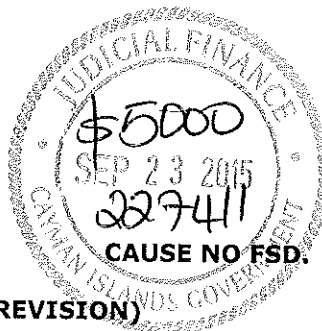


IN THE GRAND COURT OF THE CAYMAN ISLANDS  
FINANCIAL SERVICES DIVISION



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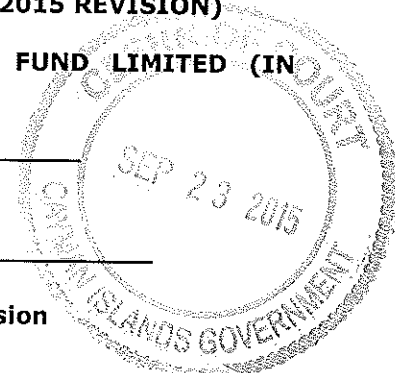
IN THE MATTER OF THE COMPANIES LAW (2013 REVISION)

IN THE MATTER OF SECTION 30(11)(b) OF THE MUTUAL FUNDS LAW (2015 REVISION)

AND IN THE MATTER OF MELSTREP NEURAL NETWORK NO. 1 FUND LIMITED (IN  
CONTROLLERSHIP)



**WINDING UP PETITION**



**TO:** The Grand Court of the Cayman Islands, Financial Services Division

**THE HUMBLE PETITION** of the Cayman Islands Monetary Authority ("**CIMA**" or "the **Petitioner**") of 80e Shedden Road, Elizabethan Square, PO Box 10052, Grand Cayman KY1-1001, Cayman Islands shows that:-

**Background:**

1. Melstrep Neural Network No. 1 Fund Limited ("Melstrep") was incorporated as a Cayman Islands Exempted Company on 11 June 2010 and registered with CIMA on 22 October 2010 as a Registered Mutual Fund, pursuant to Section 4(3) of the Mutual Funds Law (2009 Revision).
2. Since the time of registration, CIMA's records show that the directors were Messrs Hsiao-Ning HU (11 June 2010 - 24 June 2011), Ching-I KAO (11 June 2010 - 12 August 2011), Li-Jun LI (appointed 11 June 2010) and Pei-Chun CHAO (appointed 12 August 2011). Messrs LI and CHAO are hereinafter referred to as the "current directors".
3. At the time of registration Melstrep's registered office was Maples Corporate Services Limited (resigned 3 April 2012).
4. Further, at the time of registration, the other relevant service providers were noted as follows:
  - (a.) The auditor was Rankin Berkower (Cayman) Ltd. (resigned 31 January 2012);
  - (b.) The investment manager was Melstrep Asset Management Ltd. ("*Melstrep Asset*");
  - (c.) The Cayman Legal adviser was Maples and Calder (resigned 2 March 2012);
  - (d.) Standard Chartered Bank (Hong Kong) Limited ("*Standard*") (resigned 24 February 2012) was both administrator and custodian; and
  - (e.) Swissquote Bank SA, Switzerland was the prime broker.

5. During the period February 2012 to August 2012, CIMA exchanged numerous correspondences with service providers for Melstrep to include the directors and Standard regarding its operations. Most significantly, CIMA noted its ongoing concerns as to (a) the resignations of service providers, in particular, the regulatory breaches resulting from the lack of an auditor, administrator and registered office of Melstrep and no replacements, and (b) the lack of involvement and availability by the board of directors despite repeated attempts to communicate with the current directors as well as with the investment manager.
6. Consequently, CIMA continued to follow up with the progress being made by Standard to communicate with the directors and obtain approvals in order to respond to the investors and address the regulatory breaches. Nonetheless, in August 2014, based upon the response received from Standard, as well as the confirmations as to Melstrep having mounting regulatory breaches, CIMA issued a letter to the directors outlining the material concerns about the operations of Melstrep and regarding potential regulatory action being taken. CIMA however notes that this letter which was sent by email and post on the 29 August 2014 was subsequently returned as "undeliverable".
7. Based upon the information submitted to CIMA, the investment strategy of Melstrep is slated as being to achieve high rates of return while maintain consistently medium volatility and risk through investing the assets mainly in global currency markets. These investments were mainly traded by Melstrep Neural Network Auto-Trading System, championed by Melstrep as the "world's leading exchange rate trading program system" to minimize risk attributable to changes in stock markets.
8. The shareholder register dated 23 February 2012 showed that Melstrep had 20 investors holding a total of 29,912.915 units.

**Assets:**

9. CIMA continued to assess the status of the operations and has been advised that Melstrep's only known asset is cash in the amount of US\$373,191.71 held on account by Standard (as the Administrator and custodian) on its behalf at 30 March 2015.
10. CIMA has been advised that given that no audit services were performed on behalf of Melstrep. Therefore, information regarding the financial position was obtained through communications with Standard and the most recent NAV statement which is dated 23 February 2012 (being the last date at which the Administrator produced any financial information).

**Liabilities:**

11. Based upon the NAV statement, Melstrep had payables of US\$17,624.04 and accrued expenses of US\$276,942.45. Since the last NAV statement (23 February 2012), US\$143,348.31 is noted as withdrawn from the bank account for payment of fees in respect of fund services performed by Standard.

12. Furthermore, the statutory annual fees and penalties remain outstanding to CIMA and to date totals CI\$43,125.19 for the years 2012- 2015. The fees and penalties owing to the General Registry are noted as CI\$5,166.69 as at 21 September 2015.

**Regulatory breaches and considerations:**

13. Based upon CIMA's assessment of the status of Melstrep regarding its regulatory obligations, it was determined as follows:

13.1. Pursuant to the Mutual Funds Law (2013 Revision) (as amended to 2015 Revision) (the "MFL"), there were breaches to:

(a.) Section 8(1) and (2) for failing to prepare and submit audited accounts for the years ended December 31, 2011 to 2013;

(b.) Section 9 for failing to pay its annual fees and penalties for the years 2012 to 2014 [totalling CI\$29,500.10 as at 23 December 2014.]

13.2. Pursuant to the Companies Law (2013 Revision) there was a breach of Section 50 for failing to have a registered office;

14. Additionally, CIMA held significant regulatory concerns at to:

(a.) All the service providers having resigned, with the exception of Melstrep Asset; the Investment or Trading Manager; and

(b.) The directors, despite repeated requests, had failed to bring the Fund into compliance with the MFL, are not communicating with the Authority and appear to have abandoned the Fund.

**Regulatory Enforcement Action:**

15. Consequently, on 23 December 2014 CIMA exercised its powers under Section 30(3)(e) of the MFL and resolved to appoint a person to assume control of the affairs of the Fund at its expense.

16. This action was resultant from CIMA being satisfied, pursuant to Section 30(1)(a), (b) and (d) of the MFL, that;

i. Melstrep was or appeared likely to become unable to meet its obligations as they fell due;

ii. Melstrep was carrying on business in a manner that was prejudicial to its investors or creditors; and

iii. the direction and management of Melstrep had not been conducted in a fit and proper manner.

17. Consequently on 30 December 2014, CIMA appointed Keiran Hutchison and Claire Loebell of Ernst & Young Ltd. ("Ernst & Young") as Joint Controllers ("the Controllers") to assume control of the

affairs of Melstrep. Notice of the Appointment of Controllers was published by CIMA on its website on 31 December 2014.

**Controllership Reports and Recommendations:**

18. In accordance with section 30(9)(b) of the MFL, the Controllers submitted their first interim report to CIMA on 30 January 2015 and identified a number of concerns regarding Melstrep which are summarised below and formed part of CIMA's regulatory considerations:

- (a) The directors and Investment Manager have failed to respond to any of the Controllers' requests for information;
- (b) The first NAV statement was prepared to 29 April 2011 and issued to investors shortly thereafter;
- (c) The Administrator and Custodian ("Standard") were unable to obtain the approval of the directors to release the June 2011 NAV statement to the investors; however, they continued to prepare draft monthly NAV statements until 23 February 2012;
- (d) On 21 December 2011, Standard received instructions from an administrative employee of Melstrep, Zoe Wang ("Ms. Wang") not to provide NAV statements to investors until 31 March 2012 (the Controllers attempted to contact Ms. Wang without any success);
- (e) Melstrep had raised approximately US\$3.3 million in subscription capital from twenty-one (21) investors. The NAV statements indicate that the majority of the subscription capital was advanced to the prime broker to enter into spot currency contracts.
- (f) The performance of Melstrep's portfolio deteriorated very quickly and by 31 December 2011 it had incurred a loss in the financial year of approximately US\$2.7 million;
- (g) The Controllers wrote to Swissquote Bank SA in its capacity as the Prime Broker, but have been unable to obtain any information regarding the prime brokerage relationship due to banking secrecy rules in Switzerland. Hence, the known assets (at the time of reporting) was comprised of US\$373,191.71 in cash in a bank account, payables and expenses of US\$186,695.22 and a net asset value US\$186,496.49.

19. Subsequent to their first report of 30 January 2015, it was determined that Melstrep should remain in controllership for further investigations to be conducted. Accordingly, a second report was submitted to CIMA on 30 March 2015 by the Controllers which raised the following regulatory concerns:

- (a) Whilst the Controllers have taken significant steps to safeguard the assets and investigate the reasons for the failure of Melstrep, important tasks are still to be completed such as locating the Directors, establishing a dialogue with the investors of Melstrep and obtaining further

information pertaining to the investments undertaken (which are believed to be held by the Prime Broker in Switzerland);

- (b) Melstrep appears to have ceased to operate in 2012 and the directors have ignored their fiduciary duties to its operation as a regulated mutual fund and its investors since;
  - (c) The Controllers have been unable to obtain information pertaining to the investment strategy and any other additional assets which could possibly exist as the Prime Broker has advised that under Swiss Law it is prevented from divulging such information without an order of the Swiss Court to do so.
  - (d) The Controllers have written to the twenty (20) known investors to notify them of their appointment and to request any information which may be relevant to the investigations into the affairs of Melstrep. However, to date, the Controllers have received no responses.
20. Consequently, CIMA has further noted that in addition to there being no current operations of Melstrep, the Controllers are of the view that it is no longer viable for the purpose for which it was formed.
21. Additionally, the Controllers recommended that CIMA petition the Grand Court for the winding-up of Melstrep in order to protect the interests of investors and creditors. The Controllers made this recommendation for the following reasons:
- (a) Acting in the capacity of an Official Liquidator would facilitate their efforts to obtain information from the Prime Broker by seeking recognition from the Swiss Court to allow the collection of all information pertaining to the trades and investments undertaken by Melstrep;
  - (b) Official Liquidation will enable the Liquidators to declare an interim distribution to creditors and adjudicate claims to enable an initial payment to creditors and potentially investors, depending on the quantum of cash; and
  - (c) A Liquidation Committee would be of assistance to discuss any potential rights of action.
22. Based upon the Controllers recommendations, CIMA proceeded to invoke further regulatory enforcement action.
23. Consequently, on the 3 August 2015, the Executive Committee of the Board of Directors of CIMA resolved pursuant to section 30(11)(b) of the MFL to petition for Melstrep to be wound up and that its registration as a mutual fund be cancelled simultaneously with the appointment of the Joint Official Liquidators.
24. Since the Controllers recommendations were made, CIMA further understands that the Controllers have been advised by Standard that it is unable to transfer the amount of US\$373,191.71 to an account operated by the Controllers without the authorization of a Court in Hong Kong. Hence, it is

vital that the Controllars are put in a position to obtain the necessary recognitions by competent authorities in relevant overseas jurisdictions.

**Grounds upon which relief sought:**

25. This petition is made pursuant to section 94(4) of the Companies Law (2013 Revision) which states that a winding up petition may be presented by the Authority in respect of any company which is carrying on regulated business in the Islands upon the grounds that it is not duly licensed or registered to do so under the regulatory laws or *for any other reason as provided under the regulatory laws* or any other law.
26. "Regulatory laws" as defined in section 2 of the Monetary Authority Law (2013 Revision) ("the MAL") refers to those laws listed therein and includes the Mutual Fund Law (2013 Revision) (and as amended 2015) and referred herein as "the MFL". It is, therefore, a regulatory law for the purposes of section 94(4) of the Companies Law as noted above.
27. Consequently, CIMA's powers under the MFL have been invoked and the necessary resolutions have been passed, consistent with the provisions of section 30(11)(b) of the MFL, to petition for the winding up of Melstrep.
28. CIMA has demonstrated that there are sufficient reasons which have given rise to the use of its enforcement powers as set out in paragraphs 10 to 24 above to ground CIMA's presentation of this petition for the relief sought.
29. It is manifestly obvious that the directors of Melstrep has been given the opportunity (i) to rectify its breaches of the regulatory law and (ii) to respond to CIMA's petition (with sufficient notice of the intended actions by CIMA) and (iii) to object to all regulatory action taken by CIMA leading up to this petition (to include CIMA's notification of its intention to file a petition). It is therefore submitted that CIMA has met its obligations under the Companies Law (2013 Revision) and the Companies Winding Up Rules 2008 (as amended 2013) ("CWR").

**Nomination of Joint Liquidators:**

30. Given their involvement as Controllars of Melstrep, Keiran Hutchison and Claire Loebell of Ernst & Young are nominated to be appointed as Joint Official Liquidators of Melstrep and have expressed their willingness and consent to act.
31. As evidenced by their affidavits in accordance with the CWR, both nominees and Ernst & Young are equipped in offering their services as qualified insolvency practitioners in compliance with the Insolvency Practitioners Rules and are thus able to progress the winding up in a timely manner.
32. Additionally, both nominees have already spent considerable time and incurred costs in familiarizing themselves with the affairs of Melstrep and continue to work to obtain this information from the various parties, obtain up to date contact information and to seek to collect the assets whilst continuing their investigations into the investments by Melstrep (as evidenced by

their various reports to CIMA). Consequently, both nominees are considered best placed to assume control over the affairs of Melstrep in liquidation.

**YOUR PETITIONER THEREFORE HUMBLY PRAYS as follows:**

33. Melstrep be wound up by the Court subject to the provisions of the Companies Law (2013 Revision).
34. Keiran Hutchison and Claire Loebell of Ernst & Young of 62 Forum Lane, Camana Bay, George Town, Grand Cayman be appointed as Joint Official Liquidators ("Joint Official Liquidators") of Melstrep;
35. The Joint Official Liquidators shall not be required to give security for their appointment;
36. The Joint Official Liquidators be authorised to act jointly and severally and exercise any of the following powers within and outside the Cayman Islands specified in Part I and Part II of the Third Schedule to the Companies Law without further sanction or intervention of the Court, namely the powers:
  - (a) to bring or defend any action or other legal proceeding in the name and on behalf of Melstrep including the taking of such steps as the Joint Official Liquidators may consider appropriate in respect of legal proceedings, either in their own name for and on behalf of Melstrep, or in the name of Melstrep on its behalf;
  - (b) to commence any other winding up, bankruptcy and/or recognition proceedings in Switzerland, Hong Kong and any other jurisdiction where Melstrep has assets as the Joint Official Liquidators may consider necessary and appropriate;
  - (c) to carry on the business of Melstrep so far as may be necessary for its beneficial winding up;
  - (d) to dispose of any property of Melstrep to a person who is or was related to the Company;
  - (e) to pay any class of creditors in full;
  - (f) to make any compromise or arrangement with creditors or persons claiming to be creditors or having or alleging themselves to have any claim (present or future, certain or contingent, ascertained or sounding only in damages) against Melstrep or for which Melstrep may be rendered liable;
  - (g) to compromise on such terms as may be agreed all debts and liabilities capable of resulting in debts, and all claims (present or future, certain or contingent, ascertained or sounding only in damages) subsisting, or supposed to subsist between Melstrep and any debtor or person apprehending liability to Melstrep;

- (h) to deal with all questions in any way relating to or affecting the assets or the winding up of Melstrep, to take any security for the discharge of any such call, debt, liability or claim and to give a complete discharge in respect of it;
  - (i) to sell any of Melstrep's property by public auction or private contract with power to transfer the whole of it to any person or to sell the same in parcels;
  - (j) to raise or borrow money and grant securities therefore over the property of Melstrep;
  - (k) to engage staff (whether or not as employees of Melstrep) to assist them in the performance of their functions;
  - (l) to engage attorneys and other professionally qualified persons to assist them in the performance of their functions;
  - (m) to take possession of, collect and get in the property of Melstrep and for that purpose to take all such proceedings as they consider necessary;
  - (n) to do all acts and execute, in the name and on behalf of Melstrep, all deeds, receipts and other documents and for that purpose to use, when necessary, Melstrep's seal;
  - (o) to prove, rank and claim in the bankruptcy, insolvency or sequestration of any contributory for any balance against his estate, and to receive dividends in the bankruptcy, insolvency or sequestration in respect of that balance, as a separate debt due from the bankrupt or insolvent and rateably with the other separate creditors;
  - (p) to draw, accept, make and indorse any bill of exchange or promissory note in the name and on behalf of Melstrep, with the same effect with the respect of Melstrep's liability as if the bill or note had been drawn, accepted, made or indorsed by or on behalf of the Company in the course of its business;
  - (q) to promote a scheme of arrangement pursuant to section 86 of the Companies Law;
  - (r) to convene meetings of creditors and any contributories; and
  - (s) to do all other things incidental to the exercise of their powers;
33. The Joint Official Liquidators' remuneration and expenses be paid out of the assets of the Company in accordance with section 109 of the Companies Law, the Insolvency Practitioner's Regulations 2008 (as amended) and Order 20 of The Companies Winding Up Rules 2008 (as amended);
34. The Joint Official Liquidators be at liberty to meet all disbursements reasonably incurred with the performance of their functions;

35. The Joint Official Liquidators shall have the authority to appoint Cayman Islands attorneys, and attorneys in any other jurisdiction where Melstrep has or may have assets, as they may consider necessary to advise and assist them in the performance of their duties and to remunerate them for their reasonable fees and expenses out of the assets of Melstrep as an expense of the liquidation;
36. The Joint Official Liquidators be at liberty to and do pay their agents, employees, attorneys, solicitors and whomsoever else they may employ or instruct, remuneration and costs be paid from the assets of Melstrep;
37. No suit, action or other proceedings, including criminal proceedings, shall be proceeded with or commenced against Melstrep except with the leave of the Court pursuant to section 97 of the Companies Law;
38. No disposition of Melstrep's property by or with the authority of the Joint Official Liquidators in the carrying out of their duties and functions and the exercise of their powers under this Order shall be avoided by virtue of section 99 of the Companies Law;
39. Any act required or authorised to be done by the Joint Official Liquidators may be done by any one of them;
40. The Joint Official Liquidators provide to the Petitioner copies of all reports filed with this Court; and
41. Such other orders and directions may be made as the Court thinks fit.

Dated the 21<sup>st</sup> day of September 2015

  
\_\_\_\_\_  
CAYMAN ISLANDS MONETARY AUTHORITY

**NOTE: It is intended to serve this Petition on the Joint Controllers and Directors of Melstrep.**

**This Petition is presented & filed by the Cayman Islands Monetary Authority by its Attorneys whose address for service is 80e Shedden Road, Elizabethan Square, P.O. Box 10052, Grand Cayman KY1-1001, Cayman Islands.**

**NOTICE OF HEARING**

**TAKE NOTICE THAT** the hearing of this Petition will take place at the Law Courts George Town, Grand Cayman on \_\_\_\_ day of \_\_\_\_\_ 2015 at \_\_\_\_ a.m./p.m.

**Any correspondence or communication with the Court relating to the hearing of this petition should be addressed to the Registrar of the Financial Services Division of the Grand Court at P.O. Box 495, Grand Cayman, KY1-1106, telephone 345-949-4296.**