from Other Trust accounts to House accounts. This suggests

⁷⁵ CSA Report, pages 76 (1 & 2 September 2014 transaction), 82 (23 & 24 September 2014 transaction), 83 (2 March 2015 transaction), 85 (4 March 2015 transaction), 88 (16 December 2014 transaction), 89 (16 January 2015 transaction), 89–90 (13 & 16 March 2015 transaction).

⁷⁶ CSA Report, pages 76 (1 & 2 September 2014 transaction), 82 (23 & 24 September 2014 transaction).

⁷⁷ CSA Report, pages 83 (2 March 2015 transaction), 85 (4 March 2015 transaction), 88 (16 December 2014 transaction), 89–90 (13 & 16 March 2015 transaction).

that client funds on deposit in Other Trust accounts may have been applied to meet business expenses, as well as used for Equity/ETO Funding Transactions.

Equity/ETO surplus/shortfall position

In section 12.1 below we explain that the surplus/shortfall for the Equity/ETO product lines based on CSA balances as at 29 April 2016 and taking into account post-appointment claims⁷⁸ (exclusive of the Receivers' claim) is approximately \$0.8 million.

We would not expect that amount to be the same as the balance of the Adjusted BBYFUNDING Ledger if there were Equity/ETO debtors to BBYL at the date of our appointment in respect of whom BBYL had settled with ASX Clear using funds in the Equity/ETO Client Trust account ending 541. Using funds from the Equity/ETO Client Trust account ending 541 for that purpose (as was BBYL's practice prior to about March 2015) would cause a continuing requirement of additional funds in that account in order to meet the trust obligation thereafter (until the debt was collected). This appears to be one of the main reasons that Equity/ETO Funding Transactions occurred.

Other reasons that the balance of the Adjusted BBYFUNDING Ledger may not be reconcilable to the surplus/shortfall for the Equity/ETO product lines are:

- some Equity/ETO Funding Transactions involved House accounts associated with the Equity/ETO business, and not Equity/ETO CSAs directly; and
- funds transferred to Equity/ETO CSAs from the '*BBY Corp*' remitting accounts may have been, on occasion, swept to the General account ending 576 at the end of the trading day and were not returned to the '*BBY Corp*' remitting account nor recorded in the BBYFUNDING ledger.⁷⁹

⁷⁸ Such claims were dealt with separately in the CSA Report and not reflected in the table on page 49 of the CSA Report.

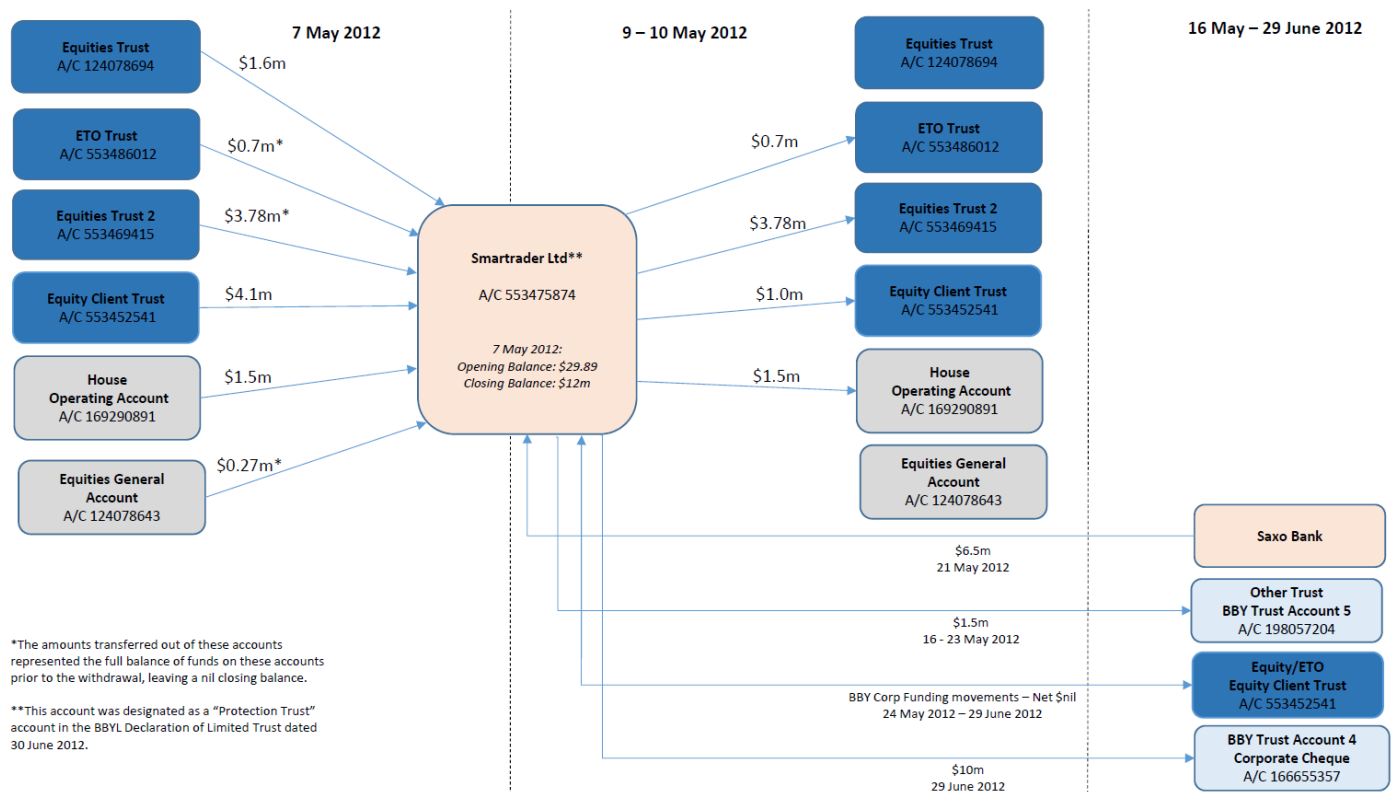
⁷⁹ However, we do note that the transaction on 16 January 2015 described on page 89 of the CSA Report (in which \$250,000 was transferred from the Equity/ETO Client Trust account ending 541 to an FX CSA) is reflected in the BBYFUNDING ledger. We also identified an entry in the BBYFUNDING ledger that suggests \$250,000 was returned to the Equity/ETO Client Trust account ending 541 on 25 February 2016 in respect of that transfer. We identified a corresponding transfer of \$250,000 from the General account ending 576 to the Equity/ETO Client Trust account ending 541 on 25 February 2016.

5.3 Funds transferred to the Smartrader Limited account in 7 May 2012

5.3.1 Introduction

As outlined in section 5.1 above, we identified 'BBY Corp' transfers between the Smartrader Limited account ending 874 and Equity/ETO accounts in May 2012.

We investigated this activity on the Smartrader Limited account ending 874 and reviewed relevant email correspondence that we identified. Our findings are summarised in the funds flow diagram below and in sections 5.3.2 and 5.3.3 below.⁸⁰



5.3.2 Deposits on 7 May 2012

The Smartrader account ending 874 was opened on 23 January 2012 and the only transactions on the account prior to 7 May 2012 were immaterial transactions (such as service charges). The opening balance on the Smartrader Ltd account ending 874 on 7 May 2012 was \$29.89. On 7 May 2012 a total of \$11,999,970.11 was transferred to the account, leaving a closing balance of exactly \$12,000,000.00. The funds transferred comprised:

- \$10.2 million transferred from four separate Equity/ETO CSAs. The withdrawals from two of the Equity/ETO accounts represented the full balance on these accounts leaving a closing balance of nil on 7 May 2012;⁸¹
- \$1.5 million from the NAB Operating account ending 0891 (see email correspondence at **Exhibit 5.8**); and
- \$0.27 million from the Equities General account ending 8643 (House). This withdrawal represented the full balance on this account, leaving a nil closing balance on 7 May 2012.

The \$12 million transferred into the Smartrader account ending 874 was not moved or used for any purpose on 7 or 8 May 2012. On 9 May 2012 funds were withdrawn from the account, as described in section 5.3.3 below.

5.3.3 Withdrawals on 9 and 10 May 2012

The withdrawals from the Smartrader account ending 874 on 9 and 10 May 2012 were, in summary:

- \$1.5 million restored to the NAB Operating account ending 0891; and
- a total of \$5.5 million (of the \$10.2 million transferred from Equity/ETO CSAs on 7 May 2012) restored to Equity/ETO CSAs. The balance of the amounts transferred from Equity/ETO CSAs on 7 May 2012 appear to have been treated as repayments against the 'BBY Corp' funding balance (refer to the FINREMIT ledger entries as discussed in section 5.2.5).

⁸⁰ The individual transactions represented in the funds flow diagram are set out in the bank statements in **Exhibit 5.7**.

⁸¹ ETO Trust account ending 012 and Equities Trust 2 account ending 415.

We identified email correspondence from the Strategy Manager to the Head of Clearing on 9 May 2012 advising that the “*ETO and Eq Trust accounts*” had been restored (see **Exhibit 5.9**).

5.3.4 Transactions between 16 May 2012 and 29 June 2012

There were no further transactions on the Smartrader account ending 874 until 16 May 2012. Between 16 May 2012 and 29 June 2012 the following transactions occurred:⁸²

- \$6.5 million was deposited into the account from SCMA (refer to **Exhibit 4.19**; this receipt is also shown on the funds flow diagram in section 4.4.1 above);
- \$1.5 million was transferred from the account to Trust account 5 ending 7204;
- the account was used for Equity/ETO Funding Transactions to the Equity/ETO Client Trust account ending 541 between 24 May 2012 and 29 June 2012. The amounts funded in that period appear to have been restored to the Smartrader account in full; and
- the balance of the account on 29 June 2012 (\$10 million) was transferred to Trust account 4 ending 5357 on 29 June 2012 (also shown on funds flow diagram in section 4.4.1 above). The use of these funds once deposited into Trust account 4 is discussed in 4.4.3 above.

Our further investigations into this transaction are described in **Exhibit 5.10**.

5.3.5 The Adjusted BBYFUNDING Ledger

We note that all transactions involving Equity/ETO CSAs illustrated in the funds flow diagram in section 5.3.1 above, other than the transfers to and from the Equities Trust 2 account and the ETO Trust account, are recorded in the Adjusted BBYFUNDING Ledger. The net effect of the transactions to and from the Equities Trust 2 account and the ETO Trust account is nil.

⁸² The remaining activity on the Smartrader account ending 874 related to interest and service charges.

6 The Aquila transaction in June 2014

6.1 Revised funds flow diagram

We have added additional workings to the Aquila funds flow diagram to illustrate the basis for our statement in the CSA Report that it appeared that the opening balance of the Trust 4 account ending 372 on 25 June 2014 included the amounts withdrawn from the Saxo Buffer account ending 356 and the Futures CSA ending 284 on 13 June 2014.⁸³ Our revised funds flow diagram is **Appendix 6.1**.

We note that the bank statement data does not appear to be a reliable record of the order in which transactions actually occurred on a given day.⁸⁴ In particular, it appears that bank statement data obtained from the STG business banking online portal records all credits on a particular day before all debits on that day. Accordingly, we cannot determine, dollar for dollar, which deposits contributed to which payments on a given day.

6.2 CMM-related transfers of \$2.511 million

On page 93 of the CSA Report, we set out a summary of the key funds movements relevant to the Aquila transaction. Section 6.8.6 of the CSA Report refers to a transfer of \$2.511 million from the Facilitation account ending 106 to the Equity/ETO Client Trust account ending 541.⁸⁵

We have identified further email correspondence from the books and records of BBYL which appear to relate to a series of transfers of \$2.511 million following the Aquila transaction:

- An email sent on 17 June 2014 at 5.23 pm in which the amount of \$2,510,910 is described as "*Additional return of ASX Held CMM*" (see **Exhibit 6.1**). This transfer, from the Facilitation account to the Equity/ETO Client Trust account ending 541, can be seen on the revised Aquila funds flow diagram in **Appendix 6.1**.
- An email sent on 18 June 2014 at 8.14 am, the day the same amount was transferred from the General account ending 576 to the Facilitation account ending 106, which states that this payment was "*to restore Facilitation the CMM Funding from previous day*" (see **Exhibit 6.2**). This transfer can be seen on the funds flow diagram in **Appendix 6.1**.
- An email sent on 20 June 2014 at 4.56 pm in which the following statement appears:⁸⁶

"I have reconciled the funds movement following form [sic] the AQA trade and conclude that Ops are required to pay BBY Corp the balance of \$2,510,910.24."

It appears that this email relates to the transfer of funds on 23 June 2014 which is also illustrated on the funds flow diagram in **Appendix 6.1**.

Based on the bank transactions illustrated in **Appendix 6.1** and the emails listed above, it appears that the transfer of \$2,510,910 from the Facilitation account to the Equity/ETO Client Trust account ending 541 on 17 June 2014 was in respect of CMM funded from the '*BBY Corp*' sources indicated in the funds flow diagram for 13 June 2014 (**Appendix 6.1**).⁸⁷ The total amount funded from those sources was \$10,216,946, being exactly the sum of \$2,510,910 and \$7,706,036 (the amount transferred directly from the Facilitation account to Trust Account 4 on 17 June 2014). An explanation for these transfers is that, following the return of CMM by ASX Clear:

- \$2,510,910 was transferred to the Equity/ETO Client Trust account on 17 June 2014 in respect of CMM returned by ASX Clear;
- \$3.17 million was transferred from the Equity/ETO Client Trust account to the General account on the same day, by way of an end of day sweep of the surplus amount;
- \$2,510,910 was transferred from the General account to the Facilitation account the next day to "*restore Facilitation*" the CMM funding from the previous day, in accordance with BBYL's usual practice,⁸⁸ even though the amount was in fact funded from the '*BBY Corp*' sources indicated;
- \$2,510,910 was transferred from the General account to Trust Account 4 on 23 June 2014, after the Head of Operations reconciled the funds movements following the Aquila transaction, by way of return of the remainder of the total amount of \$10,216,946 funded from '*BBY Corp*' sources on 17 June 2014.

⁸³ We have also corrected some start-of-day and end-of-day balances misstated in that diagram.

⁸⁴ Refer limitations set out on page 113 of the CSA Report.

⁸⁵ The reference to Confidential Exhibit 98 in that section should be a reference to Confidential Exhibit 99 to the CSA Report.

⁸⁶ Confidential Exhibit 99 to the CSA Report.

⁸⁷ The '*Total BBY Corp funds*' indicated beneath the heading '*Breakdown of ASX payments*'.

⁸⁸ Refer to Appendix 54 to the CSA Report.

6.3 Saxo and Futures CSA funds

On page 94 of the CSA Report we stated that:

"[i]t would appear that these funds contained \$1.8 million of Saxo CSA funds and \$6.8 million of Futures CSA funds"

The reference to "these funds" is a reference to the totality of the \$2.0 million, \$1.0 million, \$4.5 million and \$3.527 million shown on page 100 of the CSA Report. The end-of-day balance of the Trust 4 account ending 372 on 25 June 2014 was \$9,555.⁸⁹ The withdrawals shown on page 100 of the CSA Report practically exhausted the funds on deposit in the Trust 4 account ending 372. It is not possible to apportion the \$6.8 million Futures monies or the \$1.8 million Saxo monies between those individual transfers.

⁸⁹ Not \$2.01 million as set out on page 100 of the CSA Report. This correction is reflected in the revised funds flow diagram in Appendix 6.1.

7 Update to the 16 December 2014 transaction of interest

7.1 Further investigation of the 16 December 2014 transaction

We have incorporated additional funds movements relating to the 16 December 2014 transaction, set out at page 88 of the CSA Report, into the funds flow diagram in section 7.3 below.⁹⁰ From those movements it appears that the amount of \$4,092,210 transferred from the General Trust account ending 002 to the Equity/ETO Client Trust account ending 541 on 16 December 2014 was restored, indirectly, to the General Trust account ending 002 as part of a larger transfer of \$4,868,209 on 17 December 2014.

The payment of \$4,868,209 appears, arithmetically, to comprise the following amounts paid into either the Equity/ETO Client Trust account ending 541 or the Equities Trust 2 account ending 415 on 16 or 17 December 2014:

- \$4,092,210 transferred from the General Trust account ending 002 to the Equity/ETO Client Trust account ending 541 on 16 December 2014;
- \$504,800 transferred from the NAB Operating account ending 0891 to the Equities Trust account 2 ending 415 on 16 December 2014;
- \$221,199 transferred from the NAB Trust Account 1 ending 3546 to the Equities Trust account 2 ending 415. It appears that this amount was sourced on the same day from NAB Trust 3 account ending 5349 which contained, at about that time, client deposits in respect of a capital raising by Phytotech Medical Limited underwritten by BBYL;⁹¹ and
- \$50,000 transferred from the Equity/ETO Client Trust account ending 541 to the Equities Trust account 2 ending 415 on 17 December 2014.

It is not clear why funds from NAB Trust 1 account ending 3546 (\$221,199) and the Equity/ETO Client Trust account ending 541 (\$50,000) appear to have been paid (as part of the gross sum of \$4,868,209) to the General Trust account ending 002, rather than to the accounts from which they were originally transferred. The amount of \$504,800 transferred from the NAB Operating account ending 0891 on 16 December 2014 appears to have been repaid to the NAB Operating account ending 0891 via the NAB Trust 3 account ending 349 on 18 December 2014.

7.2 Further analysis on the General Trust account ending 002

We reviewed activity within on General Trust account ending 002 in and around December 2014, in order to determine whether funds were restored to product line CSAs following the return of \$4.8 million to the General Trust account ending 002 on 17 December 2014.

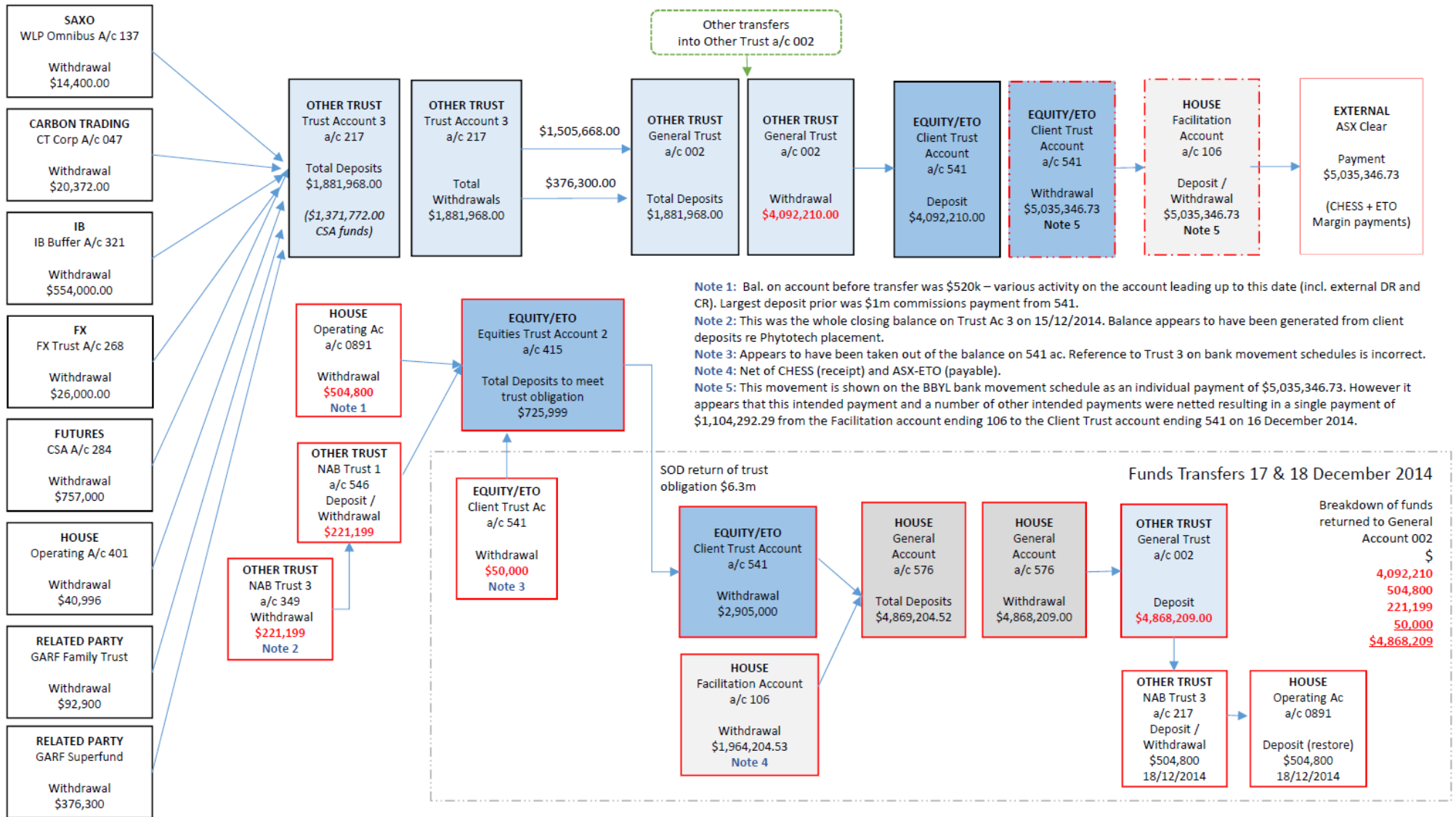
We identified only one instance after the return of \$4.8 million to the General Trust account ending 002 on 17 December 2014 where funds appear to flow from the General Trust account ending 002 to a CSA. That was a transfer of \$600,000 to the FX Trust account ending 268 (via Trust Account 3 ending 217) on 18 December 2014. From our email review, it appears that these funds were withdrawn from the General Trust account ending 002 specifically to meet a payment of \$600,000 to an FX client. This transaction is set out in more detail in section 8 below. We have not identified any information that would suggest that the funds transferred from the General Trust account ending 002 to the FX trust account were transferred for the purpose of restoring the amount of \$26,000 withdrawn from the FX Trust account ending 268 on 16 December 2014.

As we have not identified any funds movements which suggest that the amounts initially transferred from various CSAs on 16 December 2014 were returned to those respective CSAs from the General Trust Account ending 002, we continue to classify the 16 December 2014 transaction as a 'transaction of interest'.

⁹⁰ This revised funds flow diagram supersedes the funds flow diagram at page 88 of the CSA Report.

⁹¹ Based on our review of the bank statement descriptions of the deposit transactions into this account around this time.

7.3 Revised funds flow diagram

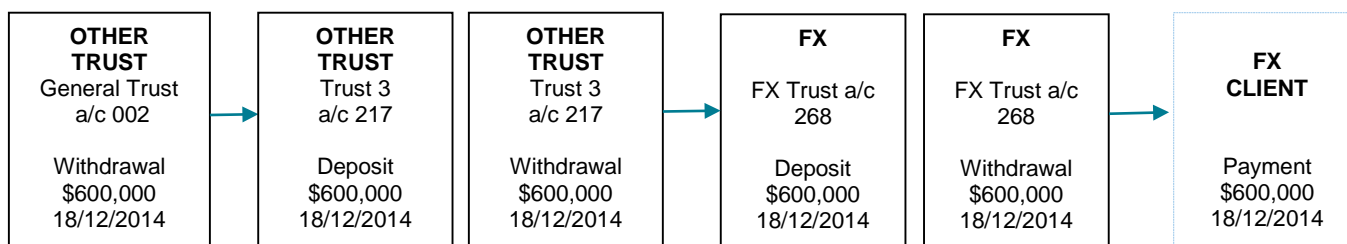


Note 1: Bal. on account before transfer was \$520k – various activity on the account leading up to this date (incl. external DR and CR). Largest deposit prior was \$1m commissions payment from 541.
Note 2: This was the whole closing balance on Trust Ac 3 on 15/12/2014. Balance appears to have been generated from client deposits re Phytotech placement.
Note 3: Appears to have been taken out of the balance on 541 ac. Reference to Trust 3 on bank movement schedules is incorrect.
Note 4: Net of CHES (receipt) and ASX-ETO (payable).
Note 5: This movement is shown on the BBYL bank movement schedule as an individual payment of \$5,035,346.73. However it appears that this intended payment and a number of other intended payments were netted resulting in a single payment of \$1,104,292.29 from the Facilitation account ending 106 to the Client Trust account ending 541 on 16 December 2014.

8 Further transactions of interest in December 2014

During our further investigations we identified two further transactions of interest which are set out below.

8.1 OTHER TRUST to FX \$0.6 million (18 December 2014)



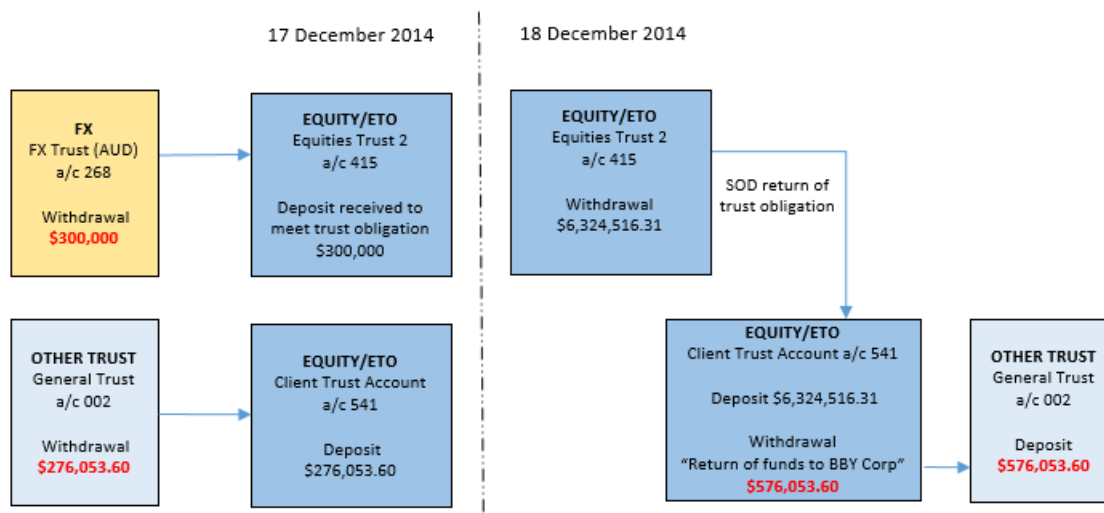
The above transfer of \$600,000 from the General Trust account ending 002 to the FX Trust account ending 268, via the Trust 3 account ending 217, was identified during further analysis of the funds movements within the General Trust account ending 002 discussed in section 7 above.

We identified email correspondence in relation to this payment, including a STG business banking online payment confirmation report confirming the client name and particulars of the payment (see **Exhibit 8.1**). The correspondence contains the statement "No cash today" which suggests that there may have been insufficient funds in the FX CSA on the morning of 18 December 2014 to make this client payment.

From our review of the bank statements for the FX Trust account ending 268, we note that the opening balance on that CSA on 18 December 2014 was \$267,825.45. Taking into account the other transactions in and out of that account on 18 December 2014, it appears that the client payment of \$600,000 could not have been made but for the deposit of \$600,000 received from the General Trust account ending 002 (via the Trust 3 account) that day. We have not identified any transactions which suggest these funds were returned to the General Trust account from the FX CSA following this transfer. Accordingly, we classify this transaction as a transaction of interest.

8.2 FX to Equity/ETO \$0.3 million (18 December 2014)

We identified the transaction shown in the diagram below.



On 17 December 2014, \$300,000 was transferred from the Australian dollar denominated FX CSA (FX Trust account ending 268) to the Equities Trust 2 account ending 415, apparently so that the balance of the Equities Trust 2 account was at least the amount BBYL regarded itself as obliged to hold for its ETOs clients. An extract from the BBYL bank movements schedule⁹² for 17 December 2014 is set out below.

⁹² "Copy of Bank Movements 2013-14 FY 2.xlsx".

17/12/2014	(\$6,343,955.69)	Funding Transfer to Trust	DR TRUSTSTG CR TRUST2	(\$6,343,955.69)	Funds tfr to TRUSTSTG
	\$0.00			\$0.00	Balance
	\$300,000.00				
	\$50,000.00				
	\$5,974,516.31	Funding transfer from Trust	DR TRUST2 CR TRUSTSTG	\$5,974,516.31	Trust requirement today
Closing Balance	\$6,324,516.31			\$6,324,516.31	Required EOD Balance

On 18 December 2014, and consistently with BBYL's practice in this period, BBYL transferred an amount equal to the end of day trust obligation on 17 December 2014 from the Equities Trust 2 account ending 415 to the Equity/ETO Client Trust account ending 541. A subsequent transfer of \$576,053.60 was made from the Equity/ETO Client Trust account ending 541 to the General Trust account ending 002 with description "Return of funds to BBY Corp".

The amount of \$576,053.60 appears to arithmetically comprise the \$300,000 transferred to the Equities Trust 2 account ending 415 from the FX Trust account ending 268 and a separate transfer of \$276,053.60 made from the General Trust account ending 002 to the Equity/ETO Client Trust account ending 541 on the same day. As the funds do not appear to have been restored to the FX CSA, we classify this transaction as a transaction of interest.

9 Analysis of IB funds movements, the WLP Omnibus account and the IB Buffer account

9.1 Background

In the CSA Report we noted that the WLP Omnibus account ending 137 was an account which received direct deposits from Saxo clients but which also appeared to have been utilised by IB clients who deposited funds into that account (prior to those funds being transferred to the IB Buffer account ending 321).⁹³ We also noted that the IB Buffer account interacted regularly with the WLP Omnibus account in respect of bulk client transactions.⁹⁴

We have conducted further investigations into the manner in which BBYL operated the WLP Omnibus account and the IB Buffer account, as well as the sources from which BBYL funded payments made to Interactive Brokers LLC ("**IBL**"). Our analysis is set out in sections 9.2 (*Overview of the WLP Omnibus account*), 9.3 (*Overview of the IB Buffer account*), 9.4 (*Funds transferred to IBL*) and 9.5 (*Analysis of IB allocation activity*) below.

Unless expressly stated, all percentages in section 9 of this report were calculated by value of transactions (and not by number of transactions).

9.2 Overview of the WLP Omnibus account

9.2.1 Introduction

We analysed transactions on the WLP Omnibus account ending 137 between 30 May 2014 and 15 May 2015 in order to determine the main BBYL bank accounts with which that account interacted, and the proportion of the activity on that account that appears to relate to Saxo client trading activity and IB client trading activity respectively.⁹⁵

We note at the outset that our analysis shows that 33% of all Saxo clients also held an IB account and that 71% of all IB clients also held a Saxo account, as shown in the following table:⁹⁶

BBYL - Saxo and IB client profile	
No. Saxo clients with IB accounts	3,835
No. Saxo clients without IB accounts	7,784
Total No. Saxo clients	11,619
<i>% of Saxo clients with IB accounts</i>	<i>33%</i>
No. IB clients with Saxo accounts	3,835
No. IB clients without Saxo accounts	1,559
Total No. IB clients	5,394
<i>% of IB clients with Saxo accounts</i>	<i>71%</i>

Approximately 87% of IB clients with claims as at 17 May 2015 also have a Saxo product line account. Approximately 33% of Saxo clients with claims as at 17 May 2015 also have an IB product line account.

9.2.2 Methodology

Given the level of activity on the WLP Omnibus account ending 137, we have not investigated every transaction. In order to determine the nature of transactions on the WLP Omnibus account ending 137, we analysed the bank statement data for the account for the period 30 May 2014 to 15 May 2015 in the following ways:

1. We used the transaction matching matrix methodology (described in section 5.2.4 of the CSA Report as "Method A") to identify transactions between the WLP Omnibus account and other BBYL bank accounts in that period (the "**Transaction Matching Process**"); and
2. We conducted a matching analysis between the bank statement description data for the WLP Omnibus account ending 137 in that period and client names and account numbers (the "**Client Matching Process**") for Saxo and IB clients.⁹⁷ This analysis

⁹³ CSA Report, page 36.

⁹⁴ CSA Report, page 71.

⁹⁵ This period is the same period we analysed using the transaction matching matrix described in section 5.2.4 of the CSA Report as "Method A".

⁹⁶ We relied on a client listing of Saxo clients located in the books and records of BBYL, created on 27 January 2015 (according to metadata), which lists each Saxo client's corresponding IB account (if any), and on a record of the total number of IB accounts retrieved from the IB Platform.

⁹⁷ This analysis was based on the client listing referred to in footnote 96. Our methodology considered a transaction description as "matched" with a client account if the description contained an identifiable reference to a client account number or name matching an entry on the client listing.

was performed in order to determine the proportion of transactions on the WLP Omnibus account ending 137 in the relevant period which appeared to relate to Saxo and IB client activity. The limitations of this analysis are set out in section 14. We allocated all transactions to one of the following mutually exclusive categories:

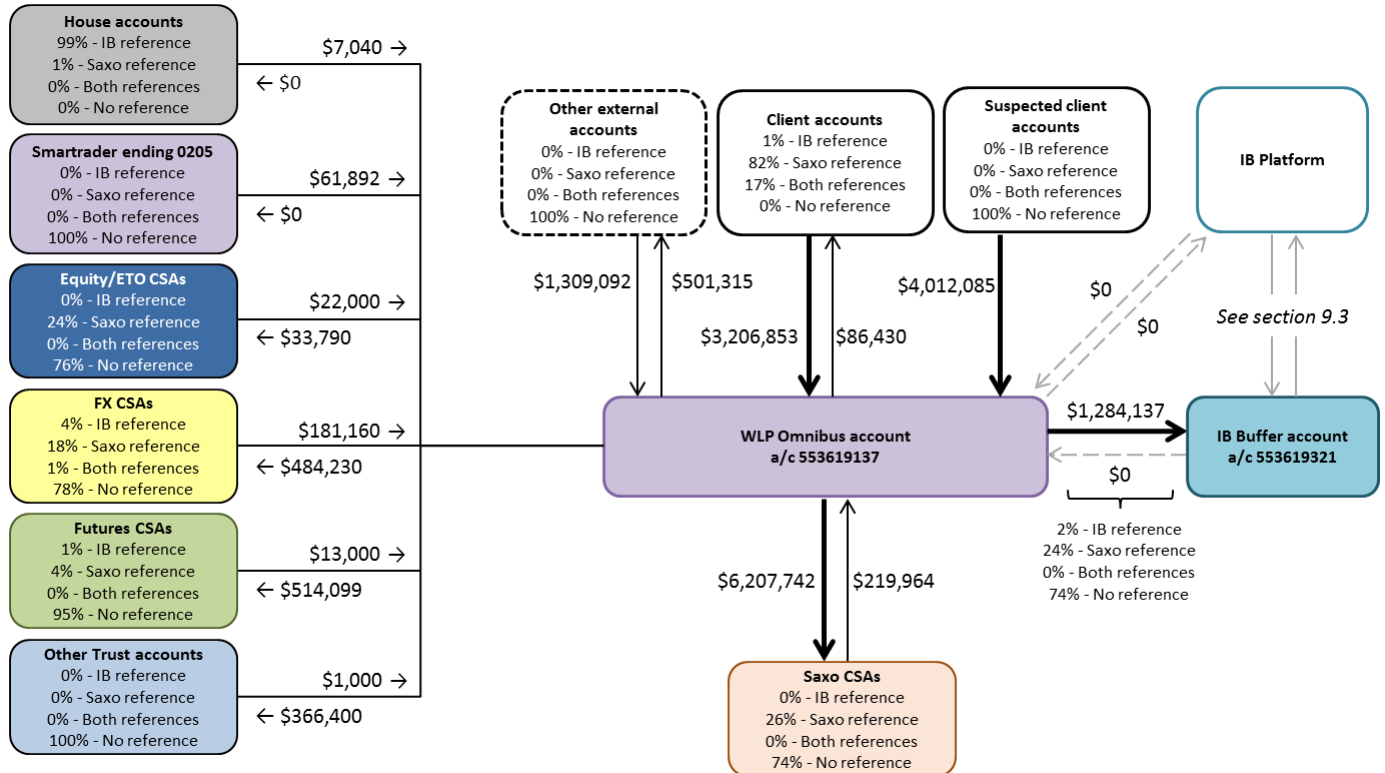
Category	Description
Saxo reference	The bank statement description matched only with a Saxo account reference.
IB reference	The bank statement description matched only with an IB account reference.
Both references	The bank statement description matched with both an IB account reference and a Saxo account reference.
No reference	The bank statement description did not match with any IB or Saxo account reference because there was no account reference in the description.

9.2.3 Analysis of the WLP Omnibus account: 30 May 2014 to 15 May 2015

Below we provide a snapshot of transactions on the WLP Omnibus account ending 137 in the period 30 May 2014 to 15 May 2015, generated as follows:

- Transactions identified between the WLP Omnibus account ending 137 and BBYL bank accounts, based on transactions matched using the Transaction Matching Process at high and medium–high match qualities ("**internal transactions**"). We considered transactions matched at low match quality and transactions not matched at any quality to be "**external transactions**".⁹⁸
- Transactions that appear to be between the WLP Omnibus account ending 137 and "**client accounts**", based on applying the Client Matching Process to external transactions.⁹⁹
- Transactions that appear to be between the WLP Omnibus account ending 137 and "**suspected client accounts**", based on review of bank statement descriptions for external transactions that were not matched by the Client Matching Process, for descriptions which appear to be referable to client deposits (but do not contain client account references).

The funds flow diagram below was prepared on the basis set out above and is intended to provide an illustration of activity on the WLP Omnibus account ending 137. It is not intended to be definitive, which would require bank confirmation of all underlying transactions.



⁹⁸ Because transactions matched at medium–low quality may be internal transactions or external transactions (but would require bank confirmation), we have not illustrated those transactions. For medium–low quality matches, there are often multiple possible remitting or receiving accounts, requiring further investigation or bank confirmation.

⁹⁹ This was the period of electronic bank statement data that we analysed using the Transaction Matching Process to develop the funds transfer matrix.

The proportion of transactions matched to IB account references, Saxo account references and both Saxo and IB account references as shown in the diagram above are based on applying the Client Matching Process to all transactions between the relevant accounts (that is, in both directions).

The average account balance for the WLP Omnibus account ending 137 was \$283,163, with 2,149 transactions during the period 30 May 2014 to 15 May 2015. Based on the diagram above (and by reference to the categories of transactions described and defined above) it can be seen that, in that period:

1. The most significant inflows to the WLP Omnibus account ending 137 are from client accounts (external transactions matched by the Client Matching Process) and suspected client accounts, and the most significant outflows are to the Saxo Buffer account ending 356 and the IB Buffer account ending 321. We note that:
 - (a) the total value transferred from the IB Buffer account ending 321 and the Saxo Buffer account ending 356 to the WLP Omnibus account ending 137 (nil and \$219,964 respectively) is low compared with the total value transferred from the WLP Omnibus ending 137 account to each of those accounts (\$1.3 million and \$6.2 million respectively);¹⁰⁰ and
 - (b) the total value transferred from external accounts, that appear to be client accounts, to the WLP Omnibus account ending 137 is high compared with the total value transferred from that account to external accounts that appear to be client accounts.

This, together with the low value of transactions from the WLP Omnibus account ending 137 to client accounts, suggests that the WLP Omnibus account ending 137 was predominantly used to receive payments from clients rather than make payments to clients.

2. For a large proportion (by value) of the internal transactions, we were unable to match the transaction with an IB or Saxo account reference. This was the case for the majority of transactions between the WLP Omnibus account ending 137 and the IB Buffer account ending 321, where 74% of the total value of transactions were not matched with an IB or Saxo account reference, and for the majority of payments between the WLP Omnibus account ending 137 and the Saxo buffer account ending 356, where 74% of the total value of transactions were not matched. This appears to be the result of bulk transfers between those accounts which, because they are in respect of multiple clients, do not have transaction descriptions that match with individual client account references (refer to section 9.5.1 below).

In **Appendix 9.1** we set out a breakdown of internal transactions flowing into the WLP Omnibus account ending 137, including those not matched to a client account by the Client Matching Process. Of those transactions which were not matched to a client account, \$325,365 (91%) are accounted for as follows:

- \$209,120 (59%) relates to a single transfer from the Saxo Buffer account ending 356 with the description "INTERNET DEPOSIT|EB/WLP TO COVER PAYMENT". This transaction was reported on page 74 of the CSA Report. As set out on page 74 of the CSA Report, on the same day \$200,040 was transferred back to the Saxo Buffer account (reducing the net effect of the original transfer to \$9,080);
 - \$61,982 (17%) relates to transfers from the Smartrader account ending 0205 which, based on the analysis we describe in section 9.5.2 below, appears to have been the NAB account used by BBYL for the same purposes as the WLP Omnibus account prior to the migration of BBYL's bank accounts from NAB to STG;
 - \$54,263 (15%) relates to transfers from the FX Trust account ending 268, comprising:
 - 1 transaction of \$50,000 with the description 'CUSTOMER DEPOSIT';
 - 7 transactions which appear to be bank fees totalling \$263; and
 - 2 unidentifiable transactions totalling \$4,000.
3. For the transfers from the WLP Omnibus account ending 137 to the IB Buffer account ending 321 for which there was only a Saxo account reference, we were nonetheless able to confirm in all cases that the corresponding Saxo client was also an IB client of BBYL. In view of this, and given the significant proportion of clients with IB accounts who also held Saxo accounts, we do not consider those transactions to be evidence of non-BAU transactions between the WLP Omnibus account ending 137 and the IB Buffer account ending 321. This is supported by the analysis of all deposits into the IB Buffer account ending 321 in a 2-month period that we describe in section 9.5.1 below.

9.2.4 Transactions of interest

During our analysis and review of transactional activity on the WLP Omnibus account ending 137, we did not identify any non-BAU transactions or transactions using generic descriptions not set out in the CSA Report. We note that the funds flow diagram above includes the transaction between the WLP Omnibus account ending 137 and the Saxo Buffer account ending 356 described above and reported on page 74 of the CSA Report.

¹⁰⁰ As explained above, the total amount \$219,964 includes a transfer of \$209,120 which is offset by an opposite transfer of \$200,040 on the same day, reducing the net effect of that transaction to \$9,080.

9.2.5 Summary

Our findings support the proposition that the WLP Omnibus account ending 137 was used as a “pass-through” account for client deposits. That is, clients appear to have made payments to that account that were subsequently transferred to either the Saxo Buffer account ending 356 (if to be credited to a Saxo account) or the IB Buffer account ending 321 (if to be credited to an IB account). Because those subsequent transfers often occurred in bulk, a large proportion of the transactions between the WLP Omnibus account ending 137, the Saxo Buffer account ending 356 and the IB Buffer account ending 321 were not matched by the Client Matching Process.

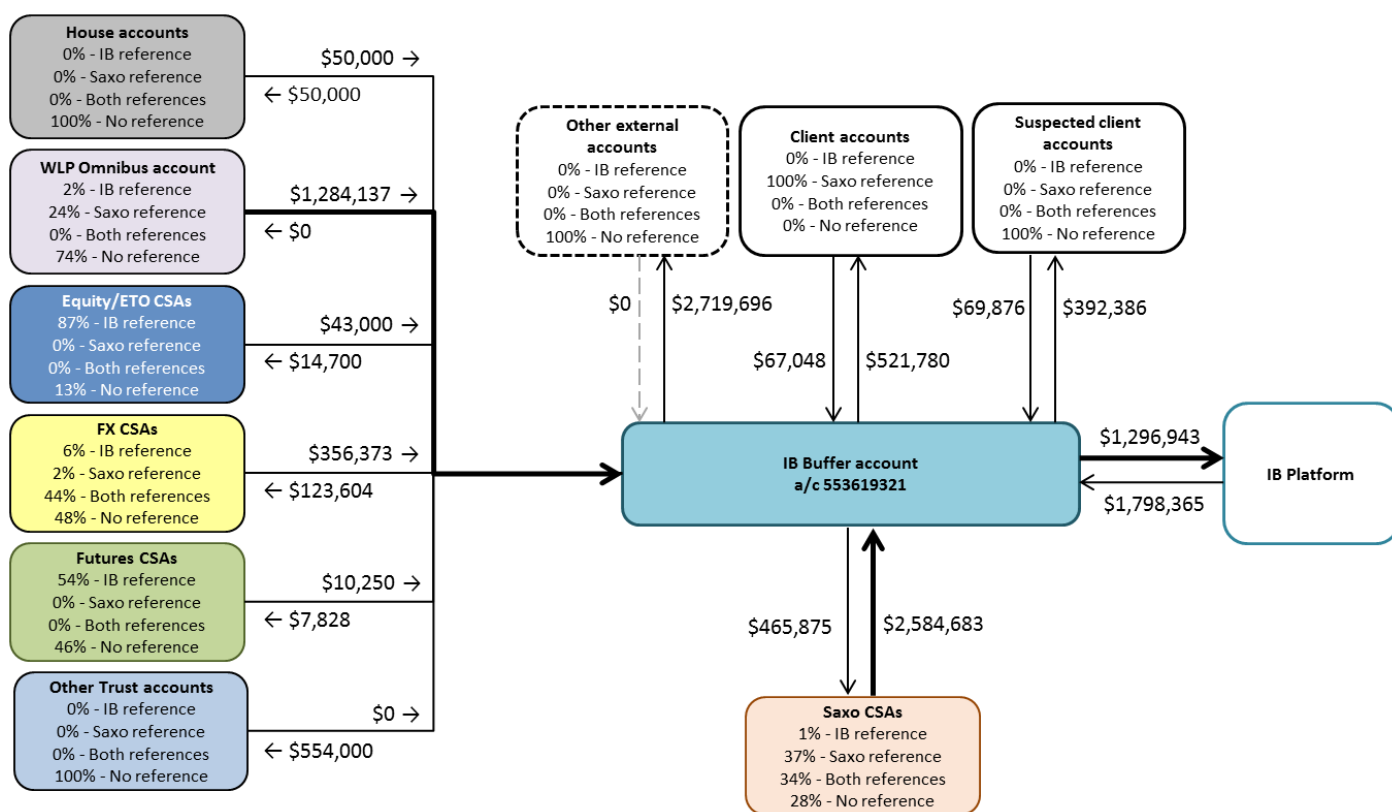
9.3 Overview of the IB Buffer account

9.3.1 Introduction and methodology

We analysed transactions on the IB Buffer account ending 321 between 30 May 2014 and 15 May 2015 in order to determine the BBYL bank accounts with which that account interacted.¹⁰¹ Given the volume of transactions on this account, we have not investigated each transaction. We analysed the bank statement data for the IB Buffer account ending 321 using the Transaction Matching Process and the Client Matching Process described in section 9.2.2 above. The limitations of this analysis are set out in section 14.

9.3.2 Analysis of the IB Buffer account: 30 May 2014 to 15 May 2015

Below we provide a snapshot of transactions on the IB Buffer account ending 321 in the period 30 May 2014 to 15 May 2015. The funds flow diagram below was prepared on the same basis as the diagram in section 9.2.3 above. It is intended to provide an illustration of activity on the IB Buffer account ending 321. It is not intended to be definitive, which would require bank confirmation of all underlying transactions.



The average account balance for the IB Buffer account ending 321 was \$396,519, with 841 transactions during the period 30 May 2014 to 15 May 2015. Based on the diagram above (and by reference to the categories of transactions described and defined in section 9.2.3 above) it can be seen that, in that period:

1. All transactions between the IB Buffer account ending 321 and client accounts that were matched by the Client Matching Process (42 transactions) had descriptions which contained Saxo account references. However, we note that all of those transactions related to clients for whom we could also identify an IB account.

¹⁰¹ This was the period of electronic bank statement data that we analysed using the Transaction Matching Process to develop the funds transfer matrix.

- The amount of deposits that appear to be client deposits (\$67,048 matched by the Client Matching Process and \$69,876 suspected client accounts) is very low compared with the total amounts transferred from Saxo CSAs and/or the WLP Omnibus account ending 137 (\$2.6 million and \$1.3 million respectively). This, and the fact that we did not identify any transfers from the IB Buffer account ending 321 back to the WLP Omnibus account ending 137, is consistent with the WLP Omnibus account having been operated as a "pass-through" account for IB client deposits.
- Although there were significant transfers between the WLP Omnibus account ending 137 and the IB Buffer account ending 321, and between the IB Buffer account ending 321 and the Saxo Buffer account ending 356, with references only to Saxo accounts, we have determined that in all of those cases the references to Saxo accounts related to clients who in fact also held an IB account.

Refer to **Appendix 9.1** for a breakdown of the internal transactions flowing into the IB Buffer account.

Use of Saxo account references

We performed an analysis of all transactions on the IB Buffer account ending 321 between 30 May 2014 and 15 May 2015 to determine whether transactions with only Saxo account references in fact related to clients of BBYL who also held IB accounts.

In the table below we set out the results of applying the Client Matching Process to all transactions on the IB Buffer account ending 321 between 30 May 2014 and 15 May 2015:

BBYL - IB Buffer account activity - analysis of transaction description client account references May 2014 to May 2015										
Client category	Saxo reference		IB reference		Both Saxo/IB reference		No reference		Total	
	Volume	Value	Volume	Value	Volume	Value	Volume	Value	Volume	Value
Deposits	103	1,102,970	16	207,817	72	766,124	356	4,207,008	547	6,283,919
Withdrawals	84	(931,546)	-	-	23	(71,348)	187	(5,914,097)	294	(6,916,991)
Net total	187	171,423	16	207,817	95	694,777	543	(1,707,089)	841	(633,073)

For each of those transactions matched to a Saxo account reference (only) or an IB account reference (only), we conducted further investigation to determine whether the client was a Saxo client (only), an IB client (only) or a Saxo and IB client. The results are set out in the following table:

BBYL - IB Buffer account activity - transaction descriptions matched to client accounts after further investigation May 2014 to May 2015										
Client category	Saxo client		IB client		Saxo & IB client		No reference		Total	
	Volume	Value	Volume	Value	Volume	Value	Volume	Value	Volume	Value
Deposits	-	-	-	-	191	2,076,911	356	4,207,008	547	6,283,919
Withdrawals	1	(3,001)	-	-	106	(999,893)	187	(5,914,097)	294	(6,916,991)
Net total	1	(3,001)	-	-	297	1,077,018	543	(1,707,089)	841	(633,073)

This analysis indicates that almost all deposits made into the IB Buffer account ending 321 containing a Saxo account reference (only) nonetheless related to clients holding both a Saxo and an IB account.

We also conducted a more detailed analysis of the IB Buffer account ending 321 funds flows in a 2-month period (described in section 9.5.1 below) and were able to confirm from that analysis that:

- almost all transfers to the IB Buffer account ending 321 from the Saxo Buffer account ending 356 in that period appeared to be referable to the transfer of funds between a Saxo account and an IB account held by the same client; and
- almost all transfers to the IB Buffer account ending 321 from the WLP Omnibus account ending 137 in that period appeared to be referable to a client who had deposited funds into the WLP Omnibus account ending 137 that were subsequently transferred to the IB Buffer account ending 321.

In light of the above, we do not regard the proportion of transfers from the WLP Omnibus account ending 137 and the Saxo Buffer account ending 356 to the IB Buffer account ending 321 containing only Saxo client references to be itself indicative of non-BAU transactions.

9.3.3 Transfers between the WLP Omnibus account and the IB Buffer account

We note that:

- we did not identify any direct transfers made from the WLP Omnibus account ending 137 to IBL, or to the WLP Omnibus account ending 137 from IBL (refer to section 9.4 below);
- the value of deposits from client accounts or suspected client accounts into the IB Buffer account ending 321 in the period 30 May 2014 to 15 May 2015 was approximately \$137,000, compared with approximately \$1.3 million transferred from the WLP Omnibus account ending 137 to the IB Buffer account ending 321 in the same period; and
- we identified regular bulk transfers from the WLP Omnibus account ending 137 to the IB Buffer account ending 321 with descriptions in the form "WLP/IB bulk".

The above suggests that IB client deposits were received into the WLP Omnibus account and subsequently transferred, often in bulk transfers, to the IB Buffer account (from which funds were paid to, and into which funds were received from, IBL). This was confirmed for the period 4 August 2014 to 26 September 2014 by the more detailed analysis we describe in section 9.5 below and accounts for the large proportion of transfers from the WLP Omnibus account to the IB Buffer account not matched with any client account reference by the Client Matching Process (\$954,697, 74%).

9.3.4 Transactions of interest

During our analysis and review of transactional activity on the IB Buffer account, we did not identify any non-BAU transactions or transactions using generic descriptions not set out in the CSA Report. We note that the funds flow diagram above includes the transfer of \$554,000 from the IB Buffer account to Trust account 3 ending 217 reported on page 88 of the CSA Report.

9.4 Funds transferred to IBL

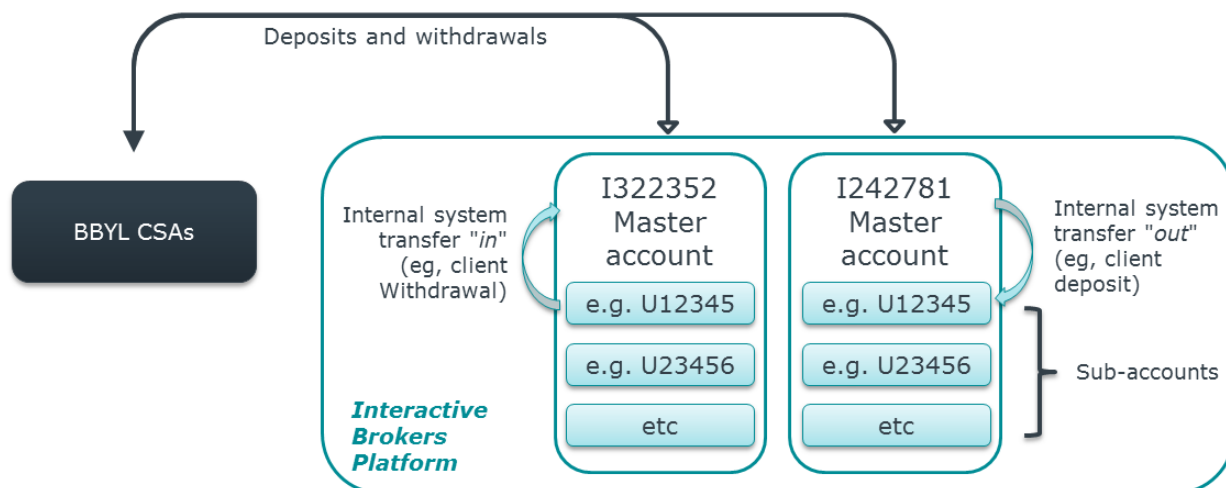
9.4.1 Introduction

We have conducted further analysis of the IB product line in order to understand the funds flows between BBYL and IBL, and the manner in which BBYL dealt with deposits by clients in the IB product line. Our analysis was facilitated by access to the IB Platform (which maintains "master" accounts for BBYL as well as sub-accounts for BBYL's underlying clients) and to a record of transfers between BBYL and IBL, provided to us by IBL. Master accounts on the IB Platform are designated "I" accounts. IBL maintained master accounts "I322352" and "I242781" for BBYL. Each master account is associated with many sub-accounts, which are designated "U" accounts. BBYL master account "I322352" has 1,226 active sub-accounts and master account "I242781" has 87 active sub-accounts.¹⁰²

The reporting capability of the IB Platform segregates transactions on the platform into two categories:

- deposits and withdrawals; and
- internal system transfers.

The IB Platform uses the term "deposits" to describe funds transferred from BBYL to IBL and credited to a master account. The term "withdrawals" is used to describe funds transferred from IBL to BBYL and debited to a master account. An internal system transfer is a transfer of funds between a BBYL master account and a client sub-account maintained on the IB Platform. These processes are illustrated in the diagram below:



An internal system transfer "in" refers to a system transfer of funds from an IB client sub-account on the IB Platform to a BBYL master account (that is, into the master account). An internal transfer "out" refers to funds transferred from the BBYL master account to an individual IB client sub-account on the IB Platform (that is, out of the master account to a sub-account).

Information about activity on the BBYL master accounts and client sub-accounts maintained on the IB Platform can be obtained through the reporting capabilities of the platform. We retrieved all data residing on the IB Platform relating to deposits and withdrawals and internal system transfers from January 2011 to May 2015 for the master accounts "I322352" and "I242781" via the IB Platform. Refer to **Exhibit 9.1** for a listing of all deposits and withdrawals and internal system transfers in that period.

Based on our review of that information, it appears that payments to or from an IB client sub-account are only made by way of internal system transfer from the corresponding master account. It appears that payments cannot be directly credited to a client's IB Platform sub-account without the funds first being credited to the BBYL IB Platform master account.

¹⁰² Active client accounts as reported by the IB Platform as at 29 April 2016.

In the sections that follow we set out:

- an overview of the amount of deposits, withdrawals and internal system transfers on BBYL's master accounts;
- the outcome of our investigations into:
 - the way BBYL funded deposits made to IBL;
 - the way BBYL allocated funds to client sub-accounts on the IB Platform; and
- the results of our analysis of bank statement data for the IB Buffer account (in section 9.3 above).

9.4.2 Overview of deposits, withdrawals and internal system transfers

Below is a summary of the volume and value of all deposits and withdrawals to and from BBYL's master accounts "I322352" and "I242781" on the IB Platform for the period January 2011 to May 2015.¹⁰³

BBYL - Schedule of BBYL Deposits and Withdrawals to/from the IB Platform January 2011 - May 2015					
Currency	No. Deposits	Value Deposits	No. Withdrawals	Value Withdrawals	Net deposit/(withdrawal)
AUD	56	7,426,943.08	70	(9,526,536.40)	(2,099,593.32)
USD	42	795,670.05	51	(1,562,964.49)	(767,294.44)
CAD	2	2,078.11	1	(4,050.00)	(1,971.89)
CHF	1	1,718.88	-	-	1,718.88
EUR	7	22,059.31	5	(148,843.07)	(126,783.76)
GBP	-	-	1	(685.00)	(685.00)
HKD	1	21,949.47	1	(8,953.69)	12,995.78
NZD	4	23,728.35	3	(38,360.00)	(14,631.65)
SGD	8	222,784.18	136	(9,144,599.84)	(8,921,815.66)

Below is a summary of the volume and value of all internal transfers between the BBYL IB Platform master accounts and individual sub-accounts for the period January 2011 to May 2015:

BBYL - Schedule of all Internal Transfers In/Out of BBYL Client Accounts on the IB Platform January 2011 - May 2015					
Currency	No. transfer out	Value transfers out	No. transfers in	Value transfers in	Net value Out/(In)
AUD	2,388	26,073,717.10	3,319	(24,456,606.12)	1,617,110.98
USD	332	730,272.45	391	(1,061,873.78)	(331,601.33)
CAD	15	(105.01)	11	(1,435.66)	(1,540.67)
CHF	6	(1,718.88)	45	(6,576.20)	(8,295.08)
EUR	15	149,018.37	133	(39,931.22)	109,087.15
GBP	3	83,004.64	2	(82,319.64)	685.00
HKD	2	(21,979.07)	1	(273.00)	(22,252.07)
JPY	23	1,339,753.23	48	(1,422,573.23)	(82,820.00)
NZD	16	107,612.45	31	(310,718.30)	(203,105.85)
SGD	132	9,090,382.50	-	-	9,090,382.50

We note that the total amount of internal system transfers "in" and "out" in this period in Australian dollars is significantly greater than the total amounts deposited and withdrawn by BBYL (that is, the amounts actually transferred between BBYL and IBL). This suggests to us that BBYL likely:

- made payment from the IB Buffer account to clients who requested a withdrawal of funds (after performing an internal system transfer "in") without actually withdrawing that amount from IBL; and/or
- credited the sub-accounts of clients who had deposited cash into the IB Buffer account without actually transferring that amount from the IB Buffer account to IBL.

To the extent that withdrawals requested by IB clients in a given period were matched by deposits by other IB clients in the same period, BBYL could "recycle" the funds requested to be withdrawn (and transferred into the master account) by performing an internal system transfer "out" to reallocate those funds to the sub-accounts of clients who had deposited funds in the IB Buffer account. This practice would also be consistent with the name "IB Buffer account", since it uses the balance of the IB Buffer account and the master accounts as a "buffer" to manage client withdrawals and payments.

¹⁰³ Source data retrieved electronically from the IB Platform on 30 March 2016.

9.4.3 Investigation of the IB Deposit Sample

In order to determine how deposits to the IB Platform were allocated to client sub-accounts and how those deposits were funded by BBYL, we investigated a sample of deposits to the IB Platform comprising:

- all deposits (that is, transfers of funds to IBL) greater than 100,000 (denominated in any currency); and
- a random sample of ten deposits of less than 100,000 (denominated in any currency),

made to the IB Platform between January 2011 and May 2015. Using this sampling methodology, 39 deposits were selected for review out of a total of 121 deposits (the **IB Deposit Sample**). The IB Deposit Sample represents 83% of the value of all AUD deposits, 40% of the value all USD deposits and 61% of the value of all SGD deposits to the IB Platform in that period, as set out in the following table:¹⁰⁴

BBYL - IB deposit sample coverage statistics	
AUD transactions	Value of transactions
Sample AUD deposits	6,146,943
Total AUD deposits to Platform	7,426,943
<i>AUD deposits investigated</i>	83%
USD transactions	
Sample USD deposits	315,238
Total USD deposits to Platform	795,670
<i>USD deposits investigated</i>	40%
SGD transactions	
Sample SGD deposits	136,372
Total SGD deposits to Platform	222,784
<i>SGD deposits investigated</i>	61%

To investigate each transaction in the IB Deposit Sample, we reviewed the bank statement data and email correspondence to identify the BBYL bank account from which each deposit was funded; examined the transaction description for identifying client information (and examined any activity on the client's IB sub-account at around the time of the deposit); conducted searches of the BBYL books and records to locate any relevant email correspondence or daily account ledgers in respect of the payment made to the IB Platform; and reviewed IB Platform activity statements to verify amounts received by IB and the subsequent allocation(s) to client sub-account(s).

Based on our investigation of the IB Deposit Sample, we note that deposits made from BBYL to the IB Platform master account appear to have originated from the following BBYL accounts:

- Smartrader account ending 6087 (in the period July 2012 to April 2013);
- Smartrader account ending 0205 (on 21 February 2011 and 19 October 2012);
- eBridge Buffer account ending 0256 (in September 2012 and March 2013);
- IB Buffer account ending 321 (in the period May 2013 to March 2015);
- AUD FX Trust account ending 268 (in June 2013 and March 2015);
- FX Trust SGD account ending SGD01 (in the period November 2014 to March 2015);
- WLP Omnibus account ending 137 (on 2 October 2014);
- Saxo Buffer account ending 356 (on 2 February 2015); and
- FX Trust USD account ending USD01 (on 31 July 2014 and 6 May 2015).

For each deposit in the IB Deposit Sample we examined the allocation of funds to individual client accounts on the IB Platform until the next deposit of the same currency was made to the IBL. This analysis identified two processes by which BBYL distributed deposits to individual client sub-accounts. Those processes, which we refer to as **Process A (single client allocation)** and **Process B (multiple client allocations)**, are described by reference to examples in sections 9.4.4 and 9.4.5 below.

Based on our investigations into the IB Deposit Sample:

1. 15 deposits in the sample (totalling AUD1,796,943, SGD136,372 and USD315,238) were allocated to sub-accounts via Process A (single client allocation); and
2. 24 deposits in the sample (totalling AUD4,350,000) were allocated to sub-accounts via Process B (multiple client allocations).

¹⁰⁴ We did not sample deposits in the following currencies: CAD (total 2,078.11), CHF (total 1,718.88), EUR (total 22,059.31), HKD (total 21,949.47) or NZD (total 23,728.35).

The results of our investigation into the IB Deposit Sample, including the BBYL bank accounts from which each deposit appears to have originated, are summarised in the following table:¹⁰⁵

BBYL - Schedule of IB Deposit Sample – funding to IB Platform from BBYL Accounts									
No.	Account number	Account name	Account pool	Date	Deposit value	Currency	Process	Transit account	Note
1	176820205	Smartrader Ltd	WLP Omnibus	21/02/2011	500,000.00	AUD	A	None	
2	176820205	Smartrader Ltd	WLP Omnibus	19/10/2012	500,000.00	AUD	A	None	
3	178726087	Smartrader Ltd	IB	12/02/2013	350,000.00	AUD	B	None	
4	178726087	Smartrader Ltd	IB	7/08/2012	250,000.00	AUD	B	None	
5	178726087	Smartrader Ltd	IB	3/04/2013	250,000.00	AUD	B	None	
6	178726087	Smartrader Ltd	IB	6/08/2012	200,000.00	AUD	B	None	
7	178726087	Smartrader Ltd	IB	13/02/2013	200,000.00	AUD	B	None	
8	178726087	Smartrader Ltd	IB	7/09/2012	180,000.00	AUD	B	None	
9	178726087	Smartrader Ltd	IB	26/09/2012	170,000.00	AUD	B	None	
10	178726087	Smartrader Ltd	IB	30/01/2013	150,000.00	AUD	B	None	
11	178726087	Smartrader Ltd	IB	8/04/2013	150,000.00	AUD	B	None	
12	178726087	Smartrader Ltd	IB	16/10/2012	127,000.00	AUD	B	None	
13	178726087	Smartrader Ltd	IB	24/07/2012	100,000.00	AUD	B	None	
14	178726087	Smartrader Ltd	IB	25/01/2013	100,000.00	AUD	A	None	
15	178726087	Smartrader Ltd	IB	5/02/2013	100,000.00	AUD	B	None	
16	178726087	Smartrader Ltd	IB	16/10/2012	83,000.00	AUD	B	None	
17	178726087	Smartrader Ltd	IB	2/04/2013	70,000.00	AUD	B	None	
18	178726087	Smartrader Ltd	IB	12/11/2012	50,000.00	AUD	B	None	
Total Smartrader					3,530,000.00				
19	553619321	IB Buffer	IB	8/05/2014	300,000.00	AUD	B	None	
20	553619321	IB Buffer	IB	25/08/2014	300,000.00	AUD	B	None	
21	553619321	IB Buffer	IB	12/09/2014	300,000.00	AUD	B	None	
22	553619321	IB Buffer	IB	22/08/2013	250,000.00	AUD	B	None	
23	553619321	IB Buffer	IB	22/05/2013	100,000.00	AUD	B	None	
24	553619321	IB Buffer	IB	4/06/2013	100,000.00	AUD	B	None	
25	553619321	IB Buffer	IB	24/03/2015	15,000.00	AUD	A	None	
26	553619321	IB Buffer	IB	23/03/2015	6,000.00	AUD	A	None	
Total Interactive Broker					1,371,000.00				
27	553619137	WLP Omnibus	WLP Omnibus	2/10/2014	285,000.00	AUD	A	IB Buffer	
Total WLP Omnibus					285,000.00				
28	553619356	Saxo Buffer	Saxo	2/02/2015	200,000.00	AUD	A	IB Buffer	
29	176820256	BBY Ltd eBridge Buffer	Saxo	14/03/2013	300,000.00	AUD	B	None	
30	176820256	BBY Ltd eBridge Buffer	Saxo	7/09/2012	180,000.00	AUD	A	None	
Total Saxo					680,000.00				
31	553619268	FX Trust	FX	7/06/2013	150,141.72 / 4,858.28	AUD	B	IB Buffer	1
32	553619268	FX Trust	FX	25/03/2015	10,943.08	AUD	A	IB Buffer	
Total FX AUD					165,943.08				
33	204226SGD01	FX Trust SGD	FX	17/03/2015	101,518.22	SGD	A	None	3
34	204226SGD01	FX Trust SGD	FX	23/03/2015	32,124.28	SGD	A	None	
35	204226SGD01	FX Trust SGD	FX	21/11/2014	2,729.09	SGD	A	None	
Total FX SGD					136,371.59				
36	204226USD01	FX Trust USD	FX	31/07/2014	29,250.00	USD	A	None	
37	204226USD01	FX Trust USD	FX	6/05/2015	1,252.79	USD	A	None	
Total FX USD					30,502.79				
38	N/A	N/A	N/A	15/02/2012	284,735.00	USD	A	N/A	2
39	N/A	N/A	N/A	27/02/2015	115,000.00	AUD	B	N/A	2
Process A count							15		
Process B count							24		

Note 1 - Transaction represents 1 transfer from FX to IB Buffer of \$150,141.72 and payment to IB Platform account of \$155,000 from IB Buffer account.

Note 2 - The deposit could not be traced back to any BBYL bank account.

Note 3 - \$101,518.22 was identified as leaving the 204226SGD01 on 19/03/2015 but recorded as entering the IB Platform on 17/03/2015.

¹⁰⁵ Following our analysis of historical bank statement data, we have reclassified the Smartrader accounts from the "House" account pool as they appear to be used to hold client monies. Where a "transit account" is indicated, the deposit was transferred to the transit account before being transferred from that account to IB.

9.4.4 Process A – single client allocation

In some instances an amount transferred to IBL and credited to a BBYL IB Platform master account appears to have been subsequently allocated in full to a client's IB Platform sub-account. We refer to this as **Process A**. Our analysis indicates that this process generally took about 3 days from the time the client made the payment to the BBYL bank account to the time it was credited to the client's IB Platform sub-account.

An example of this form of deposit and allocation (taken from the IB Deposit Sample) is illustrated below:



In the example above, the client deposited the amount of \$500,000 directly into the Smartrader account ending 0205 on 18 October 2012 (see email correspondence at **Exhibit 9.2**). This amount was allocated to the client's IB Platform sub-account via the BBYL IB Platform master account on 21 October 2012.

We identified 15 deposits allocated to client sub-accounts by Process A. In **Appendix 9.2** we set out a detailed analysis and explanation of the funds flows for the following examples:

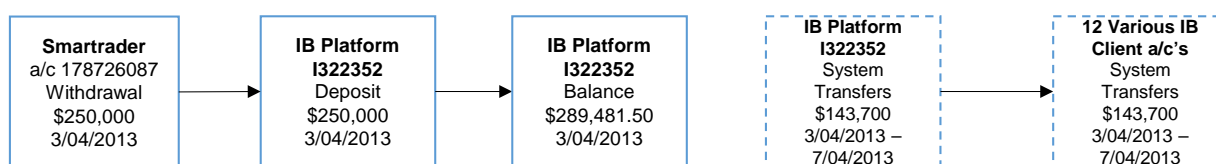
- Example transaction 1: AUD \$285,000.00 – transferred to the IB Platform on 2 October 2014;
- Example transaction 2: AUD \$10,943.08 – transferred to the IB Platform on 25 March 2015; and
- Example transaction 3: USD \$1,252.79 – transferred to the IB Platform on 6 May 2015.

In **Appendix 9.2** we also set out details of our investigations into whether there were corresponding client deposits into BBYL CSAs for the deposits to IBL that were allocated to client accounts by Process A. We found evidence of corresponding client deposits in all cases other than for some of the transfers from FX accounts (where it is possible that we cannot identify a deposit because the FX accounts were used to facilitate a currency exchange and we are not able to identify email correspondence providing particulars of the exchange).

9.4.5 Process B – multiple client allocation (“buffer” deposits)

In some instances a deposit was made to the IB Platform from a BBYL bank account but allocation of the same amount to a client sub-account at about the same time cannot be identified. Instead, the deposit is followed by a large number of allocations to client sub-accounts of value less than the deposit. We refer to this as **Process B**. In these instances it appears that a lump sum deposit was made by BBYL to the IB Platform for the purpose of replenishing the master account balance. We also refer to this practice as "buffering", because it creates a cash "buffer" on the platform from which allocation to client sub-accounts may occur in the future.

An example of this form of allocation (taken from the IB Deposit Sample) is illustrated below:



In the example above, a deposit of \$250,000 was made from the Smartrader account ending 6087 to the IB Platform on 3 April 2013, which was credited to the I322352 master account. This increased the AUD cash balance on the master account to a total of \$289,481.50. Following this transfer, 12 internal system transfers totalling \$143,700 were made to various client sub-accounts between 3 April 2013 and 7 April 2013, before the next deposit was made to the IB Platform on 8 April 2014.

Reasons that BBYL may have "buffered" the IB Platform include:

- to reduce the administration time and cost involved in transferring small amounts of cash to the IB Platform each and every time a client wished to top up their IB Platform sub-account; and
- so that BBYL could allocate cash to client sub-accounts to meet margin calls much faster than if funds had to first be deposited by the client into a CSA and/or transferred by BBYL to IBL.

This practice was also described in an email sent by BBYL's Risk Manager in September 2011 to the CEO and the Head of Clearing (see **Exhibit 9.3**). That email suggests that:

- Stonebridge historically had "target buffers" for the master accounts (described as "Funding Accounts") of \$200,000 and \$100,000 respectively, and for a NAB buffer bank account of \$200,000. The reference to the NAB buffer bank account appears to be a reference to the Smartrader account ending 6087 (refer to section 9.5.2 below). The average balance of that account in the period July 2012 to April 2013 was about \$252,876 (753 transactions); and

- the practice facilitated faster crediting of client accounts by allowing client accounts to be credited immediately after receipt of proof of payment by the client.

We identified 24 deposits in the IB Deposit Sample allocated to client sub-accounts by Process B. The practice of "buffering" makes it more time consuming to identify the underlying client or clients because there is no single deposit into a BBYL bank account that corresponds with the entire amount deposited to the IB Platform master account and the time of payment by the client to BBYL may not coincide with the time of payment by BBYL to IBL.

We have conducted more detailed investigation into particular Process B deposits made from:

- the IB Buffer account ending 321 (refer to section 9.5.1 below); and
- the Smartrader account ending 6087 (refer to section 9.5.2 below),

which are the predominant sources of funds transferred by BBYL to IBL.

9.5 Analysis of IB allocation activity and Process B deposits

9.5.1 IB Buffer account

In order to correlate activity on the IB Platform with deposits into the IB Buffer account, we reviewed activity on the IB Platform at about the same time as the following transfers from the IB Buffer account to IBL in detail:

- \$300,000 transferred on 25 August 2014; and
- \$300,000 transferred on 12 September 2014.

We reviewed the IB Buffer account bank transaction data for the period 4 August 2014 to 26 September 2014. We correlated deposits into the IB Buffer account with the client sub-account allocation activity on the corresponding IB Platform master account (see **Exhibit 9.4**). In summary we found:

- Following each deposit to the IB Platform master account, funds were allocated to a number of individual client sub-accounts on the IB Platform.
- For some of the amounts allocated to sub-accounts, an equal amount was deposited into the IB Buffer account on or about the same date as the allocation. We have matched the deposits based on value, date and description criteria.
- For some of the amounts deposited into the IB Buffer account, the amount appears to account for multiple allocations to sub-accounts on or about the same date as the deposit. We have matched the deposits based on value, date and description criteria.

In the table below we set out the total amount of deposits into the IB Buffer account in periods immediately prior to and following the transfers to IBL on 25 August 2014 and 12 September 2014, together with the proportion of that total amount that we matched with allocations to IB client sub-accounts:

Deposits into the IB Buffer account ending 321				
Period	Total deposits	% matched with allocations	Number of matched allocations	Transfer to IBL
4 August 2014 to 25 August 2014	\$286,682	98%	56	
25 August 2014				\$300,000
25 August 2014 to 12 September 2014	\$230,317	87% (99%) ¹⁰⁶	46	
12 September 2014				\$300,000
12 September 2014 to 26 September 2014	\$193,190	100%	39	

For the deposits that we matched with sub-account allocations, there was a mean delay of approximately 1 day between crediting of the client sub-account (which occurred first) and receipt of funds into the IB Buffer account. Refer to **Exhibit 9.4** for our detailed analysis.

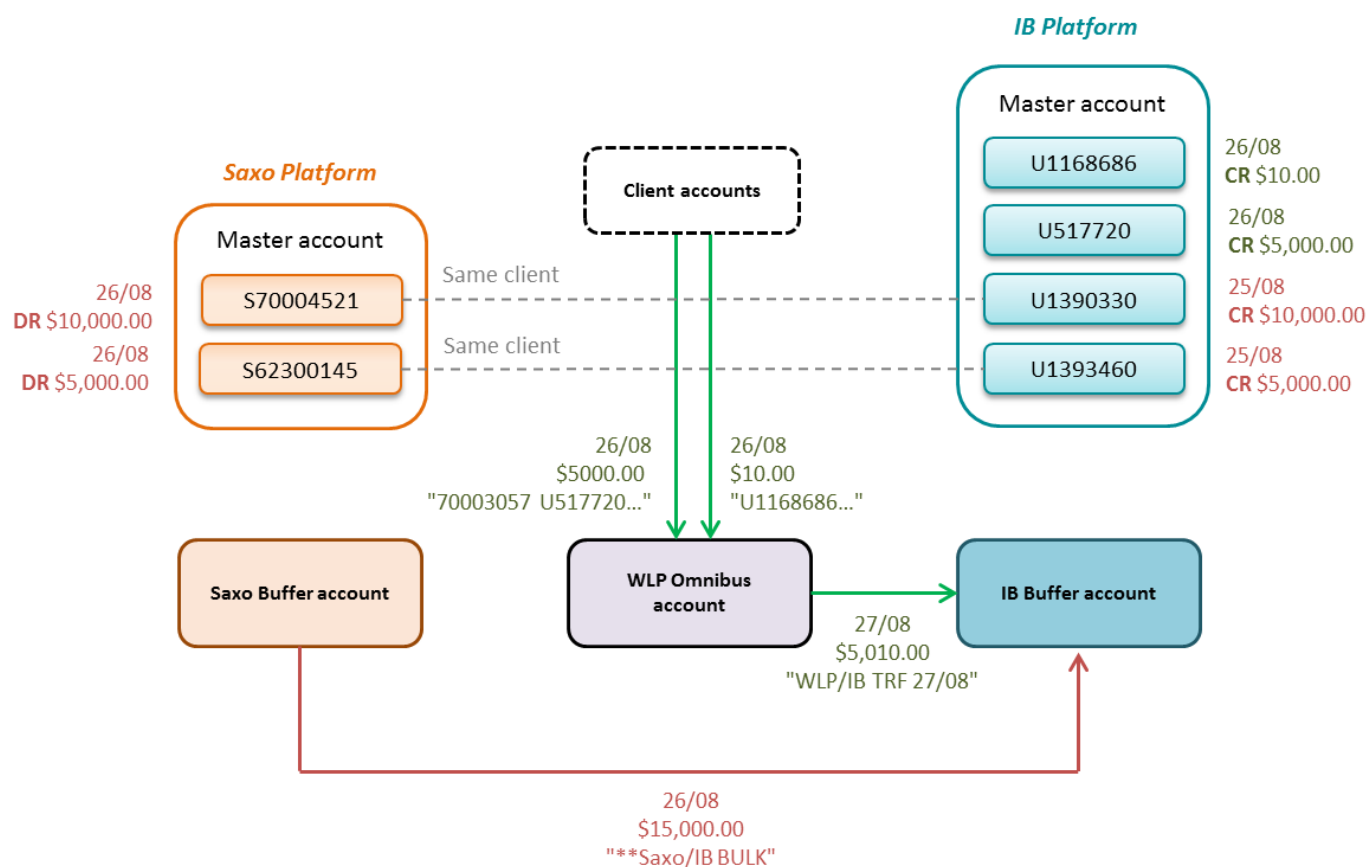
These findings assist in understanding how BBYL operated the IB Platform master account and dealt with client payments. The number of Process B allocations that we identified suggests that BBYL regularly made "buffer" payments to the IB Platform master account to fund future allocations to individual client sub-accounts. This is consistent with the email correspondence in **Exhibit 9.3**.

¹⁰⁶ Of the 13% not matched with allocations, almost all is attributable to a deposit of \$30,735 on 12 September 2014 with the description "[client name]|34400100-BBY RT3" which is entirely offset by a withdrawal of the same amount on 11 September 2014 with the description "BBO REF34908059]**IB/SSI-3440010". If this deposit is excluded, the % matched with allocations is 99%.

When we investigated the source of the deposits to the IB Buffer account referred to in the table above, we observed the following two patterns (both illustrated by reference to examples in the diagram below):

1. Deposits into the WLP Omnibus account which appear to be client deposits (**Corresponding Client Deposits**); transfers of the amount of those deposits (sometimes by way of bulk transfer) from the WLP Omnibus account ending 137 to the IB Buffer account ending 321; and allocation of the amount of those deposits to individual sub-accounts on the IB Platform (generally within a period of 1-2 days but not necessarily in that order); and
2. Debits from Saxo Platform accounts (**Corresponding Saxo Debits**); transfers of the amount of those withdrawals (sometimes by way of bulk transfer) from the Saxo Buffer account ending 356 to the IB Buffer account ending 321; and allocation of the amount of those withdrawals to individual sub-accounts on the IB Platform (generally within a period of 1-2 days but not necessarily in that order). In these instances we are able to confirm that the Saxo Platform account(s) debited and the IB Platform account(s) credited belong to the same client. These deposits appear to represent transfers of funds between Saxo Platform and IB Platform accounts belonging to the same client.

The diagram below illustrates these two processes by reference to two example deposits into the IB Buffer account ending 321: a bulk transfer of \$5,010 from the WLP Omnibus account to the IB Buffer account on 27 August 2013, which appears to relate to deposits by IB clients U1168686 and U517720; and a bulk transfer of \$15,000 from the Saxo Buffer account to the IB Buffer account on 26 August 2013, which appears to relate to funds transferred from Saxo account S70004521 to IB account U1390330 (which belong to the same client) and from Saxo account S62300145 to IB account U1393460 (which belong to the same client).



We consider both of these patterns to be BAU funds flows. In the table below we set out the proportion of all deposits to the IB Buffer account in the relevant period for which we were able to confirm:

- Corresponding Client Deposits and transfers from the WLP Omnibus account to the IB Buffer account; or
 - Corresponding Saxo Debits and transfers from the Saxo Buffer account to the IB Buffer account,
- (together, **Verified Deposits**).¹⁰⁷

¹⁰⁷ We considered that a Corresponding Client Deposit existed where a deposit of the same amount as the allocation to the sub-account was made with a bank statement description including the sub-account reference; or where there was a deposit of the same amount on the same day. For the majority of Corresponding Client Deposits the deposit contained the sub-account reference.

Period	Total deposits	Verified Deposits as % of total deposits	Corresponding Client Deposits as % of Verified Deposits	Corresponding Saxo Debits as % of Verified Deposits
4 August 2014 to 25 August 2014	\$286,682	91%	13%	87%
25 August 2014 to 12 September 2014	\$230,317	80% (92%) ¹⁰⁸	35%	65%
12 September 2014 to 26 September 2014	\$193,190	96%	58%	42%

The deposits to the IB Buffer account for which we could not confirm a Corresponding Client Deposit or a Corresponding Saxo Debit may be explained by:

- receipt of a client deposit into the WLP Omnibus account ending 137 as part of a bulk transfer (for example, a BPAY receipt) that we are not able to disaggregate; and/or
- corresponding debits to a Saxo account that are not readily identifiable because the client listing⁹⁶ on which we have relied (obtained from the books and records of BBYL) does not list a corresponding Saxo account for some IB clients, or the debit was made to a Saxo account of a related entity.

We conducted a similar analysis of the IB Buffer account ending 321. Our random sample selected for this analysis covered the period 22 August 2013 to 21 October 2013. Total deposits to the IB Buffer account ending 321 in that period, net of a payment of \$391,000 received from IBL, were \$600,557. However, we encountered a significant limitation in identifying Corresponding Client Deposits in that there were daily bulk BPAY receipts of significant amounts in this period, which appear to be from clients, but for which we do not have information providing a breakdown of the underlying clients and amounts. Thus, if the client made a deposit by way of BPAY payment received in bulk, we are unable to identify the Corresponding Client Deposit. Despite this limitation, we were able to identify Corresponding Client Deposits or Corresponding Saxo Debits for 55% of the amount of \$600,557.

9.5.2 Smartrader account ending 6087

BBYL transitioned from NAB bank accounts to STG bank accounts in about April 2013. We identified email correspondence dated 11 April 2013 which notes that "*bank account migration will be held tomorrow EOD*" and lists bank accounts to be migrated to St George including the following (see **Exhibit 9.5**):

- the Smartrader account ending 6087 to the IB Buffer account ending 321;
- the Smartrader account ending 0205 to the WLP Omnibus account ending 137; and
- the eBridge Buffer account ending 0256 to the Saxo Buffer account ending 356.

NAB account	STG account	Primary purpose	Migration of funds from NAB to STG
Smartrader account ending 6087 (NAB)	IB Buffer account ending 321 (STG)	Managing payments to and from the IB Platform and payments to IB clients	12 April 2013: 'FUNDS TO SGB IB IB BUFFER' 9 May 2013: 'NAB TO SGB IE IE BUFFER'
Smartrader account ending 0205 (NAB)	WLP Omnibus account ending 137 (STG)	Receiving payments from IB and Saxo clients	16 June 2014: '*wlpnab/wlpsgb*' 20 June 2014: '*wlpnab/wlpsgb*'
eBridge Buffer account ending 0256 (NAB)	Saxo Buffer account ending 356 (STG)	Managing payments to and from the Saxo Platform and payments to Saxo clients	17 April 2013: 'Funds to SGB Saxo'

This is consistent with the transfer of significant amounts to IBL from the Smartrader account ending 6087 between July 2012 and April 2013, as we identified in the IB Deposit Sample (refer to section 9.4.3 above).

In order to correlate activity on the IB Platform with deposits into the Smartrader account ending 6087, we reviewed deposits to the Smartrader account ending 6087 in the periods 8 August 2012 to 26 September 2012, and 30 January 2013 to 25 February 2013, in detail. In that period the following transfers to IBL occurred:

- \$180,000 transferred on 7 September 2012;
- \$150,000 transferred on 30 January 2013;
- \$100,000 transferred on 5 February 2013;
- \$350,000 transferred on 12 February 2013; and
- \$200,000 transferred on 13 February 2013.

¹⁰⁸ Refer to footnote 106 for an explanation why this figure is lower than those for the other periods examined. If the deposit of \$30,735 is excluded, this the proportion of Verified Deposits would be 92%.

We correlated deposits into the Smartrader account ending 6087 with the client sub-account allocation activity on the corresponding IB Platform master account (see **Exhibit 9.4**).

In the table below we set out the total amount of deposits into the Smartrader account ending 6087 in periods immediately prior to and following each of the transfers to IB, together with the proportion of that total amount that we matched with allocations to IB client sub-accounts:

Period	Deposits into the Smartrader account ending 6087			Transfer to IBL
	Amount	% matched with allocations	Number of matched allocations	
8 August 2012 to 7 September 2012	\$429,493	98%	57	
7 September 2012				\$180,000
7 September 2012 to 26 September 2012	\$254,942	97%	43	
<i>Interval</i>				
30 January 2013 to 5 February 2013	\$267,609	98%	26	
5 February 2013				\$100,000
5 February 2013 to 12 February 2013	\$76,030	100%	23	
12 February 2013				\$350,000
12 February 2013 to 13 February 2013	\$499,600	100%	9	
13 February 2013				\$200,000
13 February 2013 to 25 February 2013	\$185,564.80	75%	22	

Based on our review of the bank statement data for the Smartrader account ending 6087 in the periods set out above, we make the following observations:

1. Almost all transactions have regular transaction description formats and most contain what appear to be unique transaction references.
2. This account does not appear to be an account into which client deposits were directly received. Rather, amounts were transferred to this account from other BBYL accounts, including the eBridge Buffer account (referred to as "EB" or "Saxo buffer") and the Smartrader account ending 0205 (referred to as "Wlp Omnibus"). These transactions are clearly identifiable in the bank statement data for those accounts using the unique transaction references.
3. The findings above are consistent with the Smartrader account ending 6087 being operated in the same way as the IB Buffer account.

9.5.3 Process B deposit from the eBridge Buffer account

We have classified the payment of \$300,000 from the eBridge Buffer account ending 0256 as a Process B payment.

It appears that this payment related in part to a client who directed BBYL to debit their Saxo account and credit their IB account the amount of \$300,000. An internal system transfer of \$100,000 was made to the client sub-account from the balance of the master account (which was not sufficient to allocate the full amount of \$300,000) on the same day. The next day, \$300,000 was transferred from the eBridge Buffer account to IBL and a second internal system transfer of \$200,000 was made to the client's sub-account. Refer to **Appendix 9.3** for further information.

9.5.4 Process B deposit from the FX Trust AUD account and the IB Buffer account

As noted in the table in section 9.4.3 above, there was a payment of \$155,000 partially funded from the FX Trust AUD account ending 268 and the IB Buffer account. The amount of \$150,142 was funded from the FX Trust AUD account ending 268 and the balance (\$4,858) from the IB Buffer account. The amount funded from the FX Trust AUD account was subsequently allocated to a single client on the IB Platform. We have searched for, but cannot locate an FX ledger report or email correspondence to confirm that the amount funded from the FX account was referable to a BAU currency exchange. We are aware that FX trust accounts were used by BBYL to facilitate currency exchanges for other product lines, including IB. Refer to **Appendix 9.3** for detailed analysis of this payment.

10 Saxo termination in 2015

10.1 Overview

In section 6.9.5 of the CSA Report we set out a diagram summarising the funds flows identified in respect of the Saxo upload and termination events. In order to clarify and provide further information about the "*Funds which appear to have been returned to clients / transferred to another product line c.\$39m*",¹⁰⁹ we carried out further analysis on the transactional activity on the Saxo Buffer account ending 356 during the period 1 February 2015 to 17 May 2015 (the "**Termination Period**").¹¹⁰

It is our understanding that following termination of the relationship between BBYL and SCMA, Saxo clients could:

- become clients of SCMA pursuant to the "introducing broker" arrangement between BBYL and SCMA;¹¹¹
- withdraw their Saxo monies; or
- transfer their Saxo monies to a BBYL account in another product line.¹¹²

There are 2,445 transactions on the Saxo Buffer account ending 356 during the Termination Period.¹¹³ From our high level review of the Saxo Buffer account bank statements and transaction descriptions, it appeared that the transactions included transfers referable to each of these categories.

The opening balance of the Saxo Buffer account ending 356 on 1 February 2015 was \$673,251.82 and the closing balance on 17 May 2015 was \$62,088.78. During the Termination Period there were \$53,628,671.91 of credits (funds into the account) and \$54,239,834.95 of debits (funds out of the account), which is a net debit of \$611,163.04 (net funds out of the account). Given the volume of transactions, we have not analysed each individual transaction. Rather, we have analysed the categories of transactions at a high level based on the transaction descriptions.

10.2 Analysis approach

10.2.1 Categorisation of transactions

Using the electronic bank transaction data for the Termination Period, we first sorted the bank transactions by 'Transaction Description', grouping together transactions with similar description patterns. We identified common key words within the transaction descriptions, which allowed us to allocate transactions to particular categories in bulk. We performed email searches to investigate specific key words or descriptions further in order to ascertain the type of transaction to which each description pattern appeared to relate.

We assigned all transactions in the Termination Period to one of the following categories:

- Funds received from SCMA
- Currency from SCMA converted via FX
- Client payments
- Withdrawals RTGS
- Return of failed / duplicate client payment
- Transfer to another product line
- Potential transactions of interest
- Interest, fees and charges
- Other

We initially assigned each transaction on the basis of whether the transaction description on the bank statement contained particular key words and phrases (these key words and phrases are set out in **Appendix 10.1**). We then allocated particular transactions to the transaction of interest category based on generic bank statement descriptions and/or round sum transaction values. Those transactions were further investigated.

The table below provides a description of the types of transactions included within each of the seven categories:

¹⁰⁹ Further information was requested by a party to the proceeding.

¹¹⁰ This time period is longer than that reflected in the funds flow diagram on page 104 of the CSA Report.

¹¹¹ Refer to SCMA Letter of Termination dated 1 December 2014 re Introducing Broker arrangements (Appendix 26 of the CSA Report).

¹¹² The reference on page 104 of the CSA Report to funds which "*appear to have been transferred to another product line*" was intended to be a reference to the transfer of funds from a client's Saxo account to an account held by the same client in another BBYL product line.

¹¹³ These transactions can be seen on the bank statement included at Confidential Exhibit 47 of the CSA Report.

Category	Description
Funds received from SCMA	Funds received from SCMA during Saxo termination, which we assume relate to client funds held by SCMA at the time of the termination.
Currency from SCMA converted via FX	Currency payments from SCMA paid into the respective FX currency accounts, before being converted to AUD and transferred to the Saxo Buffer account to facilitate client payments.
Client payments	These transactions appear to be payments made to Saxo clients in relation to the close out of the client's accounts on the Saxo Platform.
Withdrawals RTGS	Withdrawals of funds paid by RTGS. There is no bank statement description information for these transactions, however we sample tested 6 transactions within this category and all of the transactions were external payments made to either clients or to Halifax.
Return of failed / duplicate client payment	Return of funds back into the Saxo Buffer account resulting from a failed client payment due to incorrect bank account details, or duplicate payments made in error.
Transfer to another product line	Funds transferred to another product line account held by the Saxo client.
Potential transactions of interest	These are transactions with bank statement descriptions matching the generic references set out on page 61 of the CSA Report, or round sum withdrawals, that we selected for further investigation.
Interest, fees and charges	BBYL bank fees and charges on the bank statements during the Saxo termination period.
Other	Other transactions during the termination period that do not contain common transaction descriptions relevant to the other transaction categories and would require to be individually investigated.

10.2.2 Testing of description patterns

In order to test our categorisation of transactions in the Termination Period, we selected a random sample of 60 transactions allocated across each of the categories and carried out email searches in order to identify correspondence relating to those transactions. Of the sample of 60 transactions, email correspondence could only be identified for 19.

It therefore appears that there are limited records available to us to allow verification of a high proportion of the Saxo termination transactions, including the details and purpose of the transfers, whether they were instructed by Saxo clients, and breakdowns for bulk transfers.

For illustrative purposes, the table below sets out one example of each transaction allocated to each of the categories (excluding potential transactions of interest which are discussed in section 10.3 below), including a reference to email correspondence identified as relating to the transaction which provides additional context and supports the category allocation made:

Date	Bank statement description	\$ value	Allocated category	Email ref
20/03/2015	RTGS INWARD PAYMENT SGB1503201373645BBY LIM	\$2,960,442.14	<i>Funds received from SCMA</i>	Exhibit 10.1
14/04/2015	INTERNET DEPOSIT S28300035 26900216 CONV	\$22,989.35	<i>Currency from SCMA converted</i>	Exhibit 10.2
20/02/2015	BBO REF36814672 WD S70003345	-\$85,863.85	<i>Client payments</i>	Exhibit 10.3
03/03/2015	INTERNET RTGS	\$126,000	<i>Withdrawals – RTGS</i>	Exhibit 10.4
04/03/2015	LESLEY STEWART BBY WD S70002836 RT1	\$72,654.05	<i>Return of failed client payment</i>	Exhibit 10.5
24/03/2015	S70003980 YUNG LO	\$41,280.35	<i>Return of duplicate client payment</i>	Exhibit 10.6
20/02/2015	INTERNET WITHDRAWAL EB/EQ S86300098 157361	-\$145,500	<i>Transfer to another product line</i>	Exhibit 10.7
16/03/2015	1863179 AUEXM2085922	\$361.99	<i>Other</i>	N/A
19/02/2015	BBO DE TRANSACTION FEE	\$0.25	<i>Interest, fees and charges</i>	N/A

10.3 Investigation of potential transactions of interest

We conducted further investigation in relation to the potential transactions of interest category. We received confirmation from St George that a number of payments from the Saxo Buffer account with the description "INTERNET RTGS" that we had initially classified as potential transactions of interest were in fact payments made to clients. Based on those confirmations, those transactions were reclassified as client payments. The table below provides a list of the transactions in the potential transactions of interest category after we completed our further investigations, together with references to the CSA Report which provide further information about those transactions.

Date	Bank statement description	Amount	Payor / (Payee)	CSA Report reference	Comment
23/02/2015	INTERNET WITHDRAWAL BBY	(\$670,000.00)	(FX Trust account ending 268)	Page 77, Exhibit 68	Corrected horizontal funds movement.
24/02/2015	BBO REF36877115 BBY	(\$373,545.44)	(Operating account ending 0891)	Page 83, Exhibit 81	Corrected horizontal funds movement.
25/02/2015	INTERNET WITHDRAWAL BBY	(\$750,000.00)	(General account ending 576)	Page 104	Transaction of interest. See Exhibit 10.8 .
26/02/2015	INTERNET WITHDRAWAL BBY	(\$500,000.00)	(Futures account ending 284)	Page 80, Exhibit 73	Transaction of interest.
02/03/2015	INTERNET DEPOSIT BBY	\$563,000.00	Other Trust account ending 002	Page 83, Exhibit 82	Corrected CSA/House funds movement.
02/03/2015	INTERNET WITHDRAWAL BBY	(\$563,000.00)	(General account ending 576)		
04/03/2015	INTERNET DEPOSIT BBY	\$150,000.00	Other Trust account ending 002	Page 85, Exhibit 83	Corrected CSA/House funds movement.
04/03/2015	INTERNET WITHDRAWAL BBY	(\$150,000.00)	(General account ending 576)		
13/03/2015	INTERNET WITHDRAWAL Trf	(\$750,000.00)	(General account ending 576)	Page 89, Exhibit 87	Transaction of interest.
16/03/2015	INTERNET WITHDRAWAL Trf	(\$139,000.00)	(General account ending 576)	Page 90, Exhibit 90	Transaction of interest.
23/03/2015	INTERNET WITHDRAWAL Trf	(\$426,000.00)	(FX Trust account ending 268)	Page 104	Transaction of interest. See Exhibit 10.9 .
31/03/2015	INTERNET RTGS	(\$1,600,000.00)	(Operating account ending 0891)	Page 91, Exhibit 92	Transaction of interest.
31/03/2015	INTERNET RTGS	(\$200,000.00)	Halifax	Page 104	Transaction of interest. See Exhibit 10.10 .
Total		\$5,408,545.44			

The net amounts transferred to accounts in the various account pools as a result of the above transactions were:

- \$4,325,545.44 transferred to House accounts;
- \$1,096,000 transferred to FX CSAs;
- \$500,000 transferred to Futures CSAs;
- \$713,000 transferred from Other Trust accounts; and
- \$200,000 transferred to Halifax (see **Exhibit 10.10**).

From the above information, it is apparent that a number of the transactions on which we reported in the CSA Report involving the Saxo Buffer account occurred during the Saxo Termination Period.

We identified email correspondence in relation to the transactions highlighted in the above table (see **Exhibit 10.8** in relation to the transfer on 25 February 2015, **Exhibit 10.9** in relation to the transfer on 23 March 2015 and **Exhibit 10.10** in relation to the transfer on 31 March 2015).

10.4 Summary of transaction categories

The table below sets out a summary of our high level categorisation of the Saxo termination transactions, based on the transaction descriptions, during the Termination Period:

Summary of transaction categories – Saxo termination				
	Number of Transactions	Credit value	Debit value	Net credit (debit)
Funds received from SCMA	70	45,825,604.40	-	45,825,604.40
Currency from SCMA converted via FX	25	4,746,435.84	(12,315.87)	4,734,119.97
Client payments	1,415	-	(32,608,517.20)	(32,608,517.20)

Summary of transaction categories – Saxo termination				
Withdrawals RTGS	248	-	(5,490,337.98)	(5,490,337.98)
Return of failed / duplicate client payment	41	570,383.08	-	570,383.08
Transfer to another product line	351	490,187.32	(9,286,274.02)	(8,796,086.70)
Transactions of interest	13	713,000.00	(6,121,545.44)	(5,408,545.44)
Interest, fees and charges	264	1,092.37	(1,791.00)	(698.63)
Other	18	1,281,968.90	(719,053.44)	562,915.46
Total	2,445	53,628,671.91	(54,239,834.95)	(611,163.04)

The above analysis has been incorporated into an update to the Saxo termination funds flow diagram attached at **Appendix 10.2**.

11 BBY (NZ) Limited and BNZ bank accounts

11.1 Operations of BBY (NZ) Limited

BBY (NZ) Limited (“**BBYNZ**”) was incorporated in June 2006 as Tricom Securities (NZ) Limited. Tricom Securities (NZ) Limited was renamed Stonebridge Securities (NZ) Limited on 17 May 2009 and then Edge Capital Markets Limited on 8 April 2011. BBYL acquired Edge Capital Markets in 2013. Public records indicate that BBY Holdings Pty Ltd is, in effect, the sole shareholder of BBYNZ.

As at 17 May 2015, the directors of BBYNZ were:

- Glenn Rosewall (who resigned in March 2016); and
- Brent Weenink (the CEO of BBYNZ, who resigned in September 2015).

As outlined in the CSA Report, we were not appointed administrators or liquidators of BBYNZ and therefore did not receive access to the books and records of BBYNZ.

We understand that:

- BBYNZ physically operated out of an office in Wellington, New Zealand;
- books and records relating to BBYNZ are held locally within New Zealand;
- BBYNZ clients were required to sign an advisor agreement with BBYNZ and a broker agreement with BBYL;
- the majority of the trading activity of New Zealand clients occurred via the Saxo Platform;
- BBYNZ clients were included on the BBYL client ledger reports and BBYL executed trades on behalf of BBYNZ clients;
- the BNZ bank accounts were included on product reconciliation records maintained by BBYL (see example product reconciliation at **Exhibit 11.1**);
- BBYL had access to, and managed, the BNZ bank accounts (see example email correspondence at **Exhibit 11.2**).
- the BNZ bank accounts operated as accounts into which New Zealand resident clients would deposit funds; and
- BBYL appears to have applied for a New Zealand Financial Markets Authority Licence on 1 December 2014 (refer **Exhibit 11.3**).

On 26 May 2016 the Receivers retired from the shares held in BBYNZ by BBYH. The Liquidators are presently considering available steps to recover client monies held by BBYNZ in the BNZ bank accounts.

11.2 BNZ bank accounts held by BBY (NZ) Limited

11.2.1 Introduction

As outlined in sections 5.2.1 and 6.2 of the CSA Report, we identified a number of BNZ bank accounts that were in the name of BBYNZ, from our review of BBYL books and records. We have since obtained copies of statements for the BNZ accounts.

The balances of the BNZ bank accounts as at 17 May 2015 and 23 May 2016 are set out in the table below:

BBY (NZ) Limited – BNZ bank accounts				
Bank	Account number	Account Name	Bank balances as at 17 May 2015 (NZD)	Bank balances as at 23 May 2016 (NZD)
BNZ	588085023	Equities account	10.26	10.26
BNZ	588085024	ETO Account	0.00	0.00
BNZ	588085025	BBY Limited - Future SEG BNZ NZD	140,149.35	142,132.66
BNZ	588085026	Margin FX	117,432.11	118,767.76
BNZ	588085027	BBY Limited - WLP Omnibus BNZ NZD	20,803.87	21,001.93
BNZ	588085028	eBridge Buffer Acc	0.00	8.01
BNZ	588085029	BBY Ltd IB Buffer	176,880.25	177,986.45
Total NZD			455,275.84	459,907.07
Total AUD			489,882.29	518,846.59

Funds held in the BNZ bank accounts as at the date of our appointment amounted to NZD \$455,275.84.¹¹⁴ A schedule summarising the date ranges of bank statement data obtained, and the balance on each of the BNZ accounts as at the date of our appointment and as at 23 May 2016, is included at **Appendix 11.1**.

11.3 Bank statement analysis

Following receipt of the BNZ bank statements, we manually converted the statements into electronic format to facilitate further analysis.

11.3.1 Key word searches

We searched the BNZ bank statement data for any of the generic transaction descriptions¹¹⁵ we identified as having been frequently used in connection with transactions of interest identified in the CSA Report. No transactions of interest were identified.

11.3.2 Transaction matching matrix – internal BNZ transfers

We analysed the BNZ bank statement data to ascertain the extent to which funds were transferred internally between the BNZ accounts. This analysis was undertaken using the bank transaction matching methodology outlined in section 5.2.4 of the CSA Report ("Method A").

The high and medium-high match quality results are shown in the matrix below.¹¹⁶ The bank statement data used to produce this matrix reflect various date ranges between November 2010 and May 2015, and therefore the matrix potentially reflects over 4 years' worth of bank transfers.

				⊕ BBYNZ FX	⊕ BBYNZ Saxo	⊕ BBYNZ IB	⊕ BBYNZ Futures	Grand Total
Sending Account Pool	Sending Bank	Sending Account	Sending Account Name					
⊕ BBYNZ Futures	⊕ BNZ	⊕ 0588085-025	BBY Limited - Future SEG BNZ NZD	\$1,341,094.16	\$1,894,506.09	\$31,920.79		\$3,429,525.80
⊕ BBYNZ Saxo	⊕ BNZ	⊕ 588085-028	eBridge Buffer Acc	\$2,056,931.43	\$43,700.00	\$5,793.95	\$586,928.08	\$2,693,353.46
		⊕ 0588085-027	BBY Limited - WLP Omnibus BNZ NZD	\$257,167.21	\$5,470,965.93	\$153,500.00		\$5,881,633.14
⊕ BBYNZ FX	⊕ BNZ	⊕ 588085-026	Margin FX		\$2,763,594.61	\$71,089.56	\$1,533,023.94	\$5,047,708.11
⊕ BBYNZ IB	⊕ BNZ	⊕ 588085-029	BBY Ltd IB Buffer	\$38,892.04	\$30,000.00			\$68,892.04
⊕ BBYNZ Equity/ETO	⊕ BNZ	⊕ 588085-023	Equities account	\$74,436.51	\$5,000.00			\$79,436.51
Grand Total				\$4,118,521.35	\$10,707,766.63	\$262,304.30	\$2,119,952.02	\$21,987,175.22

The transfer matrix also shows a number of transfer matches at a medium-low and low match quality, however these grades of match quality are subject to a higher risk of false positive matches and therefore have not been presented. Verification of match results would require bank tracing.

We have investigated some individual, unique value transactions captured within the transfer matrix in order to provide some insight into the reasons for the internal transfers between product pools. The results of our investigations into these transactions are set out at **Appendix 11.2**.

Transactions between BNZ and BBYL NZD-denominated bank accounts

We conducted analysis of the BNZ bank statement data in order to ascertain the extent to which funds were transferred between the BNZ accounts and the BBYL NZD-denominated accounts.

We were unable to apply the transaction matrix methodology outlined in section 5.2.4 of the CSA Report ("Method A") to this analysis because the match quality criteria was designed to identify internal transfers between Australian bank accounts, not international transfers. We therefore designed specific match testing, which matched the BBYNZ BNZ and BBYL NZD bank transactions based on value match and a series of date ranges:

- Same day debit and credit transactions;
- The date of the remitting (debit) transaction plus one business day;
- The date of the remitting (debit) transaction plus two business days; and
- The date of the remitting (debit) transaction plus three business days.

Our analysis was designed to only show a match result where there is only one credit transaction match possibility, in order to reduce the risk of false positive matches.

We have not presented the results of this international transaction matching analysis. We conducted a review of the results and note the following, based on which we do not have confidence that the results are reliable:

¹¹⁴ This is the equivalent of AUD \$489,882.29 as at 17 May 2015, converted at an AUD/NZ exchange rate of 1.0760120442 (ref xe.com).

¹¹⁵ See page 61 of the CSA Report.

¹¹⁶ Refer to page 60 of the CSA Report for definitions of each match quality.

- The bank statement descriptions in respect of the debit and credit side of international transfers differ and therefore cannot be used to match transactions. One side of the transfers often includes “TT” in the bank statement description, indicating an international transfer.
- There are unique value debit and credit transaction matches which appear to have cleared on:
 - the same day;
 - the date of the remitting (debit) transaction plus one business day;
 - the date of the remitting (debit) transaction plus two business days; and
 - the date of the remitting (debit) transaction plus three business days.

This suggests that the time that it takes for an international transaction to clear varies, meaning that timeframe is not a reliable indicator to confirm a transaction match.

- There is a high volume of round sum transactions matched within the results, which presents a higher risk that the matches identified are not true transaction matches.

Based on the above, we are unable to determine the extent to which funds were transferred between the BNZ accounts and the BBYL NZD currency accounts. We have not analysed potential currency conversion transfers between the BNZ accounts and the BBYL accounts because a tolerance level must be factored into the analysis in respect of potential differences in exchange rates being used, and this would increase the number of false positive matches even further.

We have investigated some individual, unique value transactions captured within our international transaction matching analysis in order to provide some insight, as far as possible, into the operation of the BNZ accounts. The results of our investigations into these transactions are set out at **Appendix 11.2**.

11.3.3 Other email correspondence identified

We identified email correspondence dated 26 March 2014 (**Exhibit 11.4**), which suggests that the BBYL finance team only gained access to process international transfers from the BNZ accounts at the end of March 2014.

This email correspondence also suggests that the daily NZD transfer limit between BNZ and STG bank accounts at this time was NZD \$300,000. It is therefore likely that any transfer amounts above this value were split into two or more individual transfers over a number of days. This would further limit our ability to trace values end-to-end through a series of transfers.

11.4 Summary of findings

From our investigations into the operations of BBYNZ, it appears that BBYNZ did not operate independently of BBYL, but rather facilitated trading by New Zealand residents in BBYL administered products. This is supported by our analysis of the BNZ bank transactions, which suggests that the BNZ CSAs were considered to be, and utilised as, part of the product lines to which they were designated in the same way as CSAs maintained by BBYL in Australia.

12 Update on shortfall calculation, counterparty recoveries and open positions

12.1 Updated surplus/shortfall calculation and client claims

In the table below we have updated the surplus/shortfall calculation set out in the CSA Report to reflect:

- the balances of CSAs as at 29 April 2016 (refer to **Appendix 12.1**);
- the amount of the Receivers' claim to debtor receipts on deposit in the Equity/ETO Client Trust account ending 541;
- changes to client claims based on further investigation; and
- more recent information received from counterparties about the amount of cash, and the market value of open positions and securities, held by them.

BBYL - Surplus/Shortfall Calculation by Product Line									
\$m	Equity	ETO	Futures	FX	Saxo ⁽⁷⁾	Carbon	IB	Other	Total
CSA Account Balances									
Client Segregated Account Balance as at 29 April 2016 ⁽¹⁾	11.4	0.3	1.2	1.0	0.2	-	0.0	0.1	14.3
less: Erroneous withdrawals	(2.4)	2.4	-	-	-	-	-	-	-
less: Receivers' Claim to Debtors held in CSA's ⁽²⁾	(0.7)	-	-	-	-	-	-	-	(0.7)
Total CSA Cash at 29 April 2016 (net of Receivers claim)	8.3	2.8	1.2	1.0	0.2	-	0.0	0.1	13.6
Cash held with counterparties									
ASX	-	-	-	-	-	-	-	-	-
Interactive Brokers	-	-	-	-	-	-	7.8	-	7.8
Halifax Investment Services	-	-	-	-	-	-	-	-	-
ABN AMRO	-	-	2.0	-	-	-	-	-	2.0
Saxo Capital Markets Australia	-	-	-	-	-	-	-	-	-
ADM Investor Services International	-	-	1.5	-	-	-	-	-	1.5
CMC Markets	-	-	-	-	-	-	-	-	-
Total cash held with counterparties	-	-	3.5	-	-	-	7.8	-	11.4
Cash paid by counterparties									
ASX	-	3.4	-	-	-	-	-	-	3.4
Interactive Brokers	-	-	-	-	-	-	-	-	-
Halifax Investment Services	-	-	-	0.5	-	-	-	-	0.5
ABN AMRO	-	-	-	-	-	-	-	-	-
Saxo Capital Markets Australia	-	-	-	-	0.2	-	-	-	0.2
ADM Investor Services International	-	-	-	-	-	-	-	-	-
CMC Markets	-	-	-	0.0	-	-	-	-	0.0
Total cash paid by counterparties	-	3.4	-	0.5	0.2	-	-	-	4.1
Total Counterparty Cash	-	3.4	3.5	0.5	0.2	-	7.8	-	15.4
Counterparty Stock and Options									
Interactive Brokers as at 29 April 2016	-	-	-	-	-	-	4.9	-	4.9
Saxo Capital Markets as at 29 April 2016	-	-	-	-	4.1	-	-	-	4.1
Total Counterparty Stock and Options	-	-	-	-	4.1	-	4.9	-	9.0
Total Counterparty Cash, Stock and Options	-	3.4	3.5	0.5	4.3	-	12.8	-	24.5
Total CSA Cash and Counterparty Cash, Stock and Options	8.3	6.2	4.7	1.4	4.5	-	12.8	0.1	38.0
Client Claims									
Client Cash Claims ⁽³⁾	(6.2)	(0.3)	(13.5)	(2.8)	(7.5)	(0.0)	(5.5)	-	(35.9)
Unpresented Cheques ⁽⁴⁾	(1.0)	-	-	-	-	-	-	-	(1.0)
Client position claims ⁽⁵⁾	-	-	-	-	(4.8)	-	(12.8)	-	(17.6)
Other client claims ⁽⁶⁾	(1.1)	(5.8)	-	-	-	-	-	-	(6.9)
Total Client Claims ⁽⁷⁾	(8.2)	(6.2)	(13.5)	(2.8)	(12.3)	(0.0)	(18.3)	-	(61.3)
Surplus/(Shortfall) ⁽⁸⁾	0.1	-	(8.7)	(1.4)	(7.9)	(0.0)	(5.5)	0.1	(23.3)

This table is for illustrative purposes only and includes calculation rounding.

Notes:

- (1) Client Segregated Account Balance includes funds held in the WLP Omnibus Account (AC 553619137) as at 29 April 2016.
- (2) The Receivers and Managers have filed an application to the Supreme Court of NSW for the payment of debtor receipts paid into the Equity/ETO trust account (AC 553452541). This claim has been deducted for illustrative purposes only, the Liquidators' do not express an opinion on the merit of this claim.
- (3) Client claims as at 15 May 2015 except for Equity/ETO that is presented as at 18 May 2015.
- (4) This balance represents unpresented cheques issued to clients as at 18 May 2015.
- (5) Market value of stock and open option positions as at 15 May 2015.
- (6) Other client related claims identified during our investigations that (for various reasons) do not appear in the client ledger reports.
- (7) Total client claims may differ from the CSA Report as certain house accounts identified by the Liquidators' have been excluded.
- (8) Surplus/(shortfall) calculations are before remuneration, costs and expenses of the Liquidators', BBYL and the representative defendants. Equity surplus represent interest income (\$47k) and other unreconciled items (\$31k).

It was previously estimated in the CSA Report the shortfall on client claims was \$17 million. We now estimate the shortfall to be \$23.3 million (an increase of \$6.3 million). Set out below is a summary explaining the movements as compared to the surplus/shortfall calculation on page 49 of the CSA report.

12.2 Change in the value of assets available or anticipated to become available

12.2.1 CSA account balances

The figures presented in the CSA Report were balances as at 17 May 2015 (the appointment date). The balances presented above are calculated as at 29 April 2016. Overall there has been a \$3.1 million increase in CSA cash holdings (net of the Receivers' claim) to \$13.6 million as at 29 April 2016 for the following reasons:

- \$0.2 million (after rounding) increase for the Equity product line as a result of:
 - certain post-appointment receipts totalling \$0.7 million (excluding ETO margin called on 18 May 2016); and
 - an update to reflect the Receivers' claim on amounts in the Equity/ETO Client Trust account ending 541, filed after publication of the CSA Report, of \$0.7 million (rather than the \$0.3 million in post-appointment receipts that we understood to be claimed prior to publication of the CSA Report);
- \$2.4 million increase for the ETO product line as a result of the inclusion of ETO margin received on 18 May 2016 (treated in the CSA Report as a post-appointment transaction), offset by a corresponding increase in client claims;
- \$0.7 million increase to the Futures product line as a result of:
 - \$0.6 million payment from ADM received on 18 May 2015 (discussed in section 4.4.3 of the CSA Report); and
 - fluctuations in exchange rates.
- \$0.2 million reduction to the FX product line as a result of:
 - \$0.5 million payment from the FX Trust AUD account ending 268 to the Equity/ETO Client Trust account ending 541 on 19 May 2015 relating to a debtor receipt (discussed in section 4.4.2 of the CSA Report);
 - four customer receipts totalling \$0.2 million on 18 and 19 May 2015 (discussed in section 4.4.2 of the CSA Report); and
 - fluctuations in exchange rates.

12.2.2 Counterparty funds and positions

We have incorporated the most recent information received from counterparties about the amount of cash, and the market value of open positions and securities, held by those counterparties, into the table above. We note the following variances between the table presented above and the table presented on page 49 of the CSA Report:

- There has been no overall change to total counterparty cash holdings (\$15.4 million) however there has been:
 - \$0.5 million reduction in the AUD-equivalent of cash held by ADM as a result of fluctuation in the value of, and the subsequent close out of, open derivative positions and fluctuations in exchange rates;
 - \$0.2 million increase in the AUD-equivalent of cash held by ABN Amro as a result of fluctuation in the value of, and the subsequent close out of, open derivative positions and fluctuations in exchange rates; and
 - \$0.3 million increase in the AUD-equivalent of cash held by IBL as a result of the close out of open derivative positions, dividend income and fluctuations in exchange rates.
- There has been a \$5.0 million reduction in the market value of securities and open derivative positions held by counterparties (to \$9.0 million as at 29 April 2016) as a result of:
 - \$5.0 million reduction in the market value of securities and open derivative positions held by IBL;
 - \$0.3 million reduction in the market value of securities held by SCMA; and
 - the close out of derivative positions valued at negative \$0.2 million held through ADM.

12.3 Change in the estimated amount of client claims

There is a \$4.4 million increase in overall client claims to \$61.3 million. This is mainly due to:

- \$1.1 million increase to Equity client claims relating to client deposits to the Equity/ETO Client Trust account ending 541 on and from 18 May 2015. These claims were not processed to the Equity/ETO trust ledger as at 18 May 2015, and were therefore not reflected in the client claims calculation in the CSA Report, which relied upon that trust ledger report and the unrepresented cheques listing. The following table provides a breakdown of these claims based on our investigations.

Date	Amount	Comment
18/05/2015	\$200,000.00	Client deposit in anticipation of future trading. The client appears to have a claim that is not reflected in the Equity/ETO detailed client ledger report as at 18 May 2015.

Date	Amount	Comment
18/05/2015	\$26,500.00	Return of client funds relating to a failed client payment. The client appears to have a claim that is not reflected in the Equity/ETO detailed client ledger report as at 18 May 2015.
18/05/2015	\$98,554.75	Return of client funds relating to a failed client payment. The client appears to have a claim that is not reflected in the Equity/ETO detailed client ledger report as at 18 May 2015.
18/05/2015	\$168,687.57	Return of client funds relating to a failed client payment. The client appears to have a claim that is not reflected in the Equity/ETO detailed client ledger report as at 18 May 2015.
18/05/2015	\$1,833.96	This client entered into buy and sell trades on 14 May 2015 with a net cash impact of the buy and sell trades being \$1,833.96 payable to BBYL. The client paid this amount on 18 May 2015 but is not reflected in the Equity/ETO detailed client ledger report as at 18 May 2015.
18/05/2015	\$9,682.97	This client entered into a buy trade on 14 May 2015 that did not settle. The client made a payment to BBYL in respect of this transaction on 18 May 2015 but is not reflected in the Equity/ETO detailed client ledger report as at 18 May 2015.
19/05/2015	\$35,894.34	Return of client funds relating to a failed client payment. The client appears to have a claim that is not reflected in the Equity/ETO detailed client ledger report as at 18 May 2015.
19/05/2015	\$32,440.31	Return of client funds relating to a failed client payment. The client appears to have a claim that is not reflected in the Equity/ETO detailed client ledger report as at 18 May 2015.
20/05/2015	\$35,568.41	Reversal of cheque 4087 NAB Trust account. The clients claim is not reflected in the Equity/ETO detailed client ledger report or the unrepresented cheques listing as at 18 May 2015.
28/05/2015	\$55.00	Client deposit in anticipation of future trading. The client appears to have a claim that is not reflected in the Equity/ETO detailed client ledger report as at 18 May 2015.
5/02/2016	\$90.00	Client deposit in anticipation of future trading. The client appears to have a claim that is not reflected in the Equity/ETO detailed client ledger report as at 18 May 2015.
20/06/2016	\$190,848.60	Return of client funds relating to a failed client payment. The client appears to have a claim that is not reflected in the Equity/ETO detailed client ledger report as at 18 May 2015.
Various	\$100,388.30	Dividend income received post appointment not reflected in the Equity/ETO detailed client ledger report as at 18 May 2015.
Various	\$158,678.11	Receipts from clients post 18 May 2015 relating to equity settlements. The client payments not reflected in the Equity/ETO detailed client ledger report as at 18 May 2015.
Total	\$1,059,222.32	

We note that Equity settlements that occurred on 18 May 2015 were processed to client ledger accounts on 18 May 2015 and are accordingly reflected in the client claims calculation in the CSA Report. Refer to **Appendix 12.2** for an update on the post-appointment transactions set out in section 4.4.1 of the CSA Report;

- \$2.4 million increase in ETO client claims relating to ETO margin called on 19 May 2015 (offset in the table by including the corresponding cash, held in the Equity/ETO Client Trust account ending 541, as part of the ETO product line). This margin call was dealt with in section 4.4 of the CSA Report as a post-appointment transaction; and
- \$0.4 million increase in Saxo client claims relating to securities and open derivative positions as a result of confirmation received from SCMA about the market value of securities and open derivative positions as at 15 May 2015 (the amount of client claims relating to securities and positions reported in the CSA Report was as at 7 August 2015).

12.3.1 Uncleared cheques

We note that there was an uncleared cheque for an amount of \$102,519.76 on the reconciliation prepared by BBYL as at 18 May 2015. We conducted a forensic search of the books and records of BBYL and located an email (refer to **Exhibit 12.1**) received by BBYL on 18 May 2015. This email indicates that the payment is referable to an equity settlement that occurred on 15 May 2015 and does not appear to represent a claim on the Equity/ETO product line by that client. The amount is part of the total amount of \$710,126.12 claimed by the Receivers.

12.4 Securities and open derivative positions held by SCMA and IB

On 8 March 2016 the Liquidators filed a KPMG application in the proceeding seeking directions about the sale of securities and the close out of open derivative positions currently held by SCMA and IB for BBYL.

12.4.1 Interactive Brokers

As at 29 April 2016 IB positions (cash, securities and open derivative positions) had a total value of \$12.8 million. We note total holdings have decreased by \$4.6 million compared with the figures reported in the CSA Report.

Cash holdings

The table below provides a breakdown by currency of the IB cash holdings as at 29 April 2016.

BBYL - Interactive Brokers cash holdings		
AUD \$000	29-Apr-16	%
Currency		
AUD	6,166	79%
CAD	(4)	(0%)
CHF	(121)	(2%)
CNH	(1)	(0%)
EUR	(679)	(9%)
GBP	3	0%
HKD	(0)	(0%)
JPY	(41)	(1%)
NOK	(0)	(0%)
NZD	(162)	(2%)
RUB	(0)	(0%)
SGD	(277)	(4%)
USD	2,965	38%
MXN	(6)	(0%)
Total	7,842	

Based on the table above, we note that the majority (79%) of cash holdings as at 29 April 2016 are denominated in AUD.

Securities

Stock and warrants had a total market value as at 29 April 2016 of \$3.6 million. The market value of stock and warrants has decreased by approximately \$3.1 million since publication of the CSA Report. We note that the decline in market value of stock and warrants is in part due to a \$3 million decline in the market value of shares held by BBY Nominees (for and on behalf of clients) in an entity that recently went into liquidation. From our analysis of the IB Activity Statements we note that there are approximately 1,753 stock and warrant position in 392 companies (primarily in the US and Australia) as at 29 April 2016.

Open derivative positions

Open derivative positions (options) had a total market value of \$1.3 million as at 29 April 2016. The market value of positions has decreased by approximately \$1.8 million since publication of the CSA Report. From our analysis of the IB Activity Statements we note that there are approximately 500 open option positions and over 6,000 option contracts.

12.4.2 SCMA

Securities held with SCMA as at 29 April 2016 had a total market value of \$4.1 million (refer to **Appendix 12.3**). This represents a \$0.3 million decline in market value from the amount reported in the CSA Report. The table below provides a breakdown of the securities held by SCMA by exchange.

BBYL - SCMA Securities Holdings as at 29 April 2016		
Exchange	Market value of securities	%
Australian Stock Exchange	1,451,914	36%
Frankfurt Stock Exchange	34,570	1%
Hong Kong Stock Exchange	381,765	9%
London Stock Exchange	62,746	2%
NASDAQ Stock Market	536,657	13%
New York Stock exchange	1,318,882	32%
Over-The-Counter Market	183,697	4%
Paris Stock Exchange	4,853	0%
Singapore Stock Exchange	15,376	0%
Tehran Stock Exchange	67,905	2%
Toronto Stock Exchange	7,893	0%
Unknown	21,731	1%
Total	4,087,989	

Based on the table above we note that:

- the majority of securities are traded on the Australian Stock Exchange (\$1.5 million, 36%), the New York Stock Exchange (\$1.3 million, 32%) and NASDAQ (\$0.5 million, 13%); and
- there are also a large number of small value securities held with a number of other exchanges totalling \$0.8 million.

12.5 Counterparty recoveries

The status and value of counterparty recoveries as at 29 April 2016 are set out in the following table:

BBYL - Counterparty Balances							
Counterparty	Confirmation date	Product Line	Counterparty Cash Holdings	Value of securities (AUD)	Value of open positions (AUD)	Cash paid by counterparties (AUD)	Reference
ASX	5-Jun-15	ETO	-	-	-	3,400,116	
ABN Amro ⁽²⁾	29-Apr-16	Futures	1,999,352	-	-	-	Appendix 12.5
ADM Investor Services ⁽¹⁾	29-Apr-16	Futures	1,534,642	-	-	-	Appendix 12.4
Interactive Broker	29-Apr-16	IB	7,839,514	3,640,396	1,281,470	-	Exhibit 12.2 & 12.3
Halifax	15-Jun-15	FX	-	-	-	455,863	
CMC Markets	29-Apr-16	FX	-	-	-	5,459	
Saxo Capital Markets	29-Apr-16	Saxo	-	4,087,989	-	206,625	Appendix 12.3
Total			11,373,508	7,728,385	1,281,470	4,068,063	

Note:

(1) Converted to AUD from USD at 0.7603 spot rate.

(2) Net of accounts in negative value.

The table above excludes the USD equivalent of \$620,136 received from ADM into the USD Futures CSA on 18 May 2015, discussed in section 4.4.2 of the CSA Report, which forms part of the total balance of Futures CSAs in the diagram in section 12.1 above.

The status of each recovery not yet received from counterparties are as follows:

ABN Amro

ABN Amro holds cash for BBYL. ABN Amro will not return these funds to the Liquidators without the consent of the Receivers. The Receivers have not provided their consent and we await a response to our most recent correspondence.

ADM Investor Services

ADM holds cash for BBYL, denominated in a number of currencies. In some currencies, BBYL has a net liability to ADM. ADM will not return the net amount of cash held by it to the Liquidators until BBYL discharges the liabilities in particular currencies. In an application to the Court the Liquidators sought a direction from the Court that they would be justified in discharging those liabilities using the positive cash balances held by ADM in other currencies. That application has not yet been heard.

Interactive Brokers LLC

IBL will not return funds to the Liquidators until all open positions are closed out. In an application to the Court the Liquidators sought a direction from the Court that they would be justified in closing out open derivative positions held by IBL. That application was heard by the Court on 23 March 2016. The Court has reserved judgment.

The Liquidators also sought a separate direction that they would be justified in directing IBL to sell securities held by it for BBYL. That aspect of the application has not yet been heard by the Court.

SCMA

SCMA holds securities with a market value of \$4.1 million (as at 29 April 2016) for BBYL. In an application to the Court, the Liquidators sought a direction from the Court that they would be justified in directing SCMA to sell those securities. That application has not yet been heard.

13 Client claims analysis

13.1 Quantum analysis

In the CSA Report we provided a breakdown of the number of clients in each product line and the number of clients with claims less than \$25 and \$100 respectively. We have conducted further analysis of client claims and the table below provides a breakdown of claims based on value for each product line.

BBYL - client claims profile as at 15 May 2015												
Product line	Equity / ETO ²		Futures		FX		Saxo ³		Interactive Brokers		Total	
	No. clients	Value of claims (\$000)	No. clients	Value of claims (\$000)	No. clients	Value of claims (\$000)	No. clients	Value of claims (\$000)	No. clients	Value of claims (\$000)	No. clients	Value of claims (\$000)
\$0 - \$25	148	2	172	2	312	2	459	4	150	1	1,241	11
\$25 - \$100	354	14	263	14	113	6	491	28	76	4	1,297	67
\$101 - \$1,000	262	143	258	98	117	35	692	257	106	46	1,435	580
\$1,001 - \$5,000	242	632	122	308	41	91	333	832	151	457	889	2,321
\$5,001 - \$10,000	63	462	44	331	16	113	75	547	112	801	310	2,255
\$10,001 - \$50,000	128	2,960	99	2,064	20	367	108	2,235	204	4,943	559	12,570
\$50,001 - \$100,000	26	1,764	11	725	5	386	17	1,144	44	3,026	103	7,046
\$100,001 - \$500,000	12	2,050	19	3,832	7	1,333	8	1,656	27	5,335	73	14,207
\$500,001+	1	562	7	6,107	1	503	1	800	1	3,671	11	11,642
Total	1,236	8,589	995	13,482	632	2,836	2,184	7,505	871	18,286	5,918	50,698

Notes:

(1) This analysis excludes accounts identified by the liquidators as house and debtor accounts.

(2) Includes the Equity/ETO client ledger report as at 18 May 2015, unrepresented cheques of \$1m and other client claims of \$1.1m and excludes the \$3.4m ASX collateral return and \$2.4m erroneous withdrawals.

(3) Excludes client position claims as at 15 May 2015.

In the proceeding, the Liquidators seek a direction that they would be justified in treating clients with claims less than \$25 (or some other amount that the Court sees fit) as having no entitlement to participate in a distribution from the CSAs and Recoveries.

13.2 Currency analysis

We have performed an analysis of claims on the FX, Futures, Saxo and IB product lines to determine the surplus or shortfall in respect of particular currencies. Our analysis indicates that in many instances there are insufficient funds in the respective CSAs to satisfy client currency claims. We have presented client claims for each product line as at 15 May 2015 because the ledger reports setting out the quantum of claims for the Futures and FX product lines were not generated on 17 May 2015 (being a Sunday).

13.2.1 FX currency analysis

BBYL - FX client currency claim analysis					
Currency	Balance of CSA Account as at 29 April 2016	Halifax recovery	Total funds	Client claims as at 15 May 2015	Surplus/(Shortfall)
ALP	-	-	-	(2)	(2)
AUD	130,352	461,322	591,675	(1,379,018)	(787,343)
CAD	32,627	-	32,627	(1,578)	31,049
CHF	29,858	-	29,858	(21,006)	8,852
EUR	68,638	-	68,638	(274,515)	(205,877)
FJD	26,803	-	26,803	(21,772)	5,031
GBP	56,054	-	56,054	(42,307)	13,746
HKD	186,733	-	186,733	(68,972)	117,761
JPY	8,343,843	-	8,343,843	(20,736,548)	(12,392,705)
NZD	290,553	-	290,553	(116,190)	174,364
PHP	6,680	-	6,680	(1)	6,679
SGD	11,563	-	11,563	(31,233)	(19,671)
THB	57,154	-	57,154	(1,972)	55,181
USD	102,395	-	102,395	(885,254)	(782,859)
ZAR	81,494	-	81,494	-	81,494

Note:
This analysis excludes house and debtor accounts.

This analysis indicates that there are a number of FX currency claims for which there are insufficient funds denominated in the relevant currency to satisfy the claims.

13.2.2 Futures currency analysis

BBYL - Futures client currency claim analysis						
Currency	Balance of CSA Account as at 29 April	Funds held by ADM as at 29 April 2016	Funds held by ABN AMRO as at 29 April 2016	Total funds	Client claims as at 15 May 2015	Surplus/(Shortfall)
AUD	117,543	49,518	2,008,352	2,175,413	(10,568,106)	(8,392,694)
CAD	58,447	(21,834)	-	36,613	(57,295)	(20,682)
CHF	6,697	71,788	-	78,485	(87,889)	(9,403)
EUR	34,603	118,736	-	153,339	(165,122)	(11,784)
GBP	87,416	82,440	-	169,856	(116,870)	52,986
HKD	54,820	-	-	54,820	(68,347)	(13,527)
JPY	8,395,597	(6,640,011)	-	1,755,586	(10,073,287)	(8,317,701)
NZD	22,793	-	-	22,793	(418,761)	(395,968)
USD	503,368	877,648	-	1,381,016	(2,132,393)	(751,377)

Note:

This analysis excludes house and debtor accounts.

This analysis indicates that there are a number of Futures currency claims for which there are insufficient funds denominated in the relevant currency to satisfy the claims.

13.2.3 Saxo currency analysis

BBYL - Saxo client currency claim analysis								
Currency	Balance of CSA Account at 29 April 2016	Recovered funds from counter party	Market value of securities as at 29 April 2016	Total funds	Client claims at 15 May 2015	Market value of securities as at 29 April 2016	Total client claims	Surplus/(Shortfall)
AUD	120,863	206,625	1,452,165	1,779,652	(6,858,804)	(1,452,165)	(8,310,968)	(6,531,316)
SGD	-	-	992	992	(12,797)	(992)	(13,789)	(12,797)
EUR	-	-	30,509	30,509	(1)	(30,509)	(30,510)	(1)
HKD	-	-	2,256,160	2,256,160	(78,429)	(2,256,160)	(2,334,589)	(78,429)
NZD	39,234	-	-	39,234	(433,029)	-	(433,029)	(393,795)
USD	3,129	-	1,583,220	1,586,349	(177,389)	(1,583,220)	(1,760,609)	(174,260)
CAD	-	-	72,578	72,578	-	(72,578)	(72,578)	-
GBP	-	-	28,092	28,092	-	(28,092)	(28,092)	-

Note:

This analysis excludes house and debtor accounts.

This analysis indicates that there are a number of Saxo currency claims for which there are insufficient funds denominated in the relevant currency to satisfy the claims.

13.2.4 IB currency analysis

With the exception of a small amount of funds held in the IB Buffer account ending 321 we note that IB holds all of the client funds relating to this product line. BBYL did not maintain currency accounts in respect of IB clients.

13.3 Ageing analysis

We were requested by a party to the proceeding to conduct an analysis of the age of client claims to the Equity/ETO product line as at 18 May 2015 (based on the 18 May 2015 client ledger report). In **Appendix 13.1** we set out each month from January 2011 to May 2015 and the aggregate value of transactions listed in the client ledger report dated 18 May 2015 dated in that month. In **Exhibit 13.1** we set out a list of Equity/ETO client accounts for clients with claims as at 18 May 2015, based on the client ledger report, and the date of the first transaction on each client's account contributing to the overall credit balance as recorded in that report.

Both analyses reflect only the claims recorded in the 18 May 2015 client ledger report.

14 Disclaimers and limitations

14.1 Disclaimers

This supplementary report to the CSA Report dated 22 December 2015 has been prepared for the purpose set out on page 6 of this report. Our analysis in this report draws on a variety of information sources including: the BBYL and BBYNZ bank statement data, BBYL books and records, BBYL electronic server and mailbox data. In many cases, the records of the BBY Companies are unreconciled, incomplete and in a poor state and it is not possible to independently verify all financial data.

Notwithstanding these circumstances, we have strived for factual accuracy and precise analysis. Professional judgement must be exercised to balance speed and cost of reporting and the extent and nature of our investigations.

The statements and findings included in this report are given in good faith, and in the belief that such statements and findings are not false or misleading.

All values are reported in AUD unless explicitly stated otherwise.

14.2 Limitations

14.2.1 Limitations set out in the CSA Report

To the extent relevant, and subject to what we say in this report, the limitations set out in section 8 of the CSA Report apply to the further investigations described in this report. Below we set out the additional limitations associated with particular investigations we conducted for the purpose of this supplementary report.

14.2.2 Limitations relevant to the conversion of hard copy bank statements into excel format

The manual process undertaken when converting hard copy PDF bank statements to electronic format is susceptible to human error. Therefore, there are a number of limitations with the data output which may not be identified from the quality assurance review undertaken.

These limitations are set out below:

- Due to the large number of transactions converted to electronic format, we were unable to check the running balance against source data for every transaction. The review process undertaken involved reconciling the opening and closing balance against the PDF bank statements supplied to us from NAB and STG. Therefore, any date errors on transactions which occur between the first and last date of the bank statements received will not have been identified by our review, as these date errors would not affect the opening and closing balance.
- Again, due to the large number of transactions converted to electronic format, we were unable to QA every transaction description against source data. Any inaccuracies in the conversion of individual transaction descriptions to electronic format may remain unidentified, such as an incomplete transaction description, a transaction description that was attributed to the wrong transaction, or typographical errors in the descriptions.
- The review would also not identify any instances where duplicate transactions were converted in error where the net effect of these transactions is nil. For example, if a debit and credit of \$500,000 were incorrectly transferred into electronic format as two debits and two credits of \$500,000, this would not affect the running balance of the rest of the bank statement and therefore may not have been identified during the review process.

In order to mitigate the risks of these limitations, the details of any historical banks transactions being relied upon for the purposes of our further analysis were verified against the source bank statements in order to confirm the transaction details.

14.2.3 Limitations relevant to the analysis of the IB Buffer account and the WLP Omnibus account

The following limitations apply to the analysis of the IB Buffer account ending 321 and the WLP Omnibus account ending 137 that we describe in sections 9.2 and 9.3 of the report:

- We have relied on client listings identified within the books and records of BBYL but cannot confirm that these records are complete or accurate in all respects.
- We are not able to confirm the remitters or recipients for every transaction on these accounts as it is not practical to investigate every transaction owing to the volume of activity on these accounts.
- Not all bank transactions include client account references in the transaction description and often the descriptions do not provide sufficient information to determine what the transaction relates to or the purpose of the transaction.
- The transactions between BBYL bank accounts set out in the funds flow diagrams in sections 9.2.3 and 9.3.2 are based on high and medium-high quality transaction matches, according to the criteria we described on page 60 of the CSA Report. Confirming each of those transactions would require tracing by the relevant bank. It is also likely that there are other transactions

between the BBYL bank accounts illustrated that were not matched at high or medium-high match quality, however including those matches would likely lead to the introduction of a large number of false matches.

- In applying the Client Matching Process, in some instances it appears that the account reference in the bank statement description refers to the product line account from which funds were transferred, as opposed to the product line account to which the funds were transferred.

14.2.4 Limitations of bank movement schedule analysis

The limitations relevant to our analysis of the BBYL bank movement schedules in relation to our '*BBY Corp*' transaction analysis discussed in section 5 are set out in **Appendix 5.1** to this report.

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