

**Duplicate**

**SUPREME COURT OF QUEENSLAND**

**REGISTRY: BRISBANE**

**NUMBER: 3508/15**

**IN THE MATTER OF LM INVESTMENT MANAGEMENT LIMITED (IN LIQUIDATION) (RECEIVERS APPOINTED) ACN 077 208 461**

First Applicant: **JOHN RICHARD PARK AS LIQUIDATOR OF LM INVESTMENT MANAGEMENT LIMITED (IN LIQUIDATION) (RECEIVERS AND MANAGERS APPOINTED) ACN 077 208 461 THE REPOSIBLE ENTITY OF THE LM FIRST MORTGAGE INCOME FUND ARSN 089 343 288**

**AND**

Second Applicant: **LM INVESTMENT MANAGEMENT LIMITED (IN LIQUIDATION) (RECEIVERS AND MANAGERS APPOINTED) ACN 077 208 461 THE REPOSIBLE ENTITY OF THE LM FIRST MORTGAGE INCOME FUND ARSN 089 343 288**

**AND**

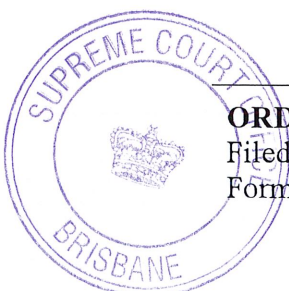
Respondent: **DAVID WHYTE AS THE PERSON APPOINTED TO SUPERVISE THE WINDING UP OF THE LM FIRST MORTGAGE INCOME FUND ARSN 089 343 288**

**ORDER**

Before: Jackson J  
Date: 3 October 2018  
Initiating document: --

**THE ORDER OF THE COURT IS THAT:**

1. By 4:00pm on 10 October 2018, the First Applicant file and serve any application for directions as to the future conduct for the winding up of LM Investment Management Limited ("LMIM"), all managed investment schemes of which



**ORDER**

Filed on behalf of the applicants  
Form 59, rule 661

**RUSSELLS**

Level 18, 300 Queen Street  
BRISBANE QLD 4000  
Telephone: 07 3008 8888  
Fax: 07 3008 8899

LMIM is the responsible entity (“**Funds**”), including the LM First Mortgage Income Fund ARSN 089 343 288 (“**FMIF**”) (“**the Application**”), with the application returnable for directions at 9.30 am on 19 November 2018.

2. Notice of the Application be given to the members of the Funds, other than the FMIF, as follows:
  - (a) by the First Applicant uploading to the website [www.lminvestmentadministration.com](http://www.lminvestmentadministration.com) (“**the Website**”): copies of the Application, a Notice to Members in the form of Schedule 1 to this Order (“**the Notice**”), any order made as to service and any substantive affidavit (including all exhibits) that the First Applicant intends to rely upon in support of this Application;
  - (b) by sending an email to those members of the Funds, for whom an email address is recorded:
    - (i) attaching the Notice; and
    - (ii) stating that they may view all substantive Court documents upon which the First Applicant intends to rely in support of the Application on the Website; and
  - (c) where the First Applicant receives a response to an email that indicates the email was not received, or if the First Applicant does not hold an email address for any member, and the First Applicant has a postal address for those members, the First Applicant is to post the Notice to the postal address of those members.
3. Notice of the Application be given to the creditors of the Second Applicant as follows:
  - (a) by the First Applicant uploading to the Website: a Notice to Creditors in the form of Schedule 2 to this Order (“**the Creditors’ Notice**”), any order made as to service and any substantive affidavit (including all exhibits) that the First Applicant intends to rely upon in support of this Application;
  - (b) by sending an email to those creditors of the Second Applicant, for whom an email address is recorded:
    - (i) attaching the Creditors’ Notice; and
    - (ii) stating that they may view all substantive Court documents upon which the First Applicant intends to rely in support of the Application on the Website; and
  - (c) where the First Applicant receives a response to an email that indicates the email was not received, or if the First Applicant does not hold an email address for any creditor, and the First Applicant has a postal address for

those creditors, the First Applicant is to post the Creditors' Notice to the postal address of those creditors.

4. Notice of the Application in accordance with any orders made be deemed effective on each of the members of the Funds, other than the FMIF, and the creditors of the Second Applicant.
5. Notice of the Application and any affidavits relied on in support of this application on the members of the FMIF be effective 10 days after the last of the following steps have been taken in respect thereof, as applicable:-
  - (a) service by the Applicant of such documents on the Respondent;
  - (b) the Respondent sending the Notice by email to those members of the FMIF for whom an email address is recorded as that member's preferred method of communication in the register of members maintained by the Respondent ("**the Register**");
  - (c) where the Respondent receives a response to an email that indicates the email was not received, or if the Respondent does not hold an email address for any member as that member's preferred method of communication, and the Respondent has a postal address for those members, the Respondent posting the Notice to the postal address of those members recorded in the Register, if any;
  - (d) the Respondent uploading to the website <http://www.lmfmf.com/> a copy of this Application, the Notice, and a link to the location on the First Applicant's website where the material uploaded pursuant to order 2(a) of this Order has been placed; and
  - (e) in respect of any further material, the Respondent taking the steps set out in order 2(a) of this Order.
6. Where the First Applicant intends to rely on further material, notice of that material will be deemed effective by the First Applicant uploading the material to the Website and sending an email (or, where the First Applicant does not hold a valid email address, a notice by post) to the members and creditors informing them that further material in relation to the Application has been uploaded to the Website.
7. The First Applicant not be required to take further steps to serve or give notice to the members of the Funds or creditors of the Second Applicant whose email addresses return permanent undeliverable receipts and for whom the Applicants do not have a postal address.

8. By no later than 9 November 2018, the First Applicant is to comply with paragraphs 2, 3 and 4 of this order.
  
9. By 4:00pm on 10 October 2018, the First Applicant is to give notice of the Application to the Australian Securities and Investments Commission (“ASIC”) and thereafter provide to the ASIC a copy of all affidavit material to be relied upon by the Applicants.
  
10. Costs reserved.

Signed:

Deputy Registrar



**SCHEDULE 1****NOTICE TO MEMBERS**

**TO: The Members of [INSERT FUND]**

John Richard Park is the liquidator of LM Investment Management Limited (in liquidation) (receivers and managers appointed) ACN 077 208 461 (“**LMIM**”), which remains the responsible entity of the LM First Mortgage Income Fund ARSN 089 343 288 (“**FMIF**”), LM Australian Income Fund ARSN 133 497 917 (“**AIF**”), LM Australian Structured Products Fund ARSN 149 875 669 (“**ASPF**”), LM Cash Performance Fund ARSN 087 304 032 (“**CPF**”), LM Currency Protected Australian Income Fund ARSN 110 247 875 (“**CP-AIF**”) and LM Institutional Currency Protected Australian Income Fund ARSN 122 052 868 (“**ICP-AIF**”).

**TAKE NOTICE** that John Richard Park, the liquidator of LMIM, has applied to the Supreme Court of Queensland for:

**[INSERT RELIEF AS PER APPLICATION]**

The application is set down for a directions hearing on 19 November 2018 and for a final hearing provisionally on 10 December 2018.

Copies of the application and other court documents filed in the proceeding will be available on the website [www.lminvestmentadministration.com](http://www.lminvestmentadministration.com). Any member who reasonably requires a hardcopy of the application and other court documents should call Russells Lawyers on +61 7 3004 8888.

The members of **[INSERT FUND]** 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 4 to the Rules for Proceedings under the *Corporations Act 2001* which are in Chapter 23 of the *Uniform Civil Procedure Rules 1999*; and serve a copy of that notice on Russells, the solicitors for John Richard Park, at their office at Level 18, 300 Queen Street, Brisbane, Q. 4000. Tel. +61 7 3004 8888 Fax +61 7 3004 8899 E-mail: [Mail@RussellsLaw.com.au](mailto:Mail@RussellsLaw.com.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](http://www.lminvestmentadministration.com).

Dated: [ ] 2018

**SCHEDULE 2****NOTICE TO CREDITORS**

**TO: The Creditors of LM Investment Management Limited (in liquidation) (receivers appointed)**

John Richard Park is the liquidator of LM Investment Management Limited (in liquidation) (receivers appointed) (“**LMIM**”), which remains the responsible entity of the LM First Mortgage Income Fund ARSN 089 343 288 (“**FMIF**”), LM Australian Income Fund ARSN 133 497 917 (“**AIF**”), LM Australian Structured Products Fund ARSN 149 875 669 (“**ASPF**”), LM Cash Performance Fund ARSN 087 304 032 (“**CPF**”), LM Currency Protected Australian Income Fund ARSN 110 247 875 (“**CP-AIF**”) and LM Institutional Currency Protected Australian Income Fund ARSN 122 052 868 (“**ICP-AIF**”).

**TAKE NOTICE** that John Richard Park, the liquidator of LMIM, has applied to the Supreme Court of Queensland for:

**[INSERT RELIEF AS PER APPLICATION]**

The application is set down for a directions hearing on 19 November 2018 and for a final hearing provisionally on 10 December 2018.

Copies of the application and other court documents filed in the proceeding will be available on the website [www.lminvestmentadministration.com](http://www.lminvestmentadministration.com). Any creditor who reasonably requires a hardcopy of the application and other court documents should call Russells Lawyers on +61 7 3004 8888.

The creditors of LMIM are not respondents to the application but any creditor is entitled to be heard in the application if they wish. Any creditor who wishes to appear and to make submissions at the hearing of the application must file a Notice of Appearance in Form 4 to the Rules for Proceedings under the *Corporations Act 2001* which are in Chapter 23 of the *Uniform Civil Procedure Rules 1999*; and serve a copy of that notice on Russells, the solicitors for John Richard Park, at their office at Level 18, 300 Queen Street, Brisbane, Q. 4000. Tel. +61 7 3004 8888 Fax +61 1 3004 8899 E-mail: [Mail@RussellsLaw.com.au](mailto:Mail@RussellsLaw.com.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](http://www.lminvestmentadministration.com).

Dated: [ ] 2018