

SUPREME COURT OF QUEENSLAND

REGISTRY: BRISBANE

NUMBER: BS 4828193

IN THE MATTER OF LM INVESTMENT MANAGEMENT LIMITED (IN LIQUIDATION) ACN 007 208 461 AS RESPONSIBLE ENTITY OF THE LM INSTITUTIONAL CURRENCY PROTECTED AUSTRALIAN INCOME FUND;

LM INVESTMENT MANAGEMENT LIMITED (IN LIQUIDATION) ACN 007 208 461 AS RESPONSIBLE ENTITY OF THE LM CURRENCY PROTECTED AUSTRALIAN INCOME FUND

First Applicant: **LM INVESTMENT MANAGEMENT LIMITED (IN LIQUIDATION) ACN 007 208 461**

Second Applicant: **JOHN RICHARD PARK AS LIQUIDATOR OF LM INVESTMENT MANAGEMENT LIMITED (IN LIQUIDATION) ACN 007 208 461**

Third Applicant: **LM INVESTMENT MANAGEMENT LIMITED (IN LIQUIDATION) ACN 007 208 461 AS RESPONSIBLE ENTITY OF THE LM INSTITUTIONAL CURRENCY PROTECTED AUSTRALIAN INCOME FUND**

Fourth Applicant: **LM INVESTMENT MANAGEMENT LIMITED (IN LIQUIDATION) ACN 007 208 461 AS RESPONSIBLE ENTITY OF THE LM CURRENCY PROTECTED AUSTRALIAN INCOME FUND**

ORIGINATING APPLICATION

TAKE NOTICE that the applicants are applying to the Court for the following orders (in which the terms in bold type bear the meaning in the Glossary in the Schedule 1):

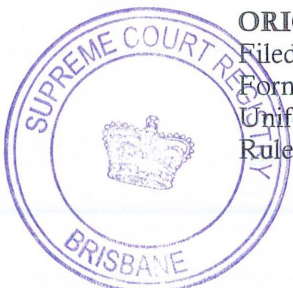
On the first return date of the Application

1. That, pursuant to r 116(1) of the *Uniform Civil Procedure Rules 1999 (UCPR)*, service of this Originating Application and the affidavit Millicent Kathryn Russell sworn 6 April 2023 be effected on the members of the **ICPAIF** and the **CPAIF** as follows:-

(a) by the second applicant uploading to the **Website** this Originating Application,

ORIGINATING APPLICATION
Filed on behalf of the Applicants
Form 5, Version 1
Uniform Civil Procedure Rules 1999
Rule 26

Russells
Level 18, 300 Queen Street
Brisbane QLD 4000
Tel: (07) 3004 8888
Fax: (07) 3004 8899
Ref: MKR:20201040



the **Notice**, any order made as to service and the said affidavit of Ms Russell (including all exhibits);

- (b) by the second applicant sending an email to those members of the **ICPAIF** and the **CPAIF**, for whom an email address is recorded:
 - (i) attaching the **Notice**;
 - (ii) stating that they may view the Court documents referred to in paragraph 1 above on the **Website**; and
 - (iii) where the second applicant receives a response to an email that indicates the email was not received, or if the applicants do not hold an email address for any member, and the applicants have a postal address for those members, the second applicant is to post the **Notice** to the postal address of those members.

- 2. That, pursuant to r 116(3) of the UCPR, service of this Originating Application, any order as to service and the said affidavit of Ms Russell in accordance with any order so made shall be deemed to be effective service on each of the members of the **ICPAIF** and the **CPAIF** on completion of the last step in paragraph 1 above.
- 3. The applicants shall not be required to take further steps to serve the members of the **ICPAIF** or **CPAIF** whose email addresses return permanent undeliverable receipts and for whom the applicants do not have a postal address.
- 4. Directions for the hearing of paragraphs 5 and 6 below.

On the further hearing of the Originating Application

- 5. Directions, pursuant to s 96 of the *Trusts Act 1973 (Qld)* and s 90-15 of *Insolvency Practice Schedule (Corporations)*, that the applicants:
 - (a) were justified in commencing Supreme Court of Queensland proceeding, BS 14389 of 2022 and would be justified in continuing to prosecute that proceeding;
 - (b) are justified in resisting any strike out application that the defendant has foreshadowed filing in Supreme Court of Queensland proceeding, BS 14389 of 2022 (which strike out application is presently listed for hearing before Kelly J on 27 April 2023).
- 6. The applicants' costs of the Originating Application be paid from the scheme property of the **ICPAIF** and the **CPAIF**.

This application will be heard by the Court at QEII Courts of Law Complex, 415 George Street, Brisbane on 11 April 2023 at 10:00am.

Filed in the Brisbane Registry on: 6 April 2023

Registrar:



If you wish to oppose this application or to argue that any different order should be made, you must appear before the Court in person or by your lawyer and you shall be heard. If you do not appear at the hearing the orders sought may be made without further notice to you. In addition you may before the day for hearing file a Notice of Address for Service in this Registry. The notice should be in Form 8 to the Uniform Civil Procedure Rules. You must serve a copy of it at the applicants' address for service shown in this application as soon as possible.

On the hearing of the application the applicants intend to rely on the following affidavit(s):

1. Affidavit of Millicent Kathryn Russell sworn 6 April 2023.

If you intend on the hearing to rely on any affidavits they must be filed and served at the applicants' address for service prior to the hearing date.

If you object that these proceedings have not been commenced in the correct district of the Court, you must apply to the Court for dismissal of the proceedings.

THE APPLICANTS ESTIMATE THE HEARING SHOULD BE ALLOCATED 30 MINUTES

PARTICULARS OF THE APPLICANTS

First Applicant Name: LM Investment Management Limited (in liquidation)
ACN 007 208 461

Second Applicant Name: John Richard Park as Liquidator of LM Investment
Management Limited (in liquidation) ACN 007 208 461

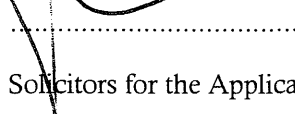
Third Applicant Name: LM Investment Management Limited (in liquidation)
ACN 007 208 461 as responsible entity for the LM
Institutional Currency Protected Australian Income Fund

Fourth Applicant Name: LM Investment Management Limited (in liquidation)
ACN 007 208 461 as responsible entity for the LM
Currency Protected Australian Income Fund

Residential or business address: FTI Consulting; Central Plaza CP1, 345 Queen Street
Brisbane City QLD 4000 and;

Applicants' solicitor's name: Millicent Kathryn Russell
and firm name: Russells
Solicitor's business address: Level 18, 300 Queen Street
Brisbane QLD 4000
Address for service: Level 18, 300 Queen Street
Brisbane QLD 4000

DX:
Telephone: (07) 3004 8888
Fax: (07) 3004 8899
Firm email address: service@Russells.au
Contact email address: MRussell@Russells.au

Signed: 
Description: Solicitors for the Applicants
Dated: 6 April 2023

This application, insofar as it seeks final relief, is to be served on the members of the CPAIF and the members of the ICPAIF in accordance with any order for substituted service, and, if no such order is made, then it is not intended to serve this application on any other person.

**SCHEDULE 1
GLOSSARY**

TERM	DEFINITION
CPAIF	LM Currency Protected Australian Income Fund
ICPAIF	LM Institutional Currency Protected Australian Income Fund
LMIM	LM Investment Management Limited (In Liquidation) ACN 077 208 46
Notice	The notice in Schedule 2 to this application
Website	www.lminvestmentadministration.com

SCHEDULE 2

NOTICE TO MEMBERS

TO: The Members of [insert name of relevant fund]

John Richard Park is the liquidator of LM Investment Management Limited (in liquidation) (Receivers & Managers appointed) ACN 077 208 461 (LMIM), which remains the responsible entity of the [insert relevant fund, viz CPAIF or ICPAIF].

TAKE NOTICE that John Richard Park, the liquidator of LMIM has applied to the Supreme Court of Queensland for Directions, pursuant to s 96 of the *Trusts Act 1973* (Qld) and s 90-15 of *Insolvency Practice Schedule (Corporations)*, that the applicants named in the Court documents:

2. were justified in commencing Supreme Court of Queensland proceeding, BS 14389 of 2022 and would be justified in continuing to prosecute that proceeding;
3. are justified in resisting any strike out application that the defendant has foreshadowed filing in Supreme Court of Queensland proceeding, BS 14389 of 2022 (which strike out application is presently listed for hearing before Kelly J on 27 April 2023).

The application is set down for hearing on [date].

Copies of the application and other court documents filed in the proceeding will be available on the website www.lminvestmentadministration.com. Any member who reasonably requires a hard copy of the application and other court documents should call Russells on +61 7 3004 8888.

The members of [insert ICPAIF or CPAIF] are not respondents to the application but any member is entitled to be heard in the application if they wish. Any member who wishes to appear and to make submissions at the hearing of the application must file a Notice of Appearance in Form 8 to the Uniform Civil Procedure Rules and serve a copy of that notice on Russells, the solicitors for John Richard Park as liquidator of LMIM, at their office at:

Level 18, 300 Queen Street, Brisbane QLD

Telephone: (07) 3004 8888

Fax: (07) 3004 8899

Email: service@russells.au

This notice is given pursuant to an order of the Supreme Court of Queensland made on [date]. A copy of the order may be seen on the website www.lminvestmentadministration.com.

Dated # April 2023.