

15 January 2016  
Our Ref: GOK\_8979r1.doc

## **CIRCULAR TO INVESTORS**

Dear Sir/Madam

**RE: LM Investment Management Limited (In Liquidation) ACN 077 208 461 (LMIM)  
(the Company) as the responsible entity of the LM Institutional Currency Protected Australian  
Income Fund (the Fund) (ICPAIF)**

I refer to the appointment of Ginette Muller and I as Joint and Several Administrators of LM Investment Management Limited (In Liquidation) on 19 March 2013 and our subsequent appointment as Liquidators on 1 August 2013.

**\*Attached** is the eleventh update from the Court Appointed Receiver of the Assets of the LM First Mortgage Income Fund (FMIF) that was previously posted to the investor website. As previously advised, distributions cannot be made from the Fund until such time as a distribution from the FMIF. I make no comment as to the contents of the update on the FMIF but note at this time the receiver of the FMIF has not provided an expected timeframe for distribution.

I provide the following update in relation to the wind-up of the Fund.

### 1. Closure of the LMIM Office

On 23 December 2014, the LMIM office on the Gold Coast was closed by the liquidators of LM Administration Pty Ltd (In Liquidation).

There are a number of insolvency firms involved with the winding-up of the various managed funds operated by LMIM. The books and records of each fund managed by LMIM are co-mingled giving rise to proprietary concerns should unrestricted access be provided to all parties involved. A Receiver was subsequently appointed to the books and records to resolve this issue through a Court sanctioned process. The Court ordered the costs of the Receiver be apportioned across the various managed funds involved.

On 29 January 2015, the Supreme Court of Queensland ordered that a copy of the LMIM server be provided to all insolvency practitioners concerned subject to strict privacy restraints.

A copy of the server was received during February 2015. Costs to re-host the server are material and may be apportioned between the managed funds remaining under LMIM's control. I am seeking to limit the cost to the Fund of re-hosting the LMIM server in its entirety. This may not be possible in the event outstanding tax lodgements cannot be satisfied without the LM server.

### 2. Outstanding Tax Lodgements

My office was notified of a number of outstanding lodgements with the Australian Taxation Office. Outstanding lodgements include income tax returns (ITR's) for financial years ended 30 June 2009 through 30 June 2013 and outstanding PAYG payment summaries for financial years ended 30 June 2008 through 30 June 2013.

I also understand Business Activity Statements (BAS) may be outstanding from around September 2013 onwards. I am currently seeking to resolve the issue of the outstanding ITR's, BAS and PAYG payment summaries with the Fund's former accountant.

The outstanding lodgements will need to be satisfied prior to any further distributions to members.

3. Claim by the Receivers and Managers for the FMIF

My office is currently assessing a claim against the Fund by the Joint and Several Receivers and Managers of the FMIF for contribution to operational funding of the LMIM Gold Coast office. The claim is in the amount of \$24,361.70 (including GST) for the period 26 July 2013 to 30 June 2014. Further substantiating information has been requested on several occasions but is yet to be received. I note there was no contribution agreement in place with the Receivers and Managers prior to them incurring the costs for which they have requested a contribution. Whilst the claim is not yet agreed, I have included the amount in my indicative net asset value at Section 7 of this report. The claim, if valid, will be paid from the assets of the Fund when available.

4. Claim by Custom House Currency Exchange (Australia) Pty Ltd (Custom House)

Custom House was the foreign exchange and money transfer services provider engaged by LMIM for each of its registered managed investment schemes. Custom House has advised it experienced a loss arising from an unfavorable close-out of the foreign exchange trading position in 2013. Custom House holds registered security interests in relation to LMIM in its capacity as Responsible Entity of the ICPAIF and the LM Currency Protected Australian Income Fund (CPAIF). LMIM granted the charges only in that capacity and accordingly the property charged is limited to the assets and undertakings of those respective funds.

On 16 November 2015, Custom House exercised its rights and appointed Said Jahani and Gayle Dickerson of Grant Thornton as Receivers and Managers over LM Investment Management Ltd in its capacity as responsible entity of the CPAIF and the ICPAIF. I understand Custom House is claiming \$18,004.70 before interest and costs in respect to the unfavourable close-out of the foreign exchange trading position in 2013. This claim, if valid, will be paid from the assets of the Fund when available.

5. Advisor Commissions

The Fund has historically recognised a liability for advisor commissions paid to advisors from the Fund calculated as a percentage of funds invested in the Fund. These commissions were paid monthly in arrears and were brought to account on an accrual basis. The records of the Fund indicate commissions were paid up to July 2010 with an amount of approximately \$152,753.22 accruing for the period August 2010 to our appointment in March 2013. I am obtaining further advice as to whether this amount, and any further accrued amount, is a proper expense of the Fund or whether the advisors simply hold a claim in the Liquidation of the responsible entity, LMIM. Whilst my position in relation the advisor commissions is not finalised, I note on a conservative basis, I have included the amount accrued to March 2013 in my indicative net asset value at Section 7 of this report.

## 6. Financial Statements

The financial statements for years ended 30 June 2013, 30 June 2014 and 30 June 2015 have not been prepared as the Fund is without funds. Preparation, audit and lodgement of these documents will commence following a distribution from the FMIF, being the Fund's principal investment.

Please note where possible, LMIM will seek regulatory relief from statutory obligations in order to reduce compliance costs for the wind-up of the Fund.

## 7. Indicative Net Asset Value

I note the Court appointed Receiver of the FMIF in his recent report to investors has provided an estimated unit price of 15.35 cents in the dollar being the mid-point of the estimated return range of 14.40 and 16.30 cents in the dollar. An indicative net asset value of the Fund as at 31 December 2015 is calculated as follows utilising this estimated unit price and the number of the units held in the FMIF by the Fund (per the Funds records):

	AUD	AUD
Cash at Bank		755
FMIF Investment		<u>1,435,348</u>
		<b>1,436,103</b>
<i>Less: expenses of the Fund</i>		
Custodial Fees	(7,996)	
Legal Fees	(1,204)	
Accounting Fees	(2,300)	
Contingent Liabilities (FMIF)	(22,149)	
Custom House Claim	(18,005)	
Advisor Commissions	(152,753)	
Liquidators remuneration and expenses	(36,081)	
		<u>(240,488)</u>
<b>Indicative Net Assets as at 31 December 2015</b>		<b><u>1,195,615</u></b>
<b>Estimated Units AUD equivalent at 31 December 2015</b>		<b>11,608,957.30</b>

<b>Estimated Unit Price as at 31 December 2015</b>	<b>0.1030</b>
--	---------------

I note the estimated asset and unit values are subject to daily market fluctuations and are subject to change without notice to members. I also note the expenses listed are excluding GST where applicable.

The above net asset position is calculated before consideration of:

1. Wind-up costs (including custody fees, accounting and audit costs, and Liquidator remuneration and out of pocket expenses) not yet been invoiced or yet to be incurred;
2. Any additional amounts payable to Custom House in relation to interests and costs, if any; and
3. Advisor commissions (if payable) accrued since March 2013.

8. Custodian

As you are aware, the Fund has an external custodian that holds all assets in its name and acts on direction of the Responsible Entity. These external custodial services provided to the Fund incur a fee of approximately \$2,931 (including GST) per quarter. The Responsible Entity believes it is in the best interests of members that the external custodial services cease as at 31 December 2015 for the following reasons:

- Remaining Fund assets are limited to cash or units in the FMIF; and
- The Fund would avoid the ongoing monthly custodial fee.

Members have thirty (30) days to object to this course of action. LMIM will reconsider this course of action in the event that an objection is received.

9. Contact Details

Investors are able to obtain further information by either:

1. Updates will be provided on the LMIM administration website ([www.lminvestmentadministration.com](http://www.lminvestmentadministration.com)); and
2. Sending an email outlining your queries to [enquiries@lminvestmentadministration.com](mailto:enquiries@lminvestmentadministration.com).

Yours faithfully  
**FTI Consulting**



John Park  
Liquidator