

FREQUENTLY ASKED QUESTIONS REGARDING
THE RECEIVER'S PLAN OF DISTRIBUTION

On Friday March 27, 2009 the Receiver filed the Proposed Plan of Distribution with the Southern District of New York. This proposal is the Receiver's legal recommendation regarding the distribution of Wextrust assets to investors and creditors. Subsequent to the proceedings outlined by the Receiver in this plan, the Court will make a determination as to how the assets should be distributed. The Receiver's recommendation is not necessarily the approach the Court will adopt.

What recommendation did the Receiver make?

The Receiver recommends a *pro rata* distribution of Wextrust assets to investors and unsecured creditors. This means that each investor or unsecured creditor will receive a ratable share of his or her gross investment (or debt) in the entire Wextrust enterprise, after subtracting out any cash distributions or similar benefits that the investor has already received during the life of the investment. The Receiver also recommended that former Wextrust employees and associates should be partially or completely disqualified from receiving a distribution based on their conduct in facilitating the Ponzi-scheme.

How much of my investment would I receive under the Receiver's plan?

The Receiver's plan does not set out a specific amount or percentage of the investment that will be returned to investors. At this point, there are still a number of outstanding variables that will affect the total amount of Wextrust assets available for distribution, including the recovery of liquidation claims in Africa, the stability of the real estate market, and the profit from sales of Wextrust realty. In addition, each investor's distribution will be slightly different as the total is affected by the amount of dividends or distributions an investor received over the life of the investment and whether that investor was involved in perpetuating or facilitating the Wextrust Ponzi-scheme. At a later point, the Receiver will mail to each individual investor a letter detailing the amount to be returned for each investment.

When will I receive my distribution check?

There are a number of steps to be completed before investors may receive their distribution checks. This timeline should give you a basic understanding of the process. April 27, 2009 is the deadline for objections to the Receiver's Plan of Distribution. The Receiver will respond to timely-filed objections by May 4, 2009. After this time, the Court will review any objections and will ultimately make a decision regarding a plan of distribution after a full hearing. As soon as a hearing date is set, the Receiver will post this date on the receivership website: www.wextrustreceiver.com.

If the Receiver's plan is adopted, the Receiver will distribute individual claims letters to investors by May 15, 2009. These letters will details the amount the investor invested in each Wextrust entity, according to a thorough review of Wextrust records, records received from

investors, and investor interviews. The statements will also detail the amount deducted from the total investment based upon distributions already received from the investor over the lifetime of the investment, and any reduction for perpetuating or facilitating the Wextrust fraud.

Investors should then carefully review the letter and make any objections to the amounts listed by June 12, 2009. The letter will provide further information regarding how to object. The Receiver intends to settle all disputes with investors and unsecured creditors by July 20, 2009. After July 20, 2009, the Receiver will make a motion asking the court to approve a partial distribution to investors, and if the motion is approved, will begin distributing available funds. Subsequent distributions will be paid on a periodic basis, after approval from the Court, from the remaining reserves and the proceeds of the sale of receivership assets pursuant to the Receiver's Plan of Management.

Why did the Receiver decide on a pro rata distribution?

The Receiver's advisors have thoroughly researched the law in this area and have concluded that a *pro rata* distribution would be the most equitable to all of the investors. The Receiver has reached this conclusion for several reasons: (i) Wextrust engaged in systematic and pervasive commingling of investor funds, making it difficult, if not practically impossible, to trace individual investments; (ii) the Wextrust victims are similarly-situated with respect to their relationships with the Wextrust defendants and the Wextrust enterprise as a whole; and (iii) Wextrust ignored the legal formalities that are needed to maintain distinct entities for its numerous affiliated companies. As all of the Wextrust investors were victims of the same fraudulent enterprise, the Receiver believes it would be inequitable to provide some investors with all or nearly all of their investment back, while other investors are left empty-handed. In many cases, luck would dictate whether investors received all or none of their investments back.

What alternatives did the Receiver consider?

The Receiver considered a number of alternatives, but has concluded that they would either be extremely expensive – thus decreasing the amount of funds available to investors – or inequitable. The major alternatives the Receiver considered are: (i) a constructive trust; (ii) distributing funds according to the investor's level of risk; (iii) distributing funds according to type of investment; (iv) distributing funds according to timing of investment; (v) and initiating bankruptcy. Each is discussed further below.

A constructive trust is a legal remedy that would prohibit the unsecured creditors from recovering any money and would preserve all money for the investors. In addition to being inequitable, the Receiver is concerned that this remedy would merely open the door to protracted litigation between creditors and investors, wasting both time and money for the investors.

Although investors did make different investment decisions based upon different levels of risk, the Receiver feels that this approach would be too subjective, and thus inequitable. All investments are risky to some degree, and in this instance many of the supposedly “safer” investments, such as real estate, have experienced steep losses. A thorough analysis of these

risks would drive-up administrative costs and would involve too many subjective judgments on the part of the Receiver.

The Receiver has considered whether to treat holders of guaranteed debt, such as the GDR funds, differently than equity security holders. Although these are different types of investments with different levels of risk, the Receiver feels that this would also be inequitable given the reality of the Wextrust situation. The GDR accounts are some of the most commingled investments issued and were in essence used as a “piggy bank” for Wextrust's cash needs. Allowing the GDRs a higher priority than the equity securities would require a tracing scheme, which would be costly and unmanageable.

Distributing funds according to the date of the investment would also be inequitable. Early investors could claim that they should be given priority because of the lost opportunity to use and accrue interest on the funds they invested. Later investors may claim that they should be given a preference if their funds were neither commingled nor expended by the individual Defendants. Both claims have merit, and any attempt to differentiate among the two would require a potentially inequitable decision by the Receiver. In addition, the degree to which an investor's funds have been commingled or expended by the individual Defendants is largely dependent on luck.

With regard to bankruptcy proceedings, although the Receiver reserves the right to reconsider this conclusion, the Receiver believes that this would be a poor remedy. Administrative costs would increase, decreasing the funds available for distribution. Bankruptcy would also be slower and would not provide the same flexibility to tailor a plan of distribution that the Court now enjoys.