Second investors group forms to try speed EEA recovery

By Donna Horowitz   Updated 09:35 PM, Feb-10-2014 ET

A second investors' group has been set up to try to speed up the recovery of money in the previously suspended EEA Life Settlements Fund PCC.

The newly formed Investor Action Group plans to seek compensation from the U.K. government for losses due to the Financial Services Authority's statement in 2011 calling life settlements a "toxic" asset.

The Investor Action Group said it was started due to the "distress caused by the untimely and inflammatory" announcement made by the FSA about life settlements, which caused the suspension of the EEA life settlements fund.

The Investor Action Group, which formed this month, and the EEA Investors' Group, which was established in October, put out a joint announcement on Friday, Feb. 7, about the formation of the second investors' group.

"Both groups will cooperate fully with each other in pursuing their complementary aims," the statement said. "The success or failure in either of their respective endeavors will have an impact on the ongoing success of the other Group. We believe that the existence of both Groups and their cooperation will benefit all investors in the re-opened EEA Fund going forwards."

The Investor Action Group said it is focused on the actions of the FSA and "to some extent the Guernsey Financial Services Commission (GFSC) for failing to protect the interests of investors from the actions of the FSA," the groups' statement said.

The Guernsey Financial Services Commission regulates the fund. It gave London-based EEA Fund Management Ltd. permission to restructure the EEA fund as of Jan. 1, according to a Dec. 30 EEA statement.

Peter Lihou, leader of the Investor Action Group, said in a Saturday, Feb. 8, e-mail this his group is open to all investors who were negatively affected by the FSA announcement, not just EEA fund investors.

He said he plans to seek a settlement via the U.K. government's Financial Ombudsman Service through the U.K.'s Financial Services Compensation Scheme or redress through the European Convention of Human Rights. The FSCS handles claims against companies regulated by the Financial Conduct Authority, the successor to the FSA, while the Financial Ombudsman Service deals with complaints against authorized firms that are currently trading.

David Trinkwon, coordinator of the EEA Investors' Group, previously said his group is opposed to the restructuring. He said in an e-mail that it believed that the Guernsey regulator "let us down" and the company "marches on unscathed (for now)."

The restructuring allowed investors to continue to hold shares in the fund or have their holdings converted into "run-off" shares. Those shares are to be converted into cash as life settlements in the fund mature. Investors had opted to convert about 58.1% of their holdings into run-off shares.

"Our members have responded strongly that we mustn't give up to ensure that the Company doesn't drain the run-off Fund with even more 'dubious' NAVs [net asset value], performance fees' and charges and we would like to see a more balanced board acting more in the interest of shareholders/investors," Trinkwon said in a January e-mail. "How we get there, we don't know yet. We had been relying on the Regulator to protect our interests but we failed to convince him."

He was referring to Mark Le Page, assistant director of the investment supervision and policy division of the Guernsey Financial Services Commission, which his group has been in contact with since October.

Shortly after approval of the restructuring, he told Le Page that his group was shocked that the regulator approved the restructuring without modifications or conditions. He said in a Jan. 5 letter to Le Page that investors' money will remain illiquid for four to seven years at a minimum.

"The 'Restructure' is a misnomer. The Company has changed its rules to reduce shareholder rights. It is still the same suspended run down unit that it was," the letter said. "The difference is that now an unscrupulous board of directors could bleed the fund dry and leave the shareholders losing fortunes within the strict letter of the law as accepted by the Regulator."

In response, Le Page wrote to the group that the commission had fulfilled its statutory duty and will continue to do so.

"The Commission has to draw a distinction between educated conjecture and evidence, taking appropriate action in accordance with its findings, some of which may be public, some not," he said.

He also said the commission is constrained by law from communicating its findings.

"Specifically, therefore, I am afraid we cannot disclose the work that has occurred leading to our decision to grant regulatory approvals nor correspondence between the relevant parties thereon," Le Page said.

The commission put out a notice Friday, Feb. 7, saying that it recognized that there was ongoing public comment about the EEA fund. It said investors who were sold shares in the fund by an intermediary not domiciled in Guernsey may want to contact the regulator in the intermediary's jurisdiction.

The commission said it welcomed any complaints about a product it regulates, saying it treats them "very seriously" and will look to see if they raise any regulatory concerns.

Trinkwon said his group has been in touch with the commission and has meetings planned with the group, the Guernsey Chamber of Commerce and the Ministry of Commerce & Employment about March 3.

He said his group now has members representing almost 7% of the EEA shares and is trying to increase that to 10% to be able to place resolutions for consideration at the next general meeting.

An EEA representative was not immediately available for comment.

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