SUPREME COURT OF QUEENSLAND

REGISTRY: Brisbane
NUMBER: 3383 /2013

Applicants: **RAYMOND EDWARD BRUCE AND VICKI PATRICIA BRUCE**

AND

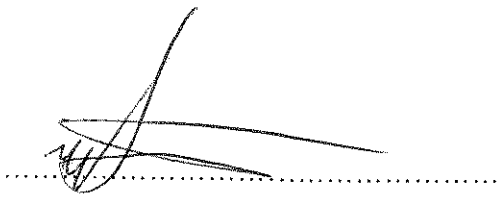
First Respondent: **LM INVESTMENT MANAGEMENT LIMITED (ADMINISTRATORS APPOINTED), ACN 077 208 461, IN ITS CAPACITY AS RESPONSIBLE ENTITY OF THE LM FIRST MORTGAGE INCOME FUND**

AND

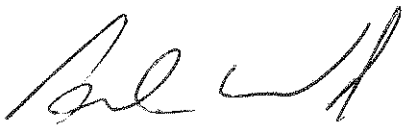
Second Respondent: **THE MEMBERS OF THE LM FIRST MORTGAGE INCOME FUND ARSN 089 343 288**

EXHIBIT "PW1"

Bound and marked "PW1" (pages 1 – 200) is the Exhibit to the Affidavit of **PAUL WOOD** sworn on 6 May 2013.



Solicitor



Deponent

CERTIFICATE OF EXHIBIT

Filed on Behalf of the Applicants

Piper Alderman
Level 23, Governor Macquarie Tower, 1 Farrer Place, SYDNEY 2000
Ref: AB:WN.384396
Phone No: +61 2 9253 9999
Fax No: +61 2 9253 9900

Index to Exhibit "PW1"

No.	Document	Page
1.	ASIC historical company extract of LM Wholesale First Mortgage Income Fund (the **Wholesale Fund**)	1-6
2.	Wholesale Fund Annual Financial Report for the year ended 30 June 2011	7-45
3.	Trilogy Funds Management Limited (**Trilogy**) Australian Financial Services Licence (**AFSL**) dated 18 March 2009	46-69
4.	Engagement letter from Oakvale Captial Limited (**Oakvale**) to Trilogy date 26 March 2013	70-73
5.	Oakvale AFSL dated 13 June 2003	73A-73B
6.	Trilogy Annual Financial Report for the year ended 30 June 2012	74-108
7.	Notice of Meeting and Explanatory Memorandum issued by Trilogy	109-132
8.	Email from Philip Ryan of Trilogy to the Auditors of LM Investments Management Limited (**LMIM**) dated 15 January 2013	133-135
9.	Email from Philip Ryan to LMIM Compliance Committee dated 18 January 2013	136-141
10.	Email from Francene Mulder to Philip Ryan dated 13 February 2013	142-143
11.	LMIM AFSL dated 15 July 2002	144-155
12.	ASIC Class Order 11/1140	156-173
13.	Title search of 38 Cavill Avenue, Surfers Paradise dated 26 April 2013	174-179
14.	ASIC historical company extract of Baronsand Pty Ltd	180-184
15.	*Pages left Intentionally blank*	185-200
16.	ASIC historical company extract of LM Administration Pty Ltd (**LMA**)	201-209
17.	Order of the Chief Justice de Jersey dated 12 April 2013	210-211
18.	Constitution dated 24 August 1999	212-245
19.	Deed of Modification of Constitution dated 19 July 2002	246-248

20.	Replacement Constitution dated 6 June 2005	249-285
21.	Deed of modification of constitution dated 21 April 2006	286-289
22.	Replacement Constitution dated 31 May 2007	290-329
23.	ASIC Regulatory Guide 45	330-386
24.	Extract from Product Disclosure Statement dated 10 April 2008	387
25.	Extract from Product Disclosure Statement dated 10 April 2008	388
26.	Extract from ASIC Benchmark Disclosure dated 9 April 2010	389
27.	Extract from ASIC Benchmark Disclosure dated 2 September 2010	390
28.	Extract from ASIC Benchmark Disclosure and Update for Investors dated 24 August 2011	391
29.	Extract from ASIC Benchmark Disclosure dated 31 December 2012	392
30.	Extract from Annual Financial Report of the LM First Mortgage Income Fund (**LMFMIF**) for the year ended 30 June 2008	393
31.	Extract from Annual Financial Report of the LMFMIF for the year ended 30 June 2003	394
32.	Extract from Annual Financial Report of the LMFMIF for the year ended 30 June 2004	395
33.	Extract from Annual Financial Report of the LMFMIF for the year ended 30 June 2005	396
34.	Extract from Annual Financial Report of the LMFMIF for the year ended 30 June 2006	397
35.	Extract from Annual Financial Report of the LMFMIF for the year ended 30 June 2007	398
36.	Extract from Annual Financial Report of the LMFMIF for the year ended 30 June 2008	399
37.	Extract from Annual Financial Report of the LMFMIF for the year ended 30 June 2009	400
38.	Extract from Annual Financial Report of the LMFMIF for the year ended 30 June 2010	401
39.	Extract from Annual Financial Report of the LMFMIF for the year ended 30 June 2011	402
40.	Extract from Annual Financial Report of the LMFMIF for the year	403

	ended 30 June 2012	
41.	Extract from Annual Financial Report of the LMFMIF for the year ended 30 June 2009	404

PNJ

SAI GLOBAL PROPERTY

Order number: 12635217
Your Reference: SP: 380287-0001
22/03/13 13:37

LM WHOLESALE FIRST MORTGAGE INCOME FUND 099 857 511

ASIC - Current & Historical Extract - LM WHOLESALE FIRST MORTGAGE INCOME FUND ACN: 099 857 511

This extract contains information derived from the Australian Securities and Investment Commission's (ASIC) database under section 1274A of the Corporations Act 2001.
Please advise ASIC of any error or omission which you may identify.

IDENTIFICATION

ARSN: 099 857 511
ABN:
Current Company Name: LM WHOLESALE FIRST MORTGAGE INCOME FUND
Registered in:
Place of Registration:
Registration Date: 22/03/2002
Previous State Number:
Governance Type:
Review Date: 22/03/2014

CURRENT COMPANY DETAILS

Name: LM WHOLESALE FIRST MORTGAGE INCOME FUND — Doc# 023 083 459
Period from: 21/06/2007
Name Start: 21/06/2007
Status: REGISTERED
Type: MANAGED INVESTMENT SCHEME
Class:
Subclass:

FORMER COMPANY DETAILS

Name: LM WHOLESALE MORTGAGE INCOME FUND — Doc# 017 915 270
Period from: 22/03/2002 to 20/06/2007
Name Start: 07/03/2002
Status: REGISTERED
Type: MANAGED INVESTMENT SCHEME
Class:
Subclass:

Name: LM WHOLESALE MORTGAGE INCOME FUND — Doc# 017 915 270
Period from: Unknown to 21/03/2002
Name Start: 07/03/2002
Status: PENDING - SCHEMES
Type: MANAGED INVESTMENT SCHEME
Class:
Subclass:

COMPANY ADDRESS

No record

CURRENT COMPANY OFFICERS

Role: Responsible Entity — Doc# 028 177 288
Name: TRILOGY FUNDS MANAGEMENT LIMITED
ACN: 080 383 679
Address: LEVEL 10
241 ADELAIDE STREET
BRISBANE QLD 4000
Appointment Date: 16/11/2012
Cease Date:

Role: Compliance Plan Auditor
Name: REID, MICHAEL JAMES
Address: Address Unknown
Date of Birth:
Place of Birth:
Appointment Date: 24/07/2006
Cease Date:
Doc# 023 038 929

Role: Scheme Auditor
Name: ERNST & YOUNG
Number: 024 870 595
Address: LEVEL 5 WATERFRONT PLACE
1 EAGLE STREET
BRISBANE QLD 4000
Appointment Date: 04/03/2004
Cease Date:
Doc# 020 201 837

Note: Appointment of secretary is optional. In the event no secretary is appointed the director(s) assume the responsibilities under the Law

FORMER COMPANY OFFICERS

Role: Responsible Entity
Name: LM INVESTMENT MANAGEMENT LIMITED
ACN: 077 208 461
Address: LEVEL 4 RSL CENTRE
9 BEACH ROAD
SURFERS PARADISE QLD 4217
Appointment Date: 22/03/2002
Cease Date: 16/11/2012
Doc# 017 915 270

Role: Compliance Plan Auditor
Name: GLENNY, PAUL MARTIN
Address: Address Unknown
Date of Birth:
Place of Birth:
Appointment Date: 14/04/2004
Cease Date: 24/07/2006
Doc# 020 201 989

Role: Compliance Plan Auditor
Name: FRASER, IAN HARLEY
Address: Address Unknown
Date of Birth:
Place of Birth:
Appointment Date: 22/03/2002
Cease Date: 14/04/2004
Doc# 017 915 270

Role: Scheme Auditor
Name: KPMG
Number: 024 510 530
Address: LEVEL
11 CORPORATE CENTRE ONE CNR BUNDA AVENUE
BUNDALL QLD 4217
Appointment Date: 23/03/2002
Cease Date: 04/03/2004
Doc# 019 860 363

CURRENT SHARE CAPITAL

Class: WMIF WMIF
Number of issued "Interests": 389,012
Amount Paid: $389,012.00
Amount Due: $0.00
Doc# 018 380 837 ((AR 2002))

Class: WM01 LM WHOLESALE FIRST MORTGAGE INCOME FUND 4.25
Number of issued "Interests": 4,874,305
Amount Paid: $4,880,911.09
Doc# 026 373 662

Amount Due: $0.00

Class: WM02 LM WHOLESALE FIRST MORTGAGE INCOME FUND 5.25 Doc# 026 373 682
Number of issued "Interests": 51,886,239
Amount Paid: $50,356,256.22
Amount Due: $0.00

Class: WM03 LM WHOLESALE FIRST MORTGAGE INCOME FUND 5.50 Doc# 026 373 682
Number of issued "Interests": 32,959,995
Amount Paid: $33,194,186.14
Amount Due: $0.00

Note: For each class of interest issued, ASIC records the names and addresses of all interest holders (if the scheme has less that 20 interest holders) or the top 20 interest holders (if the scheme has more than 20 interest holders). The details of any other persons holding the same number of interests as the twentieth ranked interest holder will also be recorded by ASIC on the database. Where available, historical records show that a person has ceased to be ranked amongst the top 20 interest holders. This may, but does not necessarily mean, that they have ceased to hold interests in the scheme.

INTEREST HOLDERS

No record

DOCUMENTS RELATING TO EXTERNAL ADMINISTRATION AND/OR APPOINTMENT OF CONTROLLER

Note: This extract may not list all documents relating to this status. State and Territory records should be searched.

No record

SATISFIED CHARGES

Note: On January 30, 2012 the Personal Property Securities Register (PPS Register) has commenced. The details of current charges will only be available from the PPS Register and the details of satisfied charges (as at 30th January 2012) can be obtained from ASIC. Further information can be obtained from www.ppsr.gov.au.

No record

ASIC DOCUMENTS (except charges)

Notes:

- A date or address shown as UNKNOWN has not been updated since the ASIC to over the records in 1991.
- Data from Documents with no Date Processed are not included in the Extract.
- Documents with "***" pages have not yet been imaged and are not available via DOCIMAGE. Imaging takes approximately 2 weeks from date of lodgement.
- Documents already listed under charges are not repeated here.

Form Type	Date Received	Date Processed	Effective Date	Pages	Doc No
5102	22/11/2012	07/01/2013	22/11/2012	97	027 724 701
	Compliance Plan For Managed Investment Scheme Replacement Compliance Plan				
5130	22/11/2012	07/01/2013	16/11/2012	2	027 724 700
	Notification of Office At Which Register of Interests Is Kept				
5107	13/11/2012	16/11/2012	01/11/2012	2	028 177 288
	Notification of Request to Change Responsible Entity Removal - Notice Received From New Responsible Entity				
5101	26/10/2012	26/10/2012	26/10/2012	12	028 183 020
	Constitution For Managed Investment Scheme Modification Of Constitution				
5102	14/12/2011	14/12/2011	01/12/2011	12	025 136 450
	Compliance Plan For Managed Investment Scheme Replacement Compliance Plan				
388	30/09/2011	20/10/2011	30/06/2011	39	026 442 960 ((FR 2011))
	Financial Report Financial Report - Registered Scheme				
5111	30/09/2011	24/10/2011	30/06/2011	5	027 825 647
	Audit Report on Compliance Plan				
5111	06/10/2010	16/11/2010	30/06/2010	5	027 106 725
	Audit Report on Compliance Plan				
388	06/10/2010	15/11/2010	30/06/2010	37	027 353 930 ((FR 2010))
	Financial Report Financial Report - Registered Scheme				
491	19/04/2010	27/04/2010	23/03/2010	3	026 373 682
	Change to Scheme Details				
5120	11/11/2009	12/11/2009	11/11/2009	7	020 500 491
	Notice of Exemption Re Managed Investment Scheme				
5120	11/11/2009	18/11/2009	11/11/2009	***	020 500 486
	Notice of Exemption Re Managed Investment Scheme				

5111	30/09/2009	14/10/2009	30/06/2009	5	023 417 690
	Audit Report on Compliance Plan				
388	30/09/2009	15/10/2009	30/06/2009	37	023 417 763 ((FR 2009))
	Financial Report Financial Report - Registered Scheme				
5111	15/05/2009	29/05/2009	30/06/2008	5	025 637 396
	Audit Report on Compliance Plan				
491	13/05/2009	29/05/2009	23/03/2009	3	025 546 693
	Change to Scheme Details				
5120	14/04/2009	08/05/2009	14/04/2009	5	024 672 203
	Notice of Exemption Re Managed Investment Scheme				
5122	14/04/2009	08/05/2009	14/04/2009	5	024 672 204
	Notice of Declaration Re Managed Investment Scheme				
388	25/03/2009	31/03/2009	30/06/2008	39	025 514 475 ((FR 2008))
	Financial Report Financial Report - Registered Scheme				
5102	20/03/2009	24/03/2009	13/03/2009	2	024 506 846
	Compliance Plan For Managed Investment Scheme Modification Of Compliance Plan				
5102	01/12/2008	02/12/2008	28/11/2008	17	024 506 465
	Compliance Plan For Managed Investment Scheme Replacement Compliance Plan				
5101	11/04/2008	11/04/2008	11/04/2008	31	020 938 295
	Constitution For Managed Investment Scheme Replacement Constitution				
5102	10/04/2008	15/04/2008	10/04/2008	16	019 981 076
	Compliance Plan For Managed Investment Scheme Replacement Compliance Plan				
7051	14/03/2008	29/04/2008	31/12/2007	19	024 664 208
	Half Yearly Reports				
5111	28/09/2007	11/10/2007	30/06/2007	4	024 230 095
	Audit Report on Compliance Plan				
388	25/09/2007	04/10/2007	30/06/2007	33	024 111 852 ((FR 2007))
	Financial Report Financial Report - Registered Scheme				
5102	18/06/2007	22/06/2007	18/06/2007	12	021 672 746
	Compliance Plan For Managed Investment Scheme Replacement Compliance Plan				
5101	18/06/2007	22/06/2007	18/06/2007	30	021 672 745
	Constitution For Managed Investment Scheme Replacement Constitution				
5140	18/06/2007	21/06/2007	18/06/2007	1	023 083 459
	Notification of Proposed Change in Name of Scheme				
7051	16/03/2007	23/04/2007	31/12/2006	19	023 659 005
	Half Yearly Reports				
	02/10/2006	11/10/2006	30/06/2006	3	023 164 843
	Audit Report on Compliance Plan				
5114	11/09/2006	13/09/2006	11/09/2006	1	023 038 929
	Notification of Request By Responsible Entity to Change Compliance Plan Auditor				
388	23/08/2006	25/08/2006	30/06/2006	34	023 134 574 ((FR 2006))
	Financial Report Financial Report - Registered Scheme				
5101	07/07/2006	12/07/2006	07/07/2006	28	022 819 102
	Constitution For Managed Investment Scheme Replacement Constitution				
491	28/04/2006	24/05/2006	23/03/2006	6	022 721 562
	Change to Scheme Details				
7051	15/03/2006	28/03/2006	31/12/2005	20	022 837 008
	Half Yearly Reports				
5111	26/09/2005	29/09/2005	30/06/2005	3	022 236 926
	Audit Report on Compliance Plan				
388	14/09/2005	19/09/2005	30/06/2005	31	022 294 913 ((FR 2005))
	Financial Report Financial Report - Registered Scheme				
5101	06/06/2005	07/06/2005	06/06/2005	28	020 945 599

Constitution For Managed Investment Scheme Replacement Constitution

5102	06/06/2005	20/06/2005	06/06/2005	22	020 945 598
	Compliance Plan For Managed Investment Scheme Replacement Compliance Plan				
491	02/05/2005	25/05/2005	23/03/2005	6	021 280 084
	Change to Scheme Details				
388	27/09/2004	01/10/2004	30/06/2004	24	020 695 852 ((FR 2004))
	Financial Report Financial Report - Registered Scheme				
5111	27/09/2004	01/10/2004	30/06/2004	3	020 695 840
	Audit Report on Compliance Plan				
5102	09/06/2004	20/07/2004	21/05/2004	3	019 659 252
	Compliance Plan For Managed Investment Scheme Replacement				
	COMPLIANCE PLAN FOR MANAGED INVESTMENT SCHEME REPLACEMENT COMPLIANCE PLAN				
491	12/05/2004	13/05/2004	23/03/2004	6	020 281 945
	CHANGE TO SCHEME DETAILS				
5114	23/04/2004	14/05/2004	23/04/2004	5	020 201 989
	NOTIFICATION OF REQUEST BY RESPONSIBLE ENTITY TO CHANGE COMPLIANCE PLAN AUDITOR				
5137	10/03/2004	21/04/2004	04/03/2004	3	020 201 837
	NOTIFICATION OF APPOINTMENT OF SCHEME AUDITOR				
	10/03/2004	21/04/2004	10/03/2004	1	020 201 824
	JTIFICATION OF RESIGNATION, REMOVAL OR CESSATION OF SCHEME AUDITOR - REMOVAL OF SCHEME AUDITOR				
5101	09/03/2004	09/03/2004	09/03/2004	28	019 680 376
	CONSTITUTION FOR MANAGED INVESTMENT SCHEME REPLACEMENT CONSTITUTION				
5137	12/02/2004	25/02/2004	23/03/2002	2	019 860 363
	NOTIFICATION OF APPOINTMENT OF SCHEME AUDITOR				
388	15/09/2003	19/09/2003	30/06/2003	23	019 579 765 ((FR 2003))
	FINANCIAL REPORT FINANCIAL REPORT - REGISTERED SCHEME				
5111	15/09/2003	19/09/2003	30/06/2003	4	019 579 753
	AUDIT REPORT ON COMPLIANCE PLAN				
7160	15/09/2003	16/01/2004	30/06/2003	7	019 579 724 ((AR 2003))
	ANNUAL RETURN - MANAGED INVESTMENT SCHEME ANNUAL RETURN - MIS - BALANCE DETAILS				
764C	01/05/2003	01/05/2003	09/05/2003	29	019 016 276
	PROSPECTUS FOR MANAGED INVESTMENT SCHEME(S)				
764H	01/05/2003	01/05/2003	09/05/2003	6	019 016 277
	SHORT FORM PROSPECTUS FOR MANAGED INVESTMENT SCHEME				
7160	30/09/2002	30/04/2003	30/06/2002	3	018 380 937 ((AR 2002))
	ANNUAL RETURN - MANAGED INVESTMENT SCHEME ANNUAL RETURN - MIS - BALANCE DETAILS				
	10/05/2002	10/05/2002	18/05/2002	8	017 922 190
	SHORT FORM PROSPECTUS FOR MANAGED INVESTMENT SCHEME Altered by 017 888 383				
754H	10/05/2002	10/05/2002	10/05/2002	31	017 922 189
	REPLACEMENT SHORT FORM PROSPECTUS FOR MANAGED INVESTMENT SCHEME Alters 017 932 158				
764H	12/04/2002	07/05/2002	20/04/2002	32	017 932 158
	SHORT FORM PROSPECTUS FOR MANAGED INVESTMENT SCHEME Altered by 017 914 016 Altered by 017 922 189 Altered by 017 922 189				
5100	07/03/2002	22/03/2002	07/03/2002	1	017 915 270
	APPLICATION FOR REGISTRATION OF MANAGED INVESTMENT SCHEME - NEW SCHEME				
5101	07/03/2002	07/03/2002	07/03/2002	33	017 915 272
	CONSTITUTION FOR MANAGED INVESTMENT SCHEME INITIAL SCHEME CONSTITUTION				
5102	07/03/2002	07/03/2002	07/03/2002	10	017 915 271
	COMPLIANCE PLAN FOR MANAGED INVESTMENT SCHEME INITIAL SCHEME COMPLIANCE PLAN				
5103	07/03/2002	07/03/2002	07/03/2002	1	017 915 273
	DIRECTORS STATEMENT				

PRE-ASIC DOCUMENTS

No record

ANNUAL RETURNS

Year	Outstanding	Return Due Date	Extended Return Due Date	AGM Due Date	Extended AGM Due Date	AGM Held Date
2002	N	30/09/2002				
2003	N	30/09/2003				

FINANCIAL REPORTS

Outstanding	Balance Date	Report Due Date	AGM Due Date	Extended AGM Due Date	AGM Held Date	Doc No
N	30/06/2003	30/09/2003	Unknown	Unknown	Unknown	019 579 765
N	30/06/2004	30/09/2004	Unknown	Unknown	Unknown	020 695 852
N	30/06/2005	30/09/2005	Unknown	Unknown	Unknown	022 294 913
N	30/06/2006	31/10/2006	Unknown	Unknown	Unknown	023 134 574
N	30/06/2007	30/09/2007	Unknown	Unknown	Unknown	024 111 852
N	30/06/2008	30/09/2008	Unknown	Unknown	Unknown	025 514 475
N	30/06/2009	30/09/2009	Unknown	Unknown	Unknown	023 417 763
N	30/06/2010	30/09/2010	Unknown	Unknown	Unknown	027 353 930
N	30/06/2011	30/09/2011	Unknown	Unknown	Unknown	026 442 960

Australian Securities & Investments Commission

AUSTRALIAN SECURITIES & INVESTMENTS COMMISSION
026442960

Form 388
Corporations Act 2001
294, 294B, 295, 296-301, 307, 308, 318, 321, 322
Corporations Regulations
1.0.08, 2M.3.01, 2M.3.03

Copy of financial statements and reports

If there is insufficient space in any section of the form, you may photocopy the relevant page(s) and submit as part of this lodgement

Company/scheme details

Company/scheme name: LM WHOLESALE FIRST MORTGAGE INCOME FUND

ACN/ARSN/PIN/ABN: 099 857 511

Lodgement details

An image of this form will be available as part of the public register.

TRAFALGAR
19 OCT 2011
BC

Who should ASIC contact if there is a query about this form?

ASIC registered agent number (if applicable):

Firm/organisation: LM INVESTMENT MANAGEMENT LIMITED

Contact name/position description: GRANT FISHER / CFO

Telephone number (during business hours): (07) 5584 4500

Email address (optional):

Postal address: PO BOX 455

Suburb/City: SURFERS PARADISE

State/Territory: QLD

Postcode: 4217

1 Reason for lodgement of statement and reports

Tick appropriate box.

- [ ] A public company or a disclosing entity which is not a registered scheme or prescribed interest undertaking (A)
- [ ] A Tier 2 public company limited by guarantee (L)
- [x] A registered scheme (B)
- [ ] Amendment of financial statements or directors' report (company) (C)
- [ ] Amendment of financial statements or directors' report (registered scheme) (D)
- [ ] A large proprietary company that is not a disclosing entity (H)
- [ ] A small proprietary company that is controlled by a foreign company for all or part of the period and where the company's profit or loss for the period is not covered by the statements lodged with ASIC by a registered foreign company, company, registered scheme, or disclosing entity (I)
- [ ] A small proprietary company, or a small company limited by guarantee that is requested by ASIC to prepare and lodge statements and reports (J)
- [ ] A prescribed interest undertaking that is a disclosing entity (K)

See Guide for definition of Tier 2 public company limited by guarantee

See Guide for definition of large proprietary company

See Guide for definition of small proprietary company

Dates on which financial year begins and ends

Financial year begins: 01/07/10 (D D/M M/Y Y) to Financial year ends: 30/06/11 (D D/M M/Y Y)

7

2 Details of large proprietary company

See Guide for definition of large and small proprietary companies.

If the company is a large proprietary company that is not a disclosing entity, please complete the following information as at the end of the financial year for which the financial statements relate:

A What is the consolidated revenue of the large proprietary company and the entities that it controls?

B What is the value of the consolidated gross assets of the large proprietary company and the entities that it controls?

C How many employees are employed by the large proprietary company and the entities that it controls?

D How many members does the large proprietary company have?

3 Auditor's or reviewer's report

Tick one box and complete relevant section(s)

Were the financial statements audited or reviewed?

- [x] Audited - complete B only
- [ ] Reviewed - complete A and B
- [ ] No

If no, is there a class or other order exemption current for audit/review relief?

- [ ] Yes
- [ ] No

A. Reviewed

Is the reviewer a registered company auditor, or member of The Institute of Chartered Accountants in Australia, CPA Australia Limited, or National Institute of Accountants and holds a practising certificate issued by one of those bodies?

- [ ] Yes
- [ ] No

B. Audited or Reviewed

Is the opinion/conclusion in the report:

Modified? (The opinion/conclusion in the report is qualified, adverse or disclaimed)

- [ ] Yes
- [x] No

Does the report contain an Emphasis of Matter and/or Other Matter paragraph?

- [ ] Yes
- [x] No

4 Details of current auditor or auditors

Notes:

- Registered schemes must advise ASIC of the appointment of an auditor on a Form 5137 *Appointment of scheme auditor* within 14 days of the appointment of the auditor.
- A public company limited by guarantee may, in some circumstances, have their accounts reviewed. These companies are still required to have an auditor and these details must be provided.

Auditor registration number *(for individual auditor or authorised audit company)*

Family name

Given name

or

Company name

ERNST & YOUNG

ACN/ABN

152 881 727 49

or

Firm name (if applicable)

Office, unit, level

WATERFRONT PLACE

Street number and Street name

1 EAGLE STREET

Suburb/City

BRISBANE

State/Territory

QLD

Postcode

4000

Country (if not Australia)

Date of appointment

01 / 10 / 03

[D D] [M M] [Y Y]

A company may have two appointed auditors, provided that both auditors were appointed on the same date. Otherwise, an appointed auditor must resign, be removed or otherwise ceased before a subsequent appointment may be made.

Auditor registration number *(for individual auditor or authorised audit company)*

Family name

Given name

or

Company name

ACN/ABN

or

Firm name (if applicable)

Office, unit, level

Street number and Street name

Suburb/City

State/Territory

Postcode

Country (if not Australia)

5 Statements and reports to be attached to this form

Financial statements for the year (as required by s295(2) and accounting standards)

- Statement of comprehensive income, may also include a separate income statement for the year
- Statement of financial position as at the end of the year
- Statement of cash flows for the year
- Statement of changes in equity.

OR

If required by accounting standards – the consolidated statements of comprehensive income/income statement, financial position, cash flows and changes in equity.

Notes to financial statements (see s295(3))

- Disclosures required by the regulations
- Notes required by the accounting standards
- Any other information necessary to give a true and fair view (see s297).

The signed directors' declaration about the statements and notes (see s295(4)).

The signed directors' report for the year, including the copy of the auditor's or reviewer's independence declaration (see s298 to s300A).

Signed auditor's report or, where applicable, reviewer's report (see s301, s307 to s308).

Concise report (if any) (see s319).

Signature

See Guide for details of signatory.

I certify that the attached documents marked (X) are a true copy of the original reports required to be lodged under s319 of the *Corporations Act 2001*.

Name

~~ALEXANDER DAVID MONAGHAN~~ Carolyn Anne Hodge

Signature

Capacity

☐ Director

☒ Company secretary

Attorney for LM Investment Management Limited

Date signed

3 0 0 9 1 1

(D D) (M M) (Y Y)

15/10/11

Lodgement

Send completed and signed forms to:
Australian Securities and Investments Commission,
PO Box 4000, Gippsland Mail Centre VIC 3841.

Or lodge the form electronically by:

- visiting the ASIC website www.asic.gov.au
- using Standard Business Reporting enabled software. See www.sbr.gov.au for more details.

For more information

Web www.asic.gov.au

Need help? www.asic.gov.au/question

Telephone 1300 300 630

LM WHOLESALE FIRST MORTGAGE INCOME FUND

ABN: 97 024 575 007

Annual Report

For the year ended 30 June 2011

LM WHOLESALE FIRST MORTGAGE INCOME FUND

ABN: 97 024 575 007

Annual Report – 30 June 2011

Contents

DIRECTORS' REPORT 1
AUDITOR'S INDEPENDENCE DECLARATION 5
STATEMENT OF COMPREHENSIVE INCOME 6
STATEMENT OF FINANCIAL POSITION 7
STATEMENT OF CHANGES IN NET ASSETS ATTRIBUTABLE TO UNITHOLDERS 8
STATEMENT OF CASH FLOWS 9
NOTES TO THE FINANCIAL STATEMENTS 10
DIRECTORS' DECLARATION 31
INDEPENDENT AUDIT REPORT 32

The responsible entity of LM Wholesale First Mortgage Income Fund is LM Investment Management Limited (ABN 68 077 208 461). The responsible entity's registered office is Level 4, RSL Building, 9 Beach Road, Surfers Paradise QLD 4217.

I

LM WHOLESALE FIRST MORTGAGE INCOME FUND

Directors' Report

The directors of LM Investment Management Limited, the Responsible Entity of the LM Wholesale First Mortgage Income Fund, present their report together with the financial report of the LM Wholesale First Mortgage Income Fund ("the Scheme"), for the year ended 30 June 2011. The directors' report does not form part of the financial report.

DIRECTORS

The following persons held office as directors of LM Investment Management Limited, during the year or since the end of the year and up to the date of this report:

Name	Period of directorship
Mr Peter Charles Drake	Appointed 31 January 1997
Ms Lisa Maree Darcy	Appointed 15 September 2003
Mr Eghard van der Hoven	Appointed 22 June 2006
Ms Francene Maree Mulder	Appointed 30 September 2006
Mr John O'Sullivan	Appointed 27 November 2007
Mr Simon Tickner	Appointed 16 December 2008

PRINCIPAL ACTIVITIES

During the year, the Scheme continued the principal activity of investing unitholders' funds in cash deposits in Australia and unlisted managed investment schemes in accordance with the Scheme's Constitution and in accordance with the investment policy of the Scheme as outlined in the current product disclosure document.

There were no significant changes in the nature of the Scheme's activities during the year.

The Scheme did not have any employees during the year.

SCHEME INFORMATION

The Scheme is an Australian registered scheme and was constituted on 7 March 2002. The Responsible Entity of the Scheme is LM Investment Management Limited who has been the Responsible Entity since registration of the Scheme.

The registered office and principal place of business of the Responsible Entity and the Scheme is Level 4, 9 Beach Road, Surfers Paradise, Queensland.

REVIEW OF RESULTS AND OPERATIONS

Results

During the year, the Scheme continued to invest directly in cash assets and unlisted managed investment schemes.

The Responsible Entity determined from 3 March 2009 that the Scheme would not accept any applications for investment from any person who was not an existing member of the Scheme. The Scheme still accepts applications for investment from any person who is an existing member of the Scheme by way of rollover of investment term, including deemed applications as part of any reinvestment of distributions.

The Scheme holds its only investment in the LM First Mortgage Income Fund ("FMIF").

On 3 March 2009, the FMIF was closed to new investors and the manager suspended redemptions except for hardship provisions and feeder funds payments for investor distributions and fund expenses. Other redemptions also rank behind repayment of external financing liabilities.

LM WHOLESALE FIRST MORTGAGE INCOME FUND

Directors' Report

The directors of the Responsible Entity made the decision to suspend distributions from FMIF from 1 January 2011. Accordingly, distributions to unitholders have also been suspended in the Scheme from 1 January 2011.

During the period, the unit price of the FMIF was reduced from $1 to $0.81 as a result of impairment of the loans and receivables held by FMIF. At 30 June 2011, the unit price of the FMIF was $0.80. Accordingly, the Scheme's investment in FMIF has been revalued at 30 June 2011 (refer Note 8), resulting in a reduction of the Scheme's unit price to $0.77 at 30 June 2011 (30 June 2010: $1.00).

The change in net assets attributable to the unitholders of the Scheme is presented in the Statement of Comprehensive Income. Net loss before distribution to unitholders for the year ended 30 June 2011 was $19,347,641 (2010: net gain $4,062,513).

Distributions to unitholders during the year totalled $2,056,220 (2010: $4,080,259). As noted above, distributions were suspended in the Scheme from 1 January 2011.

Subsequent to balance date, the scheme has made two payments towards the catch-up program relating to distributions accrued for February, March and April 2010.

Total assets under management were $73,901,679 as at 30 June 2011 (2010: $96,954,643). Investor funds under management decreased during the year by $21,191,505 (2010: decreased by $610,924). Funds under management invested by related managed investment schemes in LM FMIF decreased by $13,235,193 (2010: decreased by $6,929,699) to $210,378,505 (2010: $223,613,698).

The performance of the Scheme, as represented by the results of its operations, was as follows:

	30 June 2011 $	30 June 2010 $
Net operating profit/(loss) before financing costs	(19,347,641)	4,062,513
Financing costs:		
Distributions to unitholders	(2,056,220)	(4,080,259)
(Increase) / decrease in net assets attributable to unitholders	21,403,861	17,746
Net profit /(loss)	-	-

UNITHOLDER FUNDS

There was $73,472,020 on issue at 30 June 2011 (2010: $94,663,525). During the year, $269,856 was issued by the Scheme (2010: $1,351,379) and $57,500 was withdrawn (2010: $722,709). The Scheme's unit price as at 30 June 2011 was 77 cents (2010: $1.00).

SCHEME ASSETS

At 30 June 2011, the Scheme held assets to a total value of $76,901,679 (2010: $96,954,643). The basis for valuation of assets is disclosed in Note 2 to the financial statements.

LM WHOLESALE FIRST MORTGAGE INCOME FUND

Directors' Report

FEES PAID TO THE RESPONSIBLE ENTITY AND ASSOCIATED COMPANIES

The following fees were paid to LM Investment Management Limited and its associated companies out of Scheme property during the financial year, for funds management and administrative services provided on behalf of the Responsible Entity:

	2011	2010
	$	$
▪ Management fees paid directly to LM Administration Pty Limited from the Scheme	2,115,227	479,886
▪ Other expenses incurred by the Responsible Entity which are reimbursed in accordance with the provisions of the Scheme's Constitution, including administration and custodian fees	-	-
▪ Other expenses incurred by LM Administration Pty Limited which are reimbursed in accordance with the provisions of the Scheme's Constitution, including administration expenses	59,903	117,735

Management fees paid to LM Administration Pty Limited have been calculated at rates less than those disclosed in the Product Disclosure Statement and are within the maximum allowable percentage entitled under the Scheme's constitution of 3.3% (2010: 3.3%).

SIGNIFICANT CHANGES IN THE STATE OF AFFAIRS

In the opinion of the directors, there were no significant changes in the state of affairs of the Scheme that occurred during the financial year under review that is not disclosed elsewhere in within this report.

SIGNIFICANT EVENTS AFTER THE BALANCE DATE

There has been no matter or circumstance that has arisen since the end of the financial year that has significantly affected, or may affect, the Scheme's operations in future financial years, the results of those operations of the Scheme's state of affairs in future years.

LIKELY DEVELOPMENTS AND EXPECTED RESULTS

Further information on likely developments in the operation of the Scheme and the expected results of those operations has not been included in this report because the Responsible Entity believes it would be likely to result in unreasonable prejudice to the Scheme.

ENVIRONMENTAL REGULATION AND PERFORMANCE

The operations of the Scheme are not subject to any particular or significant environmental regulations under a law of the Commonwealth or a State or Territory. There have been no known significant breaches of any other environmental requirements applicable to the Scheme.

LM WHOLESALE FIRST MORTGAGE INCOME FUND

Directors' Report

INDEMNIFICATION AND INSURANCE OF DIRECTORS AND OFFICERS

No insurance premiums are paid for out of the assets of the Scheme in regards to insurance cover provided to either the officers of LM Investment Management Limited or the auditors of the Scheme. Provided the officers of LM Investment Management Limited act in accordance with the Scheme Constitution and the Law, the officers remain indemnified out of the assets of the Scheme against losses incurred while acting on behalf of the Scheme. The auditors of the Scheme are in no way indemnified out of the assets of the Scheme.

AUDITOR'S INDEPENDENCE DECLARATION

A copy of the auditor's independence declaration as required under section 307C of the *Corporations Act 2001* is set out on page 5.

Signed in accordance with a resolution of the Directors of LM Investment Management Limited.

Lisa Darcy
Director
Gold Coast

30 September 2011

ERNST & YOUNG

1 Eagle Street
Brisbane QLD 4000 Australia
GPO Box 7878 Brisbane QLD 4001
Tel: +61 7 3011 3333
Fax: +61 7 3011 3100
www.ey.com/au

Auditor's Independence Declaration to the Directors of LM Investment Management Limited as Responsible Entity for LM Wholesale First Mortgage Income Fund

In relation to our audit of the financial report of LM Wholesale First Mortgage Income Fund, for the financial year ended 30 June 2011, to the best of my knowledge and belief, there have been no contraventions of the auditor independence requirements of the *Corporations Act 2001* or any applicable code of professional conduct.

Ernst & Young

Ernst & Young

P McLuskie

Paula McLuskie
Partner
Brisbane
30 September 2011

Liability limited by a scheme approved under Professional Standards Legislation

LM WHOLESALE FIRST MORTGAGE INCOME FUND

STATEMENT OF COMPREHENSIVE INCOME

For the year ended 30 June 2011

	Note	2011 $	2010 $
Income			
Interest income		-	16
Distribution income	3	2,459,271	4,769,522
Total income		2,459,271	4,769,538
Expenses			
Management fees	7	2,115,227	479,886
Advisor commissions		139,936	114,173
Change in fair value of financial assets	8	19,478,280	-
Legal fees		-	-
Other expenses	5	73,469	112,966
Total expenses excluding distributions to unit holders		21,806,912	707,025
Net profit/(loss) before distribution to unitholders		(19,347,641)	4,062,513
Distributions paid/payable to unitholders	4	(2,056,220)	(4,080,259)
Net profit/(loss) for the year		(21,403,861)	(17,746)
Other comprehensive income		-	-
Change in net assets attributable to unitholders		(21,403,861)	(17,746)

7

LM WHOLESALE FIRST MORTGAGE INCOME FUND

STATEMENT OF FINANCIAL POSITION

As at 30 June 2011

	Note	2011 $	2010 $
Assets			
Cash and cash equivalents	9(a)	58	1,760
Financial assets fair value through profit or loss	8	76,681,193	96,476,500
Prepayments		1,205	45,188
Distribution income receivable	7	-	396,081
Other receivable		219,223	35,114
Total Assets		76,901,679	96,954,643
Liabilities			
Trade and other payables		268,034	171,588
Distributions payable	4	3,161,625	1,389,530
Management fee payable	7	-	730,000
Total liabilities excluding net assets attributable to unitholders		3,429,659	2,291,118
NET ASSETS	6	73,472,020	94,663,525
Represented by:			
Net assets attributable to unitholders (calculated in accordance with IFRS)		73,472,020	94,663,525

8

LM WHOLESALE FIRST MORTGAGE INCOME FUND

STATEMENT OF CHANGES IN NET ASSETS ATTRIBUTABLE TO UNITHOLDERS

For the year ended 30 June 2011

Total assets attributable to unitholders	2011	2010
	$	$
Opening balance	94,663,525	94,052,601
Units issued during the year	15,771	714,460
Units redeemed during the year	(57,500)	(722,709)
Units issued upon reinvestment of distributions	254,085	636,919
Transfers to and from the Statement of Comprehensive Income	(21,403,861)	(17,746)
Closing Balance	73,472,020	94,663,525

9

LM WHOLESALE FIRST MORTGAGE INCOME FUND

STATEMENT OF CASH FLOWS

For the year ended 30 June 2011

	Note	2011 $	2010 $
Cashflows from operating activities			
Interest and distributions received		-	16
Management fees paid		(300,000)	-
Other expenses paid		(14,702)	(113,973)
Witholding tax and GST (paid)		-	(21,360)
Net cash inflow/(outflow) from operating activities	9(b)	(314,702)	(135,317)
Cashflows from investing activities			
Receipts from sale of investments		371,000	2,768,443
Payments for purchase of investments		-	(6,000)
Net cash inflow/(outflow) from investing activities		371,000	2,762,443
Cashflows from financing activities			
Receipts from the issue of units		15,534	714,460
Payment for redemption of units		(71,500)	(722,709)
Distributions paid		(2,034)	(2,617,405)
Net cash inflow/(outflow) from financing activities		(58,000)	(2,625,654)
Net increase/(decrease) in cash and cash equivalents		(1,702)	1,472
Cash and cash equivalents at the beginning of the year		1,760	288
Cash and cash equivalents at the end of the year	9(a)	58	1,760

LM WHOLESALE FIRST MORTGAGE INCOME FUND

NOTES TO THE FINANCIAL STATEMENTS

1. CORPORATE INFORMATION

The financial report of LM Wholesale First Mortgage Income Fund ("the Scheme") for the year ended 30 June 2011 was authorised for issue in accordance with a resolution of the directors of the Responsible Entity on 30 September 2011.

The Scheme is an Australian registered scheme, constituted on 7 March 2002. The Scheme will terminate on 13 April 2080 unless terminated earlier in accordance with the provision of the Scheme Constitution (as amended).

LM Investment Management Limited, the Responsible Entity of the Scheme, is incorporated and domiciled in Australia. The registered office of the Responsible Entity is located at Level 4, 9 Beach Road, Surfers Paradise, Queensland.

The principal activities of the Scheme consisted of investing unitholders' funds in cash investments and unlisted managed investment schemes in Australia.

2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

The principal accounting policies applied in the preparation of these financial statements are set out below. These policies have been consistently applied to all periods presented, unless otherwise stated in the following text.

a) Basis of accounting

This financial report is a general purpose financial report that has been prepared in accordance with the Scheme Constitution, and the requirements of the *Corporations Act 2001*, which includes applicable Accounting Standards and other authoritative pronouncements of the Australian Accounting Standards Board.

The financial statements have been prepared under the historical cost convention, except for financial assets and financial liabilities held at fair value through profit or loss, that have been measured at fair value.

The statement of financial position presents assets and liabilities in decreasing order of liquidity and does not distinguish between current and non-current items, in accordance with AASB 101 – *Presentation of Financial Statements*. All balances are expected to be recovered or settled within twelve months, except for loans and receivables and net assets attributable to unitholders. The amount expected to be recovered or settled within twelve months in relation to the balances cannot be reliably determined.

The financial report is presented in Australian Dollars ($).

Statement of Compliance

The financial statements have been prepared in accordance with the Australian Accounting Standards as issued by the Australian Accounting Standards Board and International Financial Reporting Standards as issued by the International Accounting Standards Board.

LM WHOLESALE FIRST MORTGAGE INCOME FUND

Notes to the Financial Statements for the year ended 30 June 2011

i) Going Concern

The financial statements have been prepared on the basis the Scheme is a going concern. This Scheme's single investment is in LM First Mortgage Income Fund (FMIF) a related entity; therefore LM Wholesale First Mortgage Income Fund (WFMIF) is economically dependent on FMIF. In the 2009 year the Responsible Entity closed FMIF to new investments and suspended withdrawals and it remains closed as at the date of this report. As a result the Responsible Entity has closed the WFMIF in that year to new investments and suspended withdrawals. From 1 January 2011 distributions from FMIF were also suspended. During the year, the unit price of FMIF has been reduced from $1.00 to 80 cents as a result of impairment of the loans and receivables held by the FMIF.

Since the year end the FMIF has commenced paying outstanding distributions and the Responsible Entity is considering options for a managed redemption plan for those investors with a redemption request lodged. The payment of redemptions by FMIF is dependent on the ability of FMIF realising its loans and receivables, the timing of which in the current market remains uncertain. This uncertainty may impact the timing of payment of redemption requests from unitholders by FMIF and therefore its ability to continue as a going concern. If FMIF cannot continue as a going concern this may result in WFMIF being unable to realise the carrying value of its investments in the ordinary course of business to meet distribution and withdrawal requests.

The directors of the Responsible Entity for FMIF believe it is a going concern due to FMIFs ability to realise its loans and receivables in the normal course of business at the amounts stated. Therefore the directors of the Responsible Entity for WFMIF believe FMIF will be able to meet the redemption requests in an orderly manner in accordance with available funds. As such the directors believe the Scheme is a going concern and on this basis this financial report does not include any adjustments relating to the recoverability and classification of recorded asset amounts or to the amounts and classification of liabilities that might be necessary should the Scheme not continue as a going concern.

For further information relating to this investment refer to Note 8 Financial Assets at Fair Value through Profit and Loss.

b) New accounting standards and interpretations

Australian Accounting Standards and Interpretations that have recently been issued or amended but are not yet effective have not been adopted by the Scheme for the annual reporting period ended 30 June 2011. The impact of these standards and interpretations has been assessed and to the extent applicable to the Scheme are discussed below. Standards and Interpretations that are not expected to have a material impact on the Scheme have not been included.

AASB 9 *Financial Instruments* and related amendment AASB 2009-11

AASB 9 applies to annual reporting periods beginning on or after 1 January 2013 and will therefore apply to the Scheme from 1 July 2013. The Scheme does not intend to early adopt AASB 9 as permitted by the standard, and the actual impact on initial application will depend on certain elections as disclosed below.

LM WHOLESALE FIRST MORTGAGE INCOME FUND

Notes to the Financial Statements for the year ended 30 June 2011

2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

b) New accounting standards and interpretations (continued)

AASB 9 requires all financial instruments to be measured at fair value unless the criteria for amortised cost are met. The application of the standard is not expected to change the measurement basis of any of the Scheme's current financial instruments, however, AASB 9 allows the Scheme to elect to present gains and losses on equity securities through other comprehensive income, which may impact the presentation of these gains and losses. The impact of the standard may also change if the nature of the Scheme's activities or investments changes prior to initial application.

c) Significant accounting judgements, estimates and assumptions

i) Significant accounting judgements

In the process of applying the Scheme's accounting policies, management has made judgements, apart from those involving estimations, which have had an impact on the amounts recognised in the financial statements. No judgements have been determined to be individually significant.

ii) Significant accounting estimates and assumptions

The carrying amounts of certain assets and liabilities are often determined based on estimates and assumptions of future events. No estimates and assumptions were considered to have a significant risk of causing a material adjustment to the carrying amounts of assets and liabilities within the next annual reporting period.

d) Revenue and income recognition

Revenue is recognised and measured at the fair value of the consideration received or receivable to the extent that it is probable that the economic benefits will flow to the Scheme and the income can be reliably measured. The following specific recognition criteria must also be met before income is recognised:

i) Distribution income

Distribution income is recognised when the unitholders' right to receive the payment is established.

ii) Interest income

Interest income is recognised as the interest accrues (using the effective interest rate method, which is the rate that exactly discounts estimated future cash receipts through the expected life of the financial instrument) to the net carrying amount of the financial asset.

LM WHOLESALE FIRST MORTGAGE INCOME FUND

Notes to the Financial Statements for the year ended 30 June 2011

2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

e) Revenue and income recognition (Continued)

iii) Changes in the fair value of investments

Gains or losses on financial assets are calculated as the difference between the fair value at sale, or at year end, and the fair value at the previous valuation point. This includes both realised and unrealised gains and losses.

f) Fees, commissions and other expenses

Except where included in the effective interest calculation (for financial instruments carried at amortised cost), fees and commissions are recognised on an accrual basis. Audit and compliance fees are included with 'other expenses' and are recorded on an accruals basis.

g) Cash and cash equivalents

Cash and cash equivalents includes cash in hand, deposits held at call with banks, other short-term highly liquid investments with original maturities of three months or less, and bank overdrafts. For the purposes of the Statement of Cash Flows, cash and cash equivalents consist of cash and cash equivalents as defined above, net of outstanding bank overdrafts.

h) Financial assets

Financial assets in the scope of AASB 139 *Financial Instruments: Recognition and Measurement* are classified as either financial assets at fair value through profit or loss, loans and receivables, held-to-maturity investments, or available-for-sale investments, as appropriate. When financial assets are recognised initially, they are measured at fair value, plus, in the case of investments not at fair value through the profit or loss, directly attributable transactions costs. The Scheme determines the classification of its financial assets at initial recognition.

i) Financial assets at fair value through profit or loss

Financial assets held for trading include forward exchange contracts. These assets are acquired principally for the purpose of mitigating the risk of movements in the value of non-Australian Dollar investor funds and facilitating forecasting of future cash flows. During the year, all derivatives are classified as held for trading. Derivative financial instruments entered into by the Scheme no longer meet the hedge accounting criteria as defined by AASB139. Consequently, hedge accounting is not applied by the Scheme in the 2011 financial year.

After initial measurement, the Scheme measures financial instruments which are classified as fair value through profit or loss at fair value. Subsequent changes in the fair value of those financial instruments are recorded in 'Change in fair value of financial assets'.

LM WHOLESALE FIRST MORTGAGE INCOME FUND

Notes to the Financial Statements for the year ended 30 June 2011

2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

b) Financial assets (Continued)

ii) Loans and receivables

Loans and receivables are non-derivative financial assets with fixed or determinable payments that are not quoted in an active market. Loans and receivables are initially measured at fair value, being the fair value of the consideration paid or received, including transaction costs directly attributable to the financial asset. After initial recognition, loans and receivables are carried at amortised cost using the effective interest method. Gains and losses are recognised in the profit or loss when the loans and receivables are derecognised or impaired, as well as through the amortisation process.

Loans and receivables are assessed for impairment at each reporting period. An allowance is made for doubtful debts when there is objective evidence that the Scheme will not be able to collect the receivables. Bad debts are written off when identified. Losses expected as a result of future events are not recognised.

i) Advisor Commissions

Advisor commissions are paid to the unitholders' investment advisors and are calculated as a percentage of funds invested. These commissions are paid monthly in arrears and are brought to account on an accruals basis. The Scheme ceases to pay advisor commissions when the related units are redeemed.

j) Payables

Trade payables and other payables are carried at amortised cost and represent liabilities for goods and services provided to the Scheme prior to the end of the financial year that are unpaid and arise when the Scheme becomes obliged to make future payments in respect of the purchases of these goods and services.

Payables include liabilities and accrued expenses owing by the Scheme which are unpaid as at balance date.

The distribution amount payable to investors as at the reporting date is recognised separately on the Statement of Financial Position as unitholders are presently entitled to the distributable income of the Scheme under the Scheme's Constitution as at balance date.

k) Distributions

In accordance with the Scheme's Constitution, the Scheme fully distributes its distributable income to unitholders. Distributions are payable monthly. Such distributions are determined by reference to the net taxable income of the Scheme. Distributable income includes capital gains arising from the disposal of investments. Unrealised gains and losses on investments that are recognised as income are transferred to net assets attributable to unitholders and are not assessable and distributable until realised. Capital losses are not distributed to unitholders but are retained to be offset against any realised capital gains.

2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

l) Increase/decrease in net assets attributable to unitholders

Non-distributable income is transferred directly to net assets attributable to unitholders and may consist of unrealised changes in the net fair value of investments, accrued income not yet assessable, expense provided or accrued for which are not yet deductible, net capital losses and tax free or tax deferred income. Net capital gains on the realisation of any investments (including any adjustments for tax deferred income previously taken directly to net assets attributable to unitholders) and accrued income not yet assessable will be included in the determination of distributable income in the same year in which it becomes assessable for tax. Excess and undistributed income is also transferred directly to net assets attributable to unitholders.

m) Applications and redemptions

Applications received for units in the Scheme are recorded when units are issued in the Scheme. Redemptions from the Scheme are recorded after the cancellation of units redeemed. Unit redemption prices are determined by reference of the net assets of the Scheme divided by the number of units on issue.

n) Goods and services tax (GST)

The GST incurred on the costs of various services provided to the responsible entity by third parties such as audit fees, custodial services and investment management fees have been passed onto the Scheme. The Scheme qualifies for Reduced Input Tax Credits (RITC's) at a rate of 75%.

Hence investment management fees, custodial fees and other expenses have been recognised in the statement of financial performance net of the amount of GST recoverable from the Australian Taxation Office (ATO). Accounts payable are inclusive of GST. The net amount of GST recoverable from the ATO is included in receivable in the Statement of Financial Position. Cash flows relating to GST are included in the Statement of Cash Flows on a gross basis.

The GST component of cash flows arising from investing and financing activities recoverable or payable to the ATO is classified as an operating cash flow.

o) Taxation

Under current legislation, the Scheme is not subject to income tax provided the distributable income of the Scheme is fully distributed either by way of cash or reinvestment (i.e. unitholders are presently entitled to the income of the Scheme).

The price of a unit is based upon market values of underlying assets and thus may include a share of unrealised capital gains. Should such a gain be realised, that portion of the gain that is subject to capital gains tax will be distributed so that the Scheme is not subject to capital gains tax. Realised capital losses are not distributed to unitholders but are retained in the Scheme to be offset against any realised capital gains. If realised capital gains exceed realised capital losses, the excess is distributed to unitholders.

2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

p) Capital Management

The Responsible Entity manages its net assets attributable to unitholders as capital; not withstanding net assets attributable to unitholders is classified as a liability. The amount of net assets attributable to unitholders can change significantly on a daily basis as the scheme is subject to daily applications and redemptions at the discretion of the unitholders.

The Responsible Entity monitors the level of daily applications and redemptions relative to the liquid assets in the Scheme.

The Scheme is not subject to any externally imposed capital requirements.

q) Change in fair value of financial assets and liabilities

This item includes changes in the fair value of financial assets and liabilities held for trading or designated upon initial recognition as 'held at fair value through profit or loss' and excludes interest and dividend income and expenses. Amounts are calculated as the difference between fair value at sale or at year end, and the fair value at the previous valuation point. This includes both realised and unrealised gains and losses.

3. FINANCE INCOME

	2011 $	2010 $
Non-interest Income		
Distribution income from:		
Related managed investment schemes (refer Note 7)	2,459,271	4,769,522

4. DISTRIBUTIONS TO UNITHOLDERS

	2011 $	2010 $
i) Distributions paid/reinvested	284,125	2,690,729
Distributions payable	1,772,095	1,389,530
	2,056,220	4,080,259
ii) Class A Distributions	1,779,010	3,457,240
Class B Distributions	277,210	623,019
	2,056,220	4,080,259

As at 30 June 2011, $3,161,625 of distributions payable related to distributions that were requested to be paid under the Scheme's Constitution prior to 30 June 2011. Of this, $1,772,095 relate to distributions that were declared during the year.

The directors of the responsible entity made the decision to suspend distributions from the Scheme from 1 January 2011.

LM WHOLESALE FIRST MORTGAGE INCOME FUND

Notes to the Financial Statements for the year ended 30 June 2011

4. DISTRIBUTIONS TO UNITHOLDER (continued)

Subsequent to balance date, $766,199 of distributions have been paid relating to February, March and April 2010.

5. OTHER EXPENSES

	2011 $	2010 $
i) Audit and compliance fees	52,714	43,259
Other	20,754	69,707
	73,468	112,966
ii) Audit fees paid and payable by the Scheme:		
- Audit of the financial report	43,782	37,204
- Other regulatory audit services	8,932	6,055
	52,714	43,259

6. NET ASSETS ATTRIBUTABLE TO UNITHOLDERS

	2011 $	2010 $
Units attributable to unitholders		
Class A		
Opening balance	80,183,659	80,106,029
Units issued during the year	15,771	508,917
Units redeemed during the year	(57,500)	(507,236)
Units issued upon reinvestment of distributions	38,370	75,949
Closing Balance	80,180,300	80,183,659
Class B		
Opening balance	14,497,612	13,946,572
Units issued during the year	-	205,543
Units redeemed during the year	-	(215,473)
Units issued upon reinvestment of distributions	215,714	560,970
Closing Balance	14,713,326	14,497,612
Movement in changes in net assets attributable to unitholders	(21,421,606)	(17,746)
Total assets attributable to unitholders	73,472,020	94,663,525

Class A unitholders' distribution entitlements are calculated in accordance with declared distribution rates and are either distributed to unitholders in cash or are reinvested via the purchase of additional units in the Scheme.

Class B unitholders' distribution entitlements are calculated in accordance with declared distributions rate and the distribution entitlement are rolled up into the published unit price.

LM WHOLESALE FIRST MORTGAGE INCOME FUND

Notes to the Financial Statements for the year ended 30 June 2011

6. NET ASSETS ATTRIBUTABLE TO UNITHOLDERS (continued)

The Scheme's only investment consists of 95,851,492 units (2010: 96,476,500 units) in a related scheme, the LM First Mortgage Income Fund ('FMIF'). During the period, the unit price of the FMIF was reduced from $1 to $0.81. At 30 June 2011, the unit price of the FMIF was $0.80. Accordingly, the Scheme's investment in FMIF has been revalued at 30 June 2011, resulting in a reduction of the Scheme's unit price to $0.77 at 30 June 2011 (30 June 2010: $1.00).

Status of Scheme

During the 2009 year, the Responsible Entity closed the Scheme to new investors and suspended withdrawals, with the exception of those approved under hardship provisions. Redemptions are generally to be paid within 365 days of the investment maturity term, however, redemptions have been suspended, per the constitution, as the Responsible Entity considers the suspension of withdrawals to be in the best interest of the members of the Scheme.

At 30 June 2011, $64,134,778 (2010: $48,379,457) of redemptions had been requested since the fund was closed but not paid. Of the total requested redemptions $244,087 (2010: $232,036) requests occurred within the thirty days before year end. $63,890,691 (2010: $48,147,421) had been requested more than 30 days before year end.

7. RELATED PARTIES

Responsible Entity

The Responsible Entity of LM Wholesale First Mortgage Income Fund is LM Investment Management Limited (ABN 68 077 208 461). Administration and funds management services are provided to the Scheme on behalf of the Responsible Entity by LM Administration Pty Limited, an associate of the Responsible Entity. LM Administration Pty Limited is paid a management fee directly from the Scheme.

Custodian

The Custodian of the Scheme is LM Investment Management Limited.

Directors

The names of each person holding the position of director of LM Investment Management Limited during the financial year are disclosed in Note 10.

Directors' remuneration

No amounts are paid by the Scheme directly to the directors of the Responsible Entity. The amount of remuneration paid by the Responsible Entity and its related parties to directors of the responsible entity in connection with their responsibilities for the Scheme is separately identified in Note 10.

Directors' holdings of units

LM Investment Management Limited and its associates held no interests in the Scheme at year-end (2010: nil)

LM WHOLESALE FIRST MORTGAGE INCOME FUND

Notes to the Financial Statements for the year ended 30 June 2011

7. RELATED PARTIES (continued)

Other transactions with the Scheme

From time to time the directors of LM Investment Management Limited, or their director-related entities, may invest or withdraw from the Scheme. These investments or withdrawals are on the same terms and conditions as those entered into by other Scheme investors. Apart from the details disclosed in this note, no director has entered into a material contract with the Scheme since the end of the previous financial year and there were no material contracts involving directors' interests subsisting at year-end.

Related party transactions

Administration and funds management services are provided to the Scheme on behalf of the Responsible Entity by LM Administration Pty Limited. LM Administration Pty Limited is paid a management fee for these services directly from Scheme assets on an arm's length basis. In the current year the Responsible Entity has forfeited any right to be paid management fees under this agreement.

The Custodian of the Scheme is LM Investment Management Limited. No fees were paid or payable to LM Investment Management Limited for custodial services provided during the year (2010: nil).

Responsible Entity's remuneration	2011 $	2010 $
Total remuneration received or due and receivable:		
▪ Management Fee expense for the period due to LM Administration Pty Limited from the Scheme	2,115,227	479,886
▪ Fees earned by the LM Administration Pty Limited in respect of other approved schemes operated by the Responsible Entity in which the Scheme has invested.	16,378,704	9,131,818
▪ Expenses including administration expenses incurred by the Responsible Entity, which are reimbursed to the Responsible Entity in accordance with the provisions of the Scheme's Constitution.	-	-
▪ Expenses including administration expenses incurred by the LM Administration Pty Limited, which are reimbursed to the LM Administration Pty Limited in accordance with the provisions of the Scheme's Constitution.	59,903	117,735
Balances with related parties		
The aggregate amounts receivable from/(payable to) related parties by the Scheme at balance date are as follows:		
▪ LM Administration Pty Limited – Management fees payable *(i)*	-	(730,000)
▪ LM First Mortgage Income Fund – distribution income receivable	-	396,081

(i) The amount payable to LM Administration Pty Limited at 30 June 2010 reflected management fee payable and was unsecured and non-interest bearing. The payable to LM Administration Pty Limited was settled during the period through redemption of $2,700,000 of the Scheme's investment in LM FMIF. See comments below.

LM WHOLESALE FIRST MORTGAGE INCOME FUND

Notes to the Financial Statements for the year ended 30 June 2011

7. RELATED PARTIES (continued)

During the year, LM Managed Performance Fund ('LM MPF'), a related party, has paid the Scheme's fund expenses and fees totalling $101,378. These payments made on behalf of the Scheme have been reflected in the Scheme's Statement of Comprehensive Income.

The payments made by LM MPF on behalf of the Scheme have been settled by the Scheme through redemption of their investment in LM FMIF. These redemptions of units LM FMIF were not settled in cash, but as a reduction in the Scheme investment in LM FMIF.

LM MPF has made similar payments in relation to scheme expenses and management fees for other related schemes totalling a further $12,311,513. The settlement of these payments was also a non-cash settlement through redemption of units in LM FMIF.

Investing activities

The Scheme may purchase and sell units in other approved schemes or investment entities operated by LM Investment Management Limited or its associates in the ordinary course of business at application and redemption prices calculated in accordance with the constitutions of those schemes. Details of LM Wholesale First Mortgage Income Fund's investments in other schemes operated by LM Investment Management Limited or its affiliates are set out below:

Scheme name	Investment at year end $	Interest held in related scheme at year end %	Units acquired during the year #	Units redeemed during the year #	Distribution paid or payable $
30 June 2011					
LM First Mortgage Income Fund – Class B	76,681,193	20.20	2,855,352	(3,172,378)*	2,459,271
30 June 2010					
LM First Mortgage Income Fund – Class B	96,476,500	19.71	4,767,643	(2,768,443)	4,769,522

This investment is on normal terms and conditions for Class B units in the LM First Mortgage Income Fund (refer to Note 8).

**During the financial year, the Scheme redeemed units in LM FMIF totalling $2,801,378 for which no cash was received as follows:

Settlement of Scheme expenses paid by LM MPF – see comments above	101,378
Prepaid management fees paid to LM Administration Pty Limited on behalf of the Scheme by LM FMIF – see comments above	2,700,000
Total	**2,801,378**

LM WHOLESALE FIRST MORTGAGE INCOME FUND

Notes to the Financial Statements for the year ended 30 June 2011

7. RELATED PARTIES (continued)

Unitholder investing activities

LM Investment Management Limited or other schemes managed by LM Investment Management Limited have no holdings in the Scheme as at 30 June 2011.

8. FINANCIAL ASSETS AT FAIR VALUE THROUGH PROFIT OR LOSS

Unlisted related managed investment schemes	2011 $	2010 $
LM First Mortgage Income Fund (refer note 7)	96,159,473	96,476,500
Change in fair value of asset through profit or loss	(19,478,280)	-
	76,681,193	96,476,500

The Scheme's financial asset at fair value through profit or loss consists of 96,159,474 units (2010: 96,476,500 units) in a related scheme, LM First Mortgage Income Fund (FMIF). These units mature at various dates. The investment is on normal terms and conditions.

On 3 March 2009, the FMIF was closed to new investors and the manager suspended redemptions except for hardship provisions and feeder funds payments for investor distributions and fund expenses. Other redemptions also rank behind repayment of external financing liabilities.

The directors of the responsible entity made the decision to suspend distributions from FMIF from 1 January 2011. Accordingly, distributions have also been suspended in the Scheme from 1 January 2011.

During the period, the unit price of the FMIF was reduced from $1 to $0.81. At 30 June 2011, the unit price of the FMIF was $0.80. Accordingly, the Scheme's investment in FMIF has been re-valued at 30 June 2011, resulting in a reduction of the Scheme's unit price to $0.77 at 30 June 2011 (30 June 2010: $1.00).

9. CASH AND CASH EQUIVALENTS

a) Reconciliation of cash and cash equivalents

For the purposes of the Statement of Financial Position and Statement of Cash Flows, cash and cash equivalents comprise:

	2011 $	2010 $
- Cash at bank and in hand	58	1,760

Cash at bank and in hand earns interest at floating rates based on daily bank deposit rates.
The fair value of cash and cash equivalents as at 30 June 2011 was $58 (2010: $1,760).

9. CASH AND CASH EQUIVALENTS (Continued)

b) Reconciliation of change in net assets attributable to unitholders to net cash flows from operating activities	2011 $	2010 $
Change in net assets attributable to unitholders	(21,403,861)	(17,746)
Adjustments for:		
Distributions to unitholders	2,056,220	4,080,259
Distributions from related Scheme reinvested	(2,459,271)	(4,761,643)
Non-cash impairment expense	19,478,280	-
Non-cash management fee expense	2,115,227	-
(Increase)/decrease in prepayments, other receivables and distribution receivable	254,279	(6,084)
Increase/(decrease) in management fee payable	(730,000)	515,000
Increase/(decrease) in payables	374,424	54,897
Net cash flows from/(used in) operating activities	(314,702)	(135,317)

c) Reinvestment of distributions

During the financial year, the Scheme issued units totaling $254,085 (2010: $636,919) as a result of reinvestment of distribution by unitholders. These transactions have not been included in the Cash Flow Statement.

10. KEY MANAGEMENT PERSONNEL DISCLOSURES

a) Details of Key Management Personnel

(i) Key Management Personnel

The Key Management Personnel ("KMP") of the Scheme were deemed to be the Directors of the Responsible Entity. The Directors of the Responsible Entity during the year were:

Executive directors	
Mr Peter Charles Drake	Appointed 31 January 1997
Ms Lisa Maree Darcy	Appointed 15 September 2003
Mr Eghard van der Hoven	Appointed 22 June 2006
Ms Francene Maree Mulder	Appointed 30 September 2006
Mr Simon Tickner	Appointed 16 December 2008
Non-executive directors	
Mr John O'Sullivan	Appointed 27 November 2007

LM WHOLESALE FIRST MORTGAGE INCOME FUND

Notes to the Financial Statements for the year ended 30 June 2011

10. KEY MANAGEMENT PERSONNEL DISCLOSURES (Continued)

b) Compensation of Key Management Personnel

(i) Compensation Policies and Principles

Remuneration of KMP is paid by LM Administration Pty Limited, appointed by LM Investment Management Limited as per its service agreement with that entity. The KMP do not receive any remuneration directly from the Scheme and there are no agreements in place between the KMP and the Scheme. The remuneration of KMP as disclosed below has been allocated based on the each KMP's cost of remuneration applicable to the Scheme. The principles used to allocate these costs (for disclosure purposes only) are discussed in section (iv) below.

(ii) Executive Directors

The Executive Directors of the Board of the Directors of LM Investment Management Limited are responsible for determining and reviewing compensation arrangements for the KMP of the Responsible Entity. The Executive directors assess the appropriateness of the nature and amount of emoluments of the KMP on a periodic basis by reference to relevant employment market conditions with the overall objective of ensuring maximum stakeholder benefit from the retention of a high quality board. It is intended that the manner of payment chosen will be optimal for the recipient without creating undue cost for the Responsible Entity.

It is the Executive Directors' policy that employment agreements shall only be entered into with the Executive Directors of the Responsible Entity, but with no other parties.

(iii) Non- executive directors

Fees paid to non-executive directors are based on decisions made by the Executive Directors. This takes into account workload requirements and responsibilities of each Director. Fees for duties as Directors are not paid to executive Directors as their remuneration is provided as part of their normal terms and conditions.

(iv) Principles of KMP Remuneration Allocations

For all schemes managed by the Responsible Entity, the cost of total KMP remuneration has been allocated to each scheme. The Responsible Entity has estimated the amount of time spent by each KMP performing responsibilities and duties to individual schemes, and on a percentage basis, has allocated the remuneration cost to each scheme. Where a KMP has not spent time specifically on a scheme, but rather has acted in a role as KMP of the Responsible Entity only, remuneration cost has been allocated evenly across all Schemes.

LM WHOLESALE FIRST MORTGAGE INCOME FUND

Notes to the Financial Statements for the year ended 30 June 2011

10. KEY MANAGEMENT PERSONNEL DISCLOSURES (Continued)

(v) Remuneration of KMP allocated to this Fund

2011 Specified KMP	Primary			Post Employment					
	Salary & Fees	Cash Bonus	Non Monetary Benefits	Super	Retirement Benefits	Equity	Other	TOTAL	Total performance related
	$	$	$	$	$	$	$	$	%
Drake, PC*	-	-	-	-	-	-	-	-	-
Darcy, LM**	54,525	42,500	-	4,817	-	-	-	101,842	-
Van der Hoven, E**	40,678	21,635	-	3,621	-	-	-	65,934	-
Mulder, F**	35,052	21,635	-	3,096	-	-	-	59,783	-
Tickner, S	38,564	21,635	-	3,440	-	-	-	63,639	-
O'Sullivan, J	43,543	-	-	-	-	-	-	43,543	-
	212,362	107,405	-	14,974	-	-	-	334,741	-

2010 Specified KMP	Primary			Post Employment					
	Salary & Fees	Cash Bonus	Non Monetary Benefits	Super	Retirement Benefits	Equity	Other	TOTAL	Total performance related
	$	$	$	$	$	$	$	$	%
Drake, PC*	-	-	-	-	-	-	-	-	-
Darcy, LM**	46,501	27,654	-	5,535	-	-	-	79,690	-
Van der Hoven, E**	34,910	15,929	-	4,178	-	-	-	55,017	-
Mulder, F	29,770	17,357	-	3,857	-	-	-	50,984	-
Tickner, S	33,088	15,929	-	4,023	-	-	-	53,040	-
O'Sullivan, J	7,143	-	-	-	-	-	-	7,143	-
	151,412	76,869		17,593	-	-	-	245,874	-

* Peter Charles Drake is the beneficial owner of 100% of the ordinary shares of the Responsible Entity. No salary and wages are paid to Peter Drake directly from the company or any of the schemes.

** As executives of the Responsible Entity, LM Darcy and E van der Hoven are entitled to a termination benefit that is payable on cessation of employment or a significant change in ownership of the company. No amount has been reflected in the above disclosures in relation to this potential future benefit.

Page 30 of 39 Doc Id: 026442960 Org No:099 857 511

LM WHOLESALE FIRST MORTGAGE INCOME FUND

Notes to the Financial Statements for the year ended 30 June 2011

10. KEY MANAGEMENT PERSONNEL DISCLOSURES (Continued)

Compensation by category: Key Management Personnel

	2011	2010
	$	$
Short term	319,767	228,281
Post employment	14,974	17,593
Other long term	-	-
Termination benefits	-	-
Equity based payment	-	-
Other	-	-
	334,741	245,874

Loans to Specified KMP

The Scheme has not made, guaranteed or secured, directly or indirectly any loans to the KMP or their related entities during the period.

c) Other Transactions and Balances with Specified KMP

Other than those items disclosed in the related party Note 7, the Scheme has no other transactions and balances with specified KMP.

11. FINANCIAL RISK MANAGEMENT OBJECTIVES AND POLICIES

a) Financial Risk Management Objectives, Policies, and Processes

Risks arising from holding financial instruments are inherent in the Scheme's activities, and are managed through a process of ongoing identification, measurement, and monitoring. The Scheme is exposed to credit risk, liquidity risk and market risk.

Financial instruments of the Scheme comprise investments in financial assets for the purpose of generating a return on the investment made by unitholders, in addition to cash and cash equivalents, net assets attributable to unitholders, and other financial instruments such as receivables and payables, which arise directly from its operations.

The Responsible Entity is responsible for identifying and controlling the risks that arise from these financial instruments.

The risks are measured using a method that reflects the expected impact on the results and net assets attributable to unitholders of the Scheme from reasonably possible changes in the relevant risk variables. Information about these risk exposures at the reporting date, measured on this basis, is disclosed below. Information about the total fair value of financial instruments exposed to risk, as well as compliance with established investment mandate limits, is also monitored by the Responsible Entity. These mandate limits reflect the investment strategy and market environment of the Scheme, as well as the level of risk that the Scheme is willing to accept.

LM WHOLESALE FIRST MORTGAGE INCOME FUND

Notes to the Financial Statements for the year ended 30 June 2011

11. FINANCIAL RISK MANAGEMENT OBJECTIVES AND POLICIES (Continued)

This information is prepared and reported to relevant parties within the Responsible Entity on a regular basis as deemed appropriate, including the fund manager, compliance manager, other key management, Risk and Investment Committees, and ultimately the Board of Directors of the Responsible Entity.

Concentrations of risk arise when a number of financial instruments or contracts are entered into with the same counterparty, or where a number of counterparties are engaged in similar business activities, or activities in the same geographic region, or have similar economic features that would cause their ability to meet contractual obligations to be similarly affected by changes in economic, political, and other conditions.

In order to avoid excessive concentrations of risk, the Scheme monitors its exposure to ensure concentrations of risk remain within acceptable levels and either reduces the exposure collateral to manage the excessive concentrations when the arise.

b) Credit Risk

Credit risk represents the risk that the counterparty to the financial instrument will fail to discharge an obligation and cause the Scheme to incur a financial loss.

With respect to credit risk arising from the financial assets of the Scheme, the Scheme's exposure to credit risk arises from default of the counterparty, with the current exposure equal to the fair value of these instruments as disclosed in the Statement of Financial Position. This does not represent the maximum risk exposure that could arise in the future as a result of changes in values, but best represents the current maximum exposure at the reporting date.

The Scheme minimizes credit risk for cash balances by dealing with Australian regulated banks.

Risk concentrations of credit risk

The Scheme invests only in LM First Mortgage Income Fund, a related managed investment scheme. This represents a concentration of risk.

As at 30 June 2011, the Scheme has $76,681,193 (2010: $96,476,500) invested in the LM First Mortgage Income Fund.

c) Liquidity risk

Liquidity risk is the risk that the Scheme may not be able to meet its obligations in relation to investment activities or funding unitholder redemptions.

The financial assets available for sale are investments in a related scheme, LM First Mortgage Fund. LM First Mortgage Income fund invests in mortgage commercial/industrial loans. The nature of the investments entered into by LM First Mortgage Income Fund commands that liquidity be managed cautiously and aligned with the redemption policy outlined within the constitution of the Scheme.

LM WHOLESALE FIRST MORTGAGE INCOME FUND

Notes to the Financial Statements for the year ended 30 June 2011

11. FINANCIAL RISK MANAGEMENT OBJECTIVES AND POLICIES (Continued)

During the 2009 year, the Responsible Entity closed the Scheme to new investors and suspended withdrawals, with the exception of those approved under hardship provisions. Redemptions are generally to be paid within 365 days of the investment maturity term, however, redemptions have been suspended, per the constitution, as the Responsible Entity considers the suspension of withdrawals to be in the best interest of the members of the Scheme.

As at 30 September 2011, $64,079,141 of redemptions had been requested by unitholders but not yet paid.

The Responsible Entity employs risk management strategies to ensure that the Scheme is able to meet its obligations as above. The liquidity risk associated with the need to satisfy unitholders requests for redemptions are mitigated by offering fixed term investment periods for investors and by maintaining sufficient cash funds to satisfy usual levels of demand for at-call investments.

In order to minimise liquidity risk, management assesses and monitors the liquidity requirements of both unitholder redemptions and investment activities and ensures that at all times the Scheme as adequate cash and cash equivalents to cover any unusual obligations (based on historical trends) and that liquidity is managed within the Scheme's policies and limits.

Maturity Analysis of Financial Liabilities

Financial liabilities of the Scheme comprise trade and other payables, distributions payable and net assets attributable to unitholders. Trade and other payables and distributions payable have no contractual maturities but are typically settled within 30 days.

Financial liabilities of the Scheme mature over the following periods:

Period from 30 June 2011	Value ($)
Due and payable*	67,564,436
< 12 months	10,594,722
12-24 months	704,464
24-36 months	325,753
36-48 months	193,613
>48 months	-
Total	79,382,988

* This balance represents redemptions requested but not paid at 30 September 2011 of $64,134,776 (2010: $48,379,457).

LM WHOLESALE FIRST MORTGAGE INCOME FUND

Notes to the Financial Statements for the year ended 30 June 2011

11. FINANCIAL RISK MANAGEMENT OBJECTIVES AND POLICIES (Continued)

d) Market risk

Market risk is the risk that the fair value or future cash flows of financial instruments will fluctuate due to changes in market variables such as interest rates, foreign exchange rates, that all investment activities are undertaken in accordance with established mandate limits and investment strategies.

e) Interest rate risk

Interest rate risk arises from the possibility that changes in interest rates will affect future cash flows or the fair value of financial instruments. The Scheme has established limits on investments in interest bearing assets, which are monitored on an ongoing basis.

At 30 June 2011, the Scheme held cash assets of $58 (2010: $1,760) earning a variable rate of interest. The weighted average rate of interest received on cash balances during the year was 0% (2010: 0.48%).

All other financial assets and liabilities are non-interest bearing.

The following table demonstrates the sensitivity of the Scheme's Statement of Comprehensive Income to a reasonably possible change in interest rates, with all other variables held constant.

The sensitivity of the Statement of Comprehensive income is the effect of the assumed changes in interest rates on the interest income for one year, based on the financial instruments held at 30 June 2011.

Accounting assumptions

The basis points sensitivity is based on the historical volatility of changes in interest rates.

2011

	Change in basis points		Sensitivity of interest income ('000's)	
	Increase	*Decrease*	*Increase*	*Decrease*
	50	50	0	0
Cash assets	100	100	0	0

2010

	Change in basis points		Sensitivity of interest income ('000's)	
	Increase	*Decrease*	*Increase*	*Decrease*
	50	50	0	0
Cash assets	100	100	0	0

f) Currency risk

The Scheme is not subject to foreign exchange risk at 30 June 2011.

g) Equity Risk

The Scheme is not subject to equity risk at 30 June 2011.

LM WHOLESALE FIRST MORTGAGE INCOME FUND

Notes to the Financial Statements for the year ended 30 June 2011

12. FAIR VALUES OF FINANCIAL INSTRUMENTS

The Scheme's carrying values of financial assets and liabilities included in the Statement of Financial position approximate their fair values.

Disclosed below is the fair value of the Scheme's financial instruments.

The following methods and assumptions are used to determine the net fair values of financial assets and liabilities.

Fair value: The Scheme uses various methods in estimating the fair value of a financial instrument. The methods comprise:

Level 1 – the fair value is calculated using quoted prices in active markets;
Level 2 – the fair value is estimated using inputs other than quoted prices included in Level 1 that are observable for the asset or liability, either directly (as prices) or indirectly (derived from prices);
Level 3 – the fair value is estimated using inputs for the asset or liability that are not based on observable market data.

	Fair Value				Carrying Amount
2011	Level 1 $	Level 2 $	Level 3 $	Total $	$
Financial Assets					
Investment in LM First Mortgage Income Fund	-	-	76,681,193	76,681,193	76,681,193
Total Financial Assets	-	-	76,681,193	76,681,193	76,681,193

	Fair Value				Carrying Amount
2010	Level 1 $	Level 2 $	Level 3 $	Total $	$
Financial Assets					
Investment in LM First Mortgage Income Fund	-	-	96,476,500	96,476,500	96,476,500
Total Financial Assets	-	-	96,476,500	96,476,500	96,476,500

The fair value of units in unlisted managed investment schemes (including investments in schemes that have suspended daily redemptions) is determined by reference to unit prices at the close of business on the reporting date, supplied by the manager of the related scheme.

LM WHOLESALE FIRST MORTGAGE INCOME FUND

Notes to the Financial Statements for the year ended 30 June 2011

12. FAIR VALUES OF FINANCIAL INSTRUMENTS (Continued)

The following table shows a reconciliation of the movement in the fair value of financial instruments categorised within Level 3 between the beginning and the end of the reporting period.

30 June 2011	Financial assets available for sale:	Total
	Unlisted managed investment schemes	
	$	$
Opening balance	96,476,500	96,476,500
Applications	2,855,352	2,855,352
Redemptions	(3,172,378)	(3,172,378)
Change in the fair value of investment	(19,478,280)	(19,478,280)
Closing balance	76,681,194	76,681,194

30 June 2010	Financial assets available for sale:	Total
	Unlisted managed investment schemes	
	$	$
Opening balance	94,477,300	94,477,300
Applications	4,767,643	4,767,643
Redemptions	(2,768,443)	(2,768,443)
Change in the fair value of investment	-	-
Closing balance	96,476,500	96,476,500

13. COMMITMENTS AND CONTINGENCIES

There are no material contingent assets and liabilities or commitments as at 30 June 2011.

14. EVENTS AFTER THE STATEMENT OF FINANCIAL POSITION DATE

No significant events have occurred since balance date which would impact on the financial position of the entity disclosed in the Statement of Financial Position as at 30 June 2011 or on the results and cashflows of the entity for the year ended on that date, other than those detailed below:

(a) Status of distributions payable

As at 30 June 2011, $3,161,625 of distributions payable related to distributions that were required to be paid under the schemes constitution prior to 30 June 2011. In addition, $2,343,873 of distributions payable as at the 30 September 2011 that were requested to be paid under the schemes constitution remain payable. These distributions relate to the months of May 2010 to December 2010. Since year end, $766,199 in distribution payable has been paid relating to distributions accrued for the month of February, March and April 2010 (see Note 4).

LM WHOLESALE FIRST MORTGAGE INCOME FUND

DIRECTORS' DECLARATION

In accordance with a resolution of the Directors of LM Investment Management Limited, I state that:

a) The financial statements and notes of the Registered Scheme set out on pages 6 to 30 are in accordance with the *Corporations Act 2001*, including:

   (i) complying with Accounting Standards and the Corporation Regulations 2001; and

   (ii) giving a true and fair view of the Scheme's financial position as at 30 June 2011, and of its performance, as represented by the results of its operations and its cash flows for the financial year ended on that date.

   (iii) the financial statements and notes to the financial statements are prepared in compliance with the International Financial Reporting Standards as made by the International Accounting Standards Board.

b) there are reasonable grounds to believe that the Scheme will be able to pay its debts as and when they become due and payable; and

c) the financial statements are in accordance with the provisions of the Scheme's Constitution.

On behalf of the Board

LM Investment Management Limited.

Lisa Darcy

Director

Gold Coast

30 September 2011

ERNST & YOUNG

1 Eagle Street
Brisbane QLD 4000 Australia
GPO Box 7878 Brisbane QLD 4001
Tel: +61 7 3011 3333
Fax: +61 7 3011 3100
www.ey.com/au

Independent auditor's report to the unitholders of LM Wholesale First Mortgage Income Fund

Report on the Financial Report

We have audited the accompanying financial report of LM Wholesale First Mortgage Income Fund ('the Scheme'), which comprises the statement of financial position as at 30 June 2011, and the statement of comprehensive income, statement of changes in net assets attributable to unitholders and statement of cash flows for the year ended on that date, a summary of significant accounting policies, other explanatory notes and the directors' declaration.

Directors' Responsibility for the Financial Report

The directors of the responsible entity of the Scheme are responsible for the preparation of the financial report and have determined that the basis of preparation described in Note 2 to the financial report is appropriate to meet the requirements of the *Corporations Act 2001* and is appropriate to meet the needs of the unitholders.

The directors' responsibility also includes such internal controls as the directors determine are necessary to enable the preparation of a financial report that is free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

Our responsibility is to express an opinion on the financial report based on our audit. We conducted our audit in accordance with Australian Auditing Standards. These Auditing Standards require that we comply with relevant ethical requirements relating to audit engagements and plan and perform the audit to obtain reasonable assurance whether the financial report is free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial report. The procedures selected depend on our judgement, including the assessment of the risks of material misstatement of the financial report, whether due to fraud or error. In making those risk assessments, we consider internal controls relevant to the entity's preparation and fair presentation of the financial report in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal controls. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the directors, as well as evaluating the overall presentation of the financial report.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Independence

In conducting our audit we have complied with the independence requirements of the *Corporations Act 2001*. We have given to the directors of the company a written Auditor's Independence Declaration, a copy of which is included in the directors' report.

Liability limited by a scheme approved under Professional Standards Legislation

Ernst & Young

Opinion

In our opinion:

a. the financial report of LM Wholesale First Mortgage Income Fund is in accordance with the *Corporations Act 2001*, including:

   i giving a true and fair view of the Scheme's financial position as at 30 June 2011 and of its performance for the year ended on that date; and

   ii complying with Australian Accounting Standards and the *Corporations Regulations 2001*; and

b. the financial report also complies with International Financial Reporting Standards as disclosed in Note 2.

Ernst & Young

Ernst & Young

P McLuskie

Paula McLuskie
Partner
Brisbane
30 September 2011

Australian Financial Services Licence

TRILOGY FUNDS MANAGEMENT LIMITED

ABN: 59 080 383 679

Licence No: 261425

was licensed as an Australian Financial Services Licensee pursuant to section 913B of the Corporations Act 2001. The conditions of the licence are hereby varied from the date hereunder. The licensee shall continue to be licensed as an Australian Financial Services Licensee subject to the conditions and restrictions which are prescribed, and to the conditions contained in this licence and attached schedules.

Effective 18 March 2009

Authorisation

1. This licence authorises the licensee to carry on a financial services business to:
   (a) provide financial product advice for the following classes of financial products:
      (i) deposit and payment products limited to:
         (A) basic deposit products; and
      (ii) interests in managed investment schemes limited to:
         (A) own managed investment scheme only;
   (b) deal in a financial product by:
      (i) issuing, applying for, acquiring, varying or disposing of a financial product in respect of the following classes of financial products:
         (A) interests in managed investment schemes limited to:
            (1) own managed investment scheme only; and
      (ii) applying for, acquiring, varying or disposing of a financial product on behalf of another person in respect of the following classes of products:
         (A) deposit and payment products limited to:
            (1) basic deposit products; and
         (B) general insurance products; and
   (c) operate the following kinds of registered managed investment schemes (including the holding of any incidental property) in its capacity as responsible entity:
      (i) schemes which only hold the following types of property:
         (A) direct real property;
         (B) financial assets; and
         (C) mortgages;

   to retail and wholesale clients.

ASIC

TRILOGY FUNDS MANAGEMENT LIMITED

ABN: 59 080 383 679

Licence No: 261425

Effective 18 March 2009

Schedule of Conditions

Key Person Requirements

2. If any of the following officer(s) or key person(s) cease to be officers of the licensee or to perform duties on behalf of the licensee with respect to its financial services business:
   (a) **Rodger Ingle BACON;**
   (b) **David John HOGAN; and**
   (c) **Trevor John GIBSON;**

   the licensee must notify ASIC in writing within 5 business days of the following matters:
   (d) the date the officer or key person ceased to be an officer of the licensee or to perform duties on behalf of the licensee with respect to its financial services business; and
   (e) the name, address, date of commencement, educational qualifications and experience of any replacement officer or key person the licensee has appointed to perform duties on behalf of the licensee with respect to its financial services business; and
   (f) if the licensee does not have a replacement officer or key person, detailed reasons as to why the licensee has not nominated a replacement; and
   (g) a detailed description of how the licensee will continue to comply with the Act and the conditions of this licence following the officer or key person(s) identified above, or any replacement of such person, ceasing to be an officer of the licensee or to perform duties on behalf of the licensee with respect to its financial services business.

Compliance Measures to Ensure Compliance with Law and Licence

3. The licensee must establish and maintain compliance measures that ensure, as far as is reasonably practicable, that the licensee complies with the provisions of the financial services laws.

Training Requirements for Representatives

4. The licensee must for any natural person who provides financial product advice to retail clients on behalf of the licensee (including the licensee if he or she is a natural person):
   (a) identify the tasks and functions that person performs on behalf of the licensee; and
   (b) determine the appropriate knowledge and skills requirements required to competently perform those tasks and functions; and
   (c) implement procedures for continuing training.

5. The licensee must ensure that any natural person who provides financial product advice to retail clients on behalf of the licensee (including the licensee if he or she is a natural person):
   (a) has completed training courses at an appropriate level that are or have been approved by ASIC in writing that are relevant to those functions and tasks; or
   (b) has been individually assessed as competent by an assessor that is or has been approved by ASIC in writing; or

ASIC

(c) in respect of financial product advice on basic deposit products and facilities for making non-cash payments that are related to a basic deposit product, has completed training courses that are or have been assessed by the licensee as meeting the appropriate level that are relevant to those functions and tasks.

6. Condition 5 does not apply in relation to:
   (a) a natural person who is a customer service representative and who provides financial product advice:
      (i) derived from a script approved by a natural person who complies with paragraphs 5(a), (b) and (c) ("qualified person"); or
      (ii) under the direct supervision of a qualified person present at the same location; or
   (b) a natural person who is a para-planner or trainee adviser and who provides financial product advice under the direct supervision of a qualified person who is, in addition to the licensee, responsible for:
      (i) ensuring that any financial product advice that is provided by the para-planner or trainee adviser for which a Statement of Advice must be given, is reflected in a Statement of Advice that has been reviewed by the qualified person before the Statement of Advice is given, to ensure that the Statement of Advice would comply with all of the requirements of the Act; and
      (ii) managing and leading any verbal explanation of the financial product advice to the client,

   where the licensee has established procedures to ensure that the natural person does not provide financial product advice to retail clients on behalf of the licensee, other than in the manner specified in this paragraph, and the licensee monitors whether or not those procedures are effective.

7. Condition 5 does not apply in relation to financial product advice:
   (a) given to retail clients in advertising to which section 1018A of the Act applies, provided that:
      (i) this licence authorises the provision of financial product advice; and
      (ii) a responsible officer of the licensee approves such advertising before its publication or dissemination to retail clients; or
   (b) for which there is an exemption under the Act from the obligation to hold a licence.

Notification to Current or Former Representative's Clients

8. Where, under Division 8 of Part 7.6 of the Act:
   (a) ASIC makes a banning order against a current or former representative of the licensee; or
   (b) the Court makes an order disqualifying a current or former representative of the licensee;

   the licensee must, if directed in writing by ASIC, take all reasonable steps to provide the following information in writing to each retail client to whom the representative had provided personal advice within the 3 years prior to the date of the banning order or disqualification order:
   (c) the name of the representative; and
   (d) any authorised representative number allocated to the representative by ASIC; and
   (e) the terms of the banning or disqualification order; and

(f) contact details of the licensee for dealing with enquiries and complaints regarding the banning or disqualification or the conduct of the representative as a representative of the licensee.

Financial Requirements for Market Participants and Clearing Participants

9. Where the licensee is a market participant in a licensed market, or a clearing participant in a licensed CS facility, conditions 10 to 18 (inclusive) do not apply to the licensee.

Base Level Financial Requirements

10. The licensee must:
    (a) be able to pay all its debts as and when they become due and payable; and
    (b) either:
        (i) have total assets that exceed total liabilities as shown in the licensee's most recent balance sheet lodged with ASIC and have no reason to suspect that the licensee's total assets would currently not exceed its total liabilities; or
        (ii) have adjusted assets that exceed adjusted liabilities calculated at the balance date shown in the licensee's most recent balance sheet lodged with ASIC and have no reason to suspect that the licensee's adjusted assets would currently not exceed its adjusted liabilities; and
    (c) meet the cash needs requirement by complying with one of the following five options:
        (i) Option 1 (reasonable estimate projection plus cash buffer)—refer to definition of "Option 1" under this licence; or
        (ii) Option 2 (contingency based projection)—refer to definition of "Option 2" under this licence; or
        (iii) Option 3 (financial commitment by an Australian ADI or comparable foreign institution)—a requirement that an Australian ADI or a foreign deposit-taking institution approved in writing by ASIC as an eligible provider gives the licensee an enforceable and unqualified commitment to pay on demand from time to time an unlimited amount to the licensee, or the amount for which the licensee is liable to its creditors at the time of the demand to the licensee's creditors or a trustee for the licensee's creditors, that the licensee reasonably expects will apply for at least three months, taking into account all commercial contingencies for which the licensee should reasonably plan; or
        (iv) Option 4 (expectation of support from an Australian ADI or comparable foreign institution)—a requirement that the licensee:
            (A) is a subsidiary of an Australian ADI or a corporation approved by ASIC in writing for the purpose of this condition; and
            (B) reasonably expects that (based on access to cash from its related bodies corporate) it will have adequate resources (when needed) to meet its liabilities for at least the next three months (including any additional liabilities that the licensee might incur during that period), taking into account all adverse commercial contingencies for which the licensee should reasonably plan; and
            (C) ensures that a responsible officer of the licensee has documented that the officer has the reasonable expectation for at least the following three month period together with the reasons for forming the

ASIC

expectation, the contingencies for which the licensee considers it is reasonable to plan, the assumptions made concerning the contingencies and the basis for selecting those assumptions; or

(v) Option 5 (parent entity prepares cash flow projections on a consolidated basis)—a requirement that the licensee ensures that:

(A) the cash flows of the licensee and each of its related bodies corporate, other than any body regulated by APRA ("licensee group"), are managed on a consolidated basis; and

(B) there is a body corporate within the licensee group of which all members of the licensee group are subsidiaries that is not a body regulated by APRA ("parent entity"); and

(C) the parent entity complies with Option 1 or Option 2 as if it were the licensee, cash flows of any member of the licensee group were cash flows of the licensee and any cash held by a member of the licensee group, other than as trustee or as trustee of a relevant trust, were so held by the licensee; and

(D) a report by the parent entity's auditor that is a registered company auditor is given to ASIC with the licensee's annual audit report under condition 19 of this licence, in relation to each financial year of the licensee and for any other period that ASIC requests, by a date that ASIC requests, with respect to compliance by the parent entity with Option 1 or Option 2 as they would apply in accordance with subparagraph (C), reflecting the report that would be required from the auditor of a licensee, for that period purporting to comply with Option 1 or Option 2; and

(E) either of the following applies:

Alternative A—the parent entity has provided an enforceable and unqualified commitment to pay on demand from time to time an unlimited amount to the licensee or to meet the licensee's liabilities which the licensee reasonably expects will apply for at least the next three months taking into account all adverse commercial contingencies for which the licensee should reasonably plan; or

Alternative B—the licensee reasonably expects that (based on access to cash from members of the licensee group), it will have adequate resources to meet its liabilities (including any additional liabilities that the licensee might incur while the commitment applies) for at least the next three months taking into account all adverse commercial contingencies for which the licensee should reasonably plan and a responsible officer of the licensee has documented that the officer has the reasonable expectation in respect of at least the following three months together with the reasons for forming the expectation, the contingencies for which the licensee considers it is reasonable to plan, the assumptions made concerning the contingencies and the basis for selecting those assumptions; and

(F) the licensee has no reason to believe that the parent entity has not complied with the requirement at subparagraph (C) or has failed to comply in a material respect with its obligations under Chapter 2M of the Act or, if the parent entity is not a company, under any other laws (whether law in Australia or not) relating to financial reporting that apply to it.

For 5 years after the end of the last financial year that includes a part of the period to which any document prepared for subparagraph (c)(iv)(C) or Alternative B in subparagraph (c)(v)(E) relates, the licensee must keep the document and give it to ASIC if ASIC requests.

ASIC

Financial Requirements for Managed Investments and Custody Services

11. The licensee must hold at least $5 million net tangible assets ("NTA"), unless for each registered scheme operated by the licensee at least one of the following is satisfied:
    (a) all the scheme property and other assets of the scheme(s) not held by members are held by a custodian appointed by the licensee that has $5 million NTA or is an eligible custodian; or
    (b) all the scheme property and other assets of the scheme(s) not held by members are special custody assets or the Tier $500,000 class assets held by the licensee or a custodian appointed by the licensee (or a sub-custodian appointed by that custodian), where the person holding the scheme property or other assets is:
        (i) the licensee and the licensee has $500,000 NTA; or
        (ii) the custodian or sub-custodian and the custodian has $500,000 NTA or is an eligible custodian; or
    (c) the only scheme property and other assets of the scheme(s) that are not held under paragraph (a) or (b) of this condition are special custody assets, each of which is held by:
        (i) the licensee; or
        (ii) an eligible custodian; or
        (iii) a custodian that has the same level of NTA as the licensee is required to have under the remainder of this condition; or
        (iv) the members of the scheme.

    Where paragraph (a), (b) or (c) is satisfied, the licensee must hold NTA of 0.5% of the value of:
    (d) assets (including mortgages held by members of a mortgage scheme and managed as part of the scheme); plus
    (e) any other scheme property not counted in calculating the value of assets;

    of the registered scheme(s) operated by the licensee with a minimum NTA requirement of $50,000 and a maximum NTA requirement of $5 million.

12. The custodian need not have the required NTA under paragraph 11(c)(iii) of this licence if the only assets it holds for the scheme are those contained in paragraphs (a), (c) or (g) of the definition of "special custody assets" under this licence, or if the audited trust account is a regulated trust account, described in paragraph (d) of the definition of "special custody assets" under this licence.

Financial Requirements for Holding Client Money or Property

13. If at any time the licensee:
    (a) is required to hold money in a separate account under Division 2 of Part 7.8 of the Act; or
    (b) holds money or other property on trust for a client or is required to do so under Regulation 7.8.07(2) of the Corporations Regulations or otherwise; or
    (c) has the power to dispose of a client's property under power of attorney or otherwise;

ASIC

the licensee must ensure that the licensee has at least $50,000 in surplus liquid funds ("SLF") unless the total value of the money and property for all clients is less than $100,000 excluding:

(d) money that has satisfied a client's liability on an insurance contract where the licensee is acting under a binder or section 985B of the Act applies, or property acquired by investment of that money; or

(e) the value of property where the licensee merely holds a document of title, and the client has legal title to the property.

Financial Requirements for Licensee Transacting with Clients

14. If the licensee incurs actual or contingent monetary liabilities by entering into a transaction with a client(s) in the course of providing a financial service to the client(s), the licensee must have adjusted surplus liquid funds ("ASLF") of the sum of:

(a) $50,000; plus

(b) 5% of adjusted liabilities between $1 million and $100 million; plus

(c) 0.5% of adjusted liabilities for any amount of adjusted liabilities exceeding $100 million,

up to a maximum ASLF of $100 million.

This condition does not apply to the licensee if:

(d) the total of:

(i) the current liabilities that would be included in the calculation of the licensee's adjusted liabilities; and

(ii) the contingent liabilities that if crystallised would be a current liability and be included in the calculation of the licensee's adjusted liabilities,

is less than $100,000; or

(e) the licensee has no:

(i) liabilities to clients that would be included in calculating its adjusted liabilities; or

(ii) contingent liabilities to clients which if crystallised would be included in calculating its adjusted liabilities,

other than under debentures the licensee issued under Chapter 2L of the Act.

For the purpose of paragraphs (d) and (e), the licensee may disregard a liability or a contingent liability that:

(f) is a contingent liability that is neither a derivative nor a liability from underwriting securities or managed investment products; or

(g) the licensee reasonably estimates has a probability of less than 5% of becoming an actual liability; or

(h) is covered by money or property that the licensee holds in a separate account under Part 7.8 of the Act or on trust for clients; or

(i) is adequately secured as defined in paragraph (a) or (b) of the definition of "adequately secured" under this licence; or

(j) is a liability incurred by entering into a transaction on a licensed market that is to be settled using a clearing and settlement facility, the operation of which is authorised by an Australian CS facility licence; or

ASIC

(k) is under a foreign exchange contract and the licensee is required to have $10 million of tier one capital under another condition of this licence because the licensee has entered a foreign exchange contract as principal; or

(l) is under a derivative where:

(i) the licensee does not make a market in derivatives; and

(ii) the licensee entered into the dealing for the purposes of managing a financial risk; and

(iii) either the licensee's dealings in derivatives are not a significant part of its business or of the business of it and its related bodies corporate taken together; and

(iv) the licensee did not enter into the dealing on the instructions of another person; or

(m) is under a foreign exchange contract where the licensee:

(i) does not make a market in foreign exchange contracts; and

(ii) entered into the contract for the purposes of enabling a payment in one of the currencies under the foreign exchange contract; and

(iii) did not enter into the foreign exchange contract on the instruction of another person.

In this condition, a reference to a client includes a person who acquires or disposes of financial products in a transaction that the licensee entered into at a price the licensee stated in the course of making a market.

Reporting Triggers and Requirements for Financial Requirement Conditions of this Licence

15. The licensee must ensure the reporting requirements under conditions 16 and 17 of this licence are met where either paragraph (a) or paragraph (b) applies:

(a) the trigger points described in paragraphs (i) and (ii) below occur:

(i) the licensee has adjusted liabilities of more than $1 million and less than or equal to $100 million; and

(ii) the licensee has an ASLF of less than 5.5% of adjusted liabilities; or

(b) the trigger points described in paragraphs (i), (ii) and (iii) below occur:

(i) the licensee has adjusted liabilities of more than $100 million; and

(ii) the licensee does not have $100 million ASLF; and

(iii) the licensee has an ASLF that is less than $500,000 above the minimum ASLF required under condition 14 of this licence.

16. Where the licensee's ASLF is below the trigger points, the licensee must not enter into any transactions with clients that could give rise to further liabilities, contingent liabilities or other financial obligations until the licensee's board or other governing body has certified in writing that, having conducted reasonable enquiry into its financial position, there is no reason to believe that the licensee will fail to comply with its obligations under section 912A of the Act.

17. Where the licensee's board or other governing body has made the certification required under condition 16, the licensee must ensure that the licensee's board or other governing body certifies in writing at least monthly that, having conducted reasonable enquiry into its financial position, there is no reason to believe that the licensee will

ASIC

fail to comply with its obligations under section 912A of the Act until the licensee's ASLF continuously exceeds the trigger point for a period exceeding one month.

18. The licensee must keep each certification issued by the licensee's board or other governing body under conditions 16 and 17 of this licence for at least 5 years from the date of such certification. The licensee must provide ASIC with a copy of each certification within 3 business days of the date of each certification.

Audit Opinion on Financial Requirements

19. The licensee must lodge with ASIC an opinion by a registered company auditor ("the audit opinion") addressed to the licensee and ASIC for the following periods:
    (a) for each financial year, at the same time the licensee is required to lodge a balance sheet under Part 7.8 of the Act; and
    (b) for any period of time that ASIC requests, by the date ASIC requests the audit opinion to be lodged;

    that states whether during:
    (c) any part of the period for which the licensee:
        (i) relied on being a market participant or a clearing participant, on a positive assurance basis, the licensee was a participant in the market conducted by:
            (A) ASX; or
            (B) SFE, that restricted its financial services business to participating in the market and incidental business supervised by SFE; and
        (ii) relied on being a body regulated by APRA, on a positive assurance basis, the licensee was a body regulated by APRA; and
    (d) any remaining part of the period:
        (i) in the auditor's opinion, the licensee:
            (A) complied with all the financial requirements under conditions 10 to 18 (inclusive) of this licence other than paragraph 10(c) of this licence, except for paragraph (e) of the definition of "Option 1" under this licence if the licensee purports to comply with "Option 1"; and
            (B) except for any period stated in the report when the licensee purports to comply with subparagraph 10(c)(iii), (iv) or (v), had at all times a projection (covering at least the following 3 months) that purports to, and appears on its face to comply with, paragraph (a) of the definition of "Option 1" or paragraph (a) of the definition of "Option 2" under this licence (depending on which option the licensee purports to be complying with); and
            (C) except for any period stated in the report when the licensee purports to comply with subparagraph 10(c)(iii), (iv) or (v), correctly calculated the projections on the basis of the assumptions the licensee adopted for the projections described in subparagraph (d)(i)(B) of this condition; and
            (D) for any period when the licensee relied on subparagraph 10(c)(iii) of this licence, has obtained from an Australian ADI or a foreign deposit-taking institution approved in writing by ASIC as an eligible provider an enforceable and unqualified commitment to pay on demand from time to time

an unlimited amount to the licensee, or the amount for which the licensee is liable to its creditors at the time of demand to the licensee's creditors or a trustee for the licensee's creditors; and

(E) for any period when the licensee relied on subparagraph 10(c)(iv), following an examination of the documents prepared for subparagraph 10(c)(iv)(C), the licensee complied with subparagraph 10(c)(iv)(A) and subparagraph 10(c)(iv)(C) for the period to which the report relates; and

(F) for any period when the licensee relied on subparagraph 10(c)(v), the licensee complied with subparagraph 10(c)(v)(A) and (B); and

(G) for any period when the licensee relied on Alternative A in subparagraph 10(c)(v)(E), the parent entity has provided an enforceable and unqualified commitment to pay on demand from time to time an unlimited amount to the licensee or to meet the licensee's liabilities.

(ii) except for any period stated in the report when the licensee purports to comply with subparagraph 10(c)(iii), (iv) or (v), following an examination of the documents the licensee relies on in complying with "Option 1" or "Option 2" as defined under this licence, the auditor has no reason to believe that:

(A) the licensee did not satisfy the requirements of paragraph 912A(1)(h) of the Act for managing the risk of having insufficient financial resources to comply with the conditions of this licence; or

(B) the licensee failed to comply with the cash needs requirement using either "Option 1" or "Option 2" as defined under this licence (as applicable) except for:

(1) paragraphs (a), (c) and (e) of the definition of "Option 1" as defined under this licence; or

(2) paragraphs (a) and (c) of the definition of "Option 2" as defined under this licence; or

(C) if the licensee relied on "Option 1" as defined under this licence, the assumptions the licensee adopted for its projection were unreasonable; or

(D) if the licensee relied on "Option 2" as defined under this licence, the basis for the selection of assumptions to meet the requirements for its projection adopted was unreasonable; and

(iii) for any period when the licensee relied on subparagraph 10(c)(iv), following an examination of the documents prepared for subparagraph 10(c)(iv)(C), the auditor has no reason to believe that:

(A) the licensee did not satisfy the requirements of paragraph 912A(1)(h) of the Act for managing the risk of having insufficient financial resources to comply with the conditions in this licence; and

(B) the basis for the selection of the assumptions adopted was unreasonable; and

(iv) for any period when the licensee relied on subparagraph 10(c)(v) under Alternative B, following an examination of the documents prepared for Alternative B, the auditor has no reason to believe that:

(A) the licensee did not satisfy the requirements of paragraph 912A(1)(h) of the Act for managing the risk of having insufficient financial resources to comply with the conditions in this licence; or

(B) the basis for the selection of the assumptions adopted was unreasonable.

Professional Indemnity Compensation Requirements

20. The licensee must maintain an insurance policy covering professional indemnity and fraud by officers that:

(a) is adequate having regard to the nature of the activities carried out by the licensee under the licence; and

(b) covers claims amounting in aggregate to whichever is the lesser of:

(i) $5 million; or

(ii) the sum of the value of all IDPS property of all IDPS for which it is the operator and all scheme property of all registered schemes for which it is the responsible entity.

External Disputes Resolution Requirements

21. Where the licensee provides financial services to retail clients, the licensee must be a member of one or more External Disputes Resolution Scheme(s) ("EDRS") which covers, or together cover, complaints made by retail clients in relation to the provision of all of the financial services authorised by this licence.

22. Where the licensee ceases to be a member of any EDRS, the licensee must notify ASIC in writing within 3 business days:

(a) the date the licensee ceases membership of the EDRS(s); and

(b) the reasons the licensee's membership of the EDRS(s) has ceased (including circumstances where the EDRS is no longer operating, failure by the licensee to renew their membership of the EDRS or where the EDRS has terminated the licensee's membership of the EDRS); and

(c) details of the new EDRS(s) the licensee intends to or has joined (including the date the membership commences and the name of the EDRS); and

(d) details that provide confirmation that the licensee is covered by EDRS(s) covering complaints made by retail clients in relation to the provision of all of the financial services authorised by this licence.

Agreement with Holder of Financial Product on Trust

23. If the licensee:

(a) operates a registered scheme in the capacity of a responsible entity; or

(b) operates an IDPS as an IDPS operator; or

(c) provides a custodial or depository service;

and in the course of operating that scheme or providing that service the licensee enters into an arrangement:

(d) with another person ("holder") to hold scheme property, IDPS property or to hold financial products on trust for or on behalf of the licensee or another person; or

(e) between a responsible entity or IDPS operator in that capacity and another person ("master custodian") under which the master custodian is authorised to arrange for a third person ("subcustodian") directly or indirectly to hold scheme property or IDPS property; or

(f) with a subcustodian arranged by a master custodian;

the licensee must ensure that at all times:

(g) the arrangement is covered by a contract that is in writing; and

(h) the contract clearly specifies:

ASIC

TRILOGY FUNDS MANAGEMENT LIMITED

ABN: 59 080 383 679

Licence No: 261425

Effective 18 March 2009

Schedule of Conditions

(i) the nature of the arrangement and the obligations of each party; and

(ii) the rights that the parties will have in relation to ongoing review and monitoring of the holder or any subcustodian or for an agreement made by the licensee with a master custodian ("master agreement"), the master custodian and the standards against which their performance will be assessed; and

(iii) how the holder, any subcustodian or for a master agreement, the master custodian will certify that it complies with, and will continue to comply with, the requirements of ASIC Policy Statement 133 when read in conjunction with ASIC Policy Statements 148 and 167 (as each of those Policy Statements is in force as at the date of this licence); and

(iv) how instructions will be given to the holder, subcustodian or for a master agreement, the master custodian; and

(v) how the client of the licensee will be compensated if the client suffers any loss due to a failure by the holder, any subcustodian, or for a master agreement, the master custodian, to comply with its duties or to take reasonable care based on the standards applying in the relevant markets for the assets held and the extent to which the holder, any subcustodian, or for a master agreement, the master custodian, must maintain a minimum level of professional indemnity insurance; and

(vi) that the holder, any subcustodian and for a master agreement, the master custodian is prohibited from taking a charge, mortgage, lien or other encumbrance over, or in relation to, the assets held under the arrangement unless it is for expenses and outlays made within the terms of the contract (but not including any unpaid fees of the holder, master custodian or subcustodian) or in accordance with the licensee's instructions; and

(vii) in the case of a responsible entity or IDPS operator who has a master agreement, what should be in the written contract with any subcustodian used in accordance with these conditions including the liability of the subcustodian to the master custodian and the licensee when acts or omissions of the subcustodian are in breach of the subcustodian's obligations; and

(viii) how records of the assets held will be kept and maintained by the holder, any subcustodian or for a master agreement, the master custodian; and

(ix) requirements for reporting by the holder, any subcustodian or for a master agreement, the master custodian, including notifications of any dealing in or transfers of the assets; and

(x) requirements for the holder to provide all reasonable access and assistance to any registered company auditor engaged to conduct an audit in relation to the licensee.

The contract is not required to contain the matters specified in paragraph (iii), (v) or (vi) or to be in writing to the extent that the licensee establishes by documentary evidence that it is not practicable for the licensee to:

(a) hold the relevant financial products (being property outside Australia) itself; or

(b) engage a custodian that is willing to include such matters in the contract to hold that property on reasonable commercial terms;

and provided that the licensee has disclosed to the client that these terms will not be included.

ASIC

TRILOGY FUNDS MANAGEMENT LIMITED

ABN: 59 080 383 679

Licence No: 261425

Effective 18 March 2009

Schedule of Conditions

Property

24. The licensee must, in relation to a registered scheme for which the licensee is the responsible entity, ensure that at all times the holder of any scheme property:
    (a) complies with the requirements of ASIC Policy Statement 133 (as in force as at the date of this licence) relating to the holding of scheme property; and
    (b) maintains proper records identifying the scheme property.

Prohibition to Operate Managed Discretionary Account Service

25. The licensee must not provide an MDA service to a retail client except when operating a registered scheme.

Retention of Financial Services Guides, Statements of Advice and Material Relating to Personal Advice

26. Where the licensee provides financial product advice to retail clients, the licensee must ensure that copies (whether in material, electronic or other form) of the following documents are retained for at least the period specified:
    (a) each Financial Services Guide ("FSG") (including any Supplementary FSG) given by or on behalf of the licensee, or by any authorised representative of the licensee while acting in that capacity - for a period commencing on the date of the FSG and continuing for at least 7 years from when the document was last provided to a person as a retail client; and
    (b) a record of the following matters relating to the provision of personal advice to a retail client (other than personal advice for which a Statement of Advice ("SOA") is not required or for which a record of the advice is kept in accordance with subsection 946B(3A)):
        (i) the client's relevant personal circumstances within the meaning of subparagraph 945A(1)(a)(i); and
        (ii) the inquiries made in relation to those personal circumstances within the meaning of subparagraph 945A(1)(a)(ii); and
        (iii) the consideration and investigation conducted in relation to the subject matter of the advice within the meaning of paragraph 945A(1)(b); and
        (iv) the advice, including reasons why advice was considered to be "appropriate" within the meaning of paragraphs 945A(1)(a) to (c),

        for a period of at least 7 years from the date that the personal advice was provided;
    (c) any SOA provided by or on behalf of the licensee, or by any authorised representative of the licensee while acting in that capacity - for a period of at least 7 years from the date the document was provided to the client.

27. The licensee must establish and maintain measures that ensure, as far as is reasonably practicable, that it and its representatives comply with their obligation to give clients an FSG as and when required under the Act. The licensee must keep records about how these measures are implemented and monitored.

ASIC

TRILOGY FUNDS MANAGEMENT LIMITED

ABN: 59 080 383 679

Licence No: 261425

Effective 18 March 2009

Schedule of Conditions

Terms and Definitions

In this licence references to sections, Parts and Divisions are references to provisions of the Corporations Act 2001 ("the Act") unless otherwise specified. Headings contained in this licence are for ease of reference only and do not affect interpretation. Terms used in this licence have the same meaning as is given to them in the Act (including, if relevant, the meaning given in Chapter 7 of the Act) and the following terms have the following meanings:

adequately secured means:

(a) secured by an enforceable charge over financial products (other than financial products issued by the licensee or its associate) if:

(i) the financial products are:

(A) regularly traded on:

(1) a financial market (as defined in subsection 767A(1) of the Act and disregarding subsection 767A(2) of the Act) operated by a market licensee or a licensee other than the licensee or its associate that in the reasonable opinion of the licensee produces sufficiently reliable prices to assess the value of the security provided by the charge;

(2) an ASIC-approved foreign market under ASIC Policy Statement 72 as at the date of this licence; or

(3) a foreign market approved in writing for the purpose by ASIC; or

(B) interests in a registered scheme for which withdrawal prices are regularly quoted by the responsible entity and the licensee believes on reasonable grounds that withdrawal may be effected within 5 business days; and

(ii) the market value of these financial products equals not less than 120% of the amount owing or not less than 109% of the amount owing if the financial products are debt instruments; or

(b) secured by a registered first mortgage over real estate that has a fair market valuation at least equal to 120% of the amount owing; or

(c) owing from an eligible provider; or

(d) secured by an enforceable charge over amounts owing to another licensee which themselves are adequately secured.

adjusted assets means the value of total assets as they would appear on a balance sheet at the time of calculation made up for lodgement as part of a financial report under Chapter 2M of the Act if the licensee were a reporting entity:

(a) minus the value of excluded assets that would be included in the calculation; and

(b) minus the value of any receivable of the licensee that would be included in the calculation, up to the amount that the licensee has excluded from adjusted liabilities on the basis that there is an enforceable right of set-off with that receivable; and

(c) minus the value of any assets that would be included in the calculation that are encumbered as a security against liability to a person that provides a security bond to ASIC up to the amount of the bond; and

ASIC

(d) minus the value of any assets that would be included in the calculation that may be required to be applied to satisfy a liability under a credit facility that is made without recourse to the licensee up to the amount of that liability excluded from adjusted liabilities; and

(e) plus

(i) the amount of any eligible undertaking that is not an asset; or

(ii) if the eligible undertaking is for an unlimited amount, an unlimited amount;

provided that if the eligible undertaking is given by a person who is an eligible provider only because of paragraph (b) of the definition of "eligible provider" under this licence, the amount added may be no more than one quarter of the eligible provider's net assets (excluding intangible assets) as shown in the most recent audited financial statements lodged with ASIC; and

(f) for calculating ASLF, plus the value of any current assets of any trust (other than a registered scheme) of which the licensee is trustee as if they would appear on the balance sheet as assets of the licensee except to the extent the value exceeds the sum of:

(i) the current liabilities of the trust as if they would appear on the balance sheet as assets of the licencee; and

(ii) any adjustments to ASLF that are a result of current assets, liabilities and contingent liabilities of the trust for accounting purposes being included in calculating adjustments; and

(g) for calculating ASLF, plus the value of the applicable percentage as set out in paragraphs (c)(i) and (iii) of the definition of "standard adjustments" under this licence of the value of any current assets that would be acquired in return for paying a contingent liability as set out in paragraphs (c)(i) and (iii) of the definition of "standard adjustments" under this licence up to the value of the applicable percentage of the relevant contingent liability.

adjusted liabilities means the amount of total liabilities as they would appear on a balance sheet at the time of calculation made up for lodgement as part of a financial report under Chapter 2M of the Act if the licensee were a reporting entity:

(a) minus the amount of any liability under any subordinated debt approved by ASIC; and

(b) minus the amount of any liability that is the subject of an enforceable right of set-off, if the corresponding receivable is excluded from adjusted assets; and

(c) minus the amount of any liability under a credit facility that is made without recourse to the licensee; and

(d) for calculating ASLF, plus the amount of the total current liabilities of any trust (other than a registered scheme) of which the licensee is trustee as if they would appear on the balance sheet as liabilities of the trustee; and

(e) plus the value of any assets that are encumbered as a security against another person's liability where the licensee is not also liable, but only up to the amount of that other person's liability secured or the value of the assets encumbered after deducting any adjustments under this licence, whichever is lower.

adjusted surplus liquid funds or ASLF means surplus liquid funds minus either:

(a) the standard adjustments (refer to the definition of "standard adjustments" under this licence); or

(b) such other adjustments as ASIC may from time to time consent to in writing.

clearing participant means a clearing participant in the licensed clearing and settlement facility ("CS Facility") as defined in the operating rules of Australian Clearing House Pty Limited ("ACH"), as at the date of this licence, that complies with those operating rules relating to financial requirements, taking into account any waiver by ACH.

customer service representative means call centre staff or front desk staff who deal with initial queries from customers.

eligible custodian means:

(a) an Australian ADI; or

(b) a market participant or a clearing participant; or

(c) a subcustodian appointed by a person of the kind referred to in (a) or (b) of this definition.

eligible provider means:

(a) an Australian ADI; or

(b) an entity (other than a registered scheme of which the licensee or the licensee's associate is the responsible entity):

(i) whose ordinary shares are listed on a licensed market or an ASIC-approved foreign exchange under ASIC Policy Statement 72 as at the date of this licence; and

(ii) that had net assets (excluding intangible assets) of more than $50 million, as shown in the most recently audited financial statements of the provider lodged with ASIC; and

(iii) that the licensee has no reason to believe no longer has net assets of at least that amount; or

(c) an Australian government (i.e. the Commonwealth or a State or Territory government) or a government of a country that is a member of the Organisation for Economic Co-operation and Development ("OECD country government"), or an agency or instrumentality of an Australian or OECD country government; or

(d) a foreign deposit-taking institution that is regulated by an ASIC - approved regulator; or

(e) a foreign deposit-taking institution approved in writing by ASIC for this purpose; or

(f) an Australian CS facility licensee; or

(g) an entity approved by ASIC in writing for this purpose.

eligible undertaking means the amount of a financial commitment that is:

(a) payable on written demand by the licensee (disregarding any part previously paid or any amount that would be repayable as a current liability or, for calculating NTA, as a liability by the licensee if money were paid), provided by an eligible provider in the form of an undertaking to pay the amount of the financial commitment to the licensee, and that:

(i) is an enforceable and unqualified obligation; and

(ii) remains operative (even if, for example, the licensee ceases to hold an AFS licence) until ASIC consents in writing to the cancellation of the undertaking; or

(b) approved in writing by ASIC as an eligible undertaking.

excluded assets means:

(a) intangible assets (i.e. non-monetary assets without physical substance); and

(b) except when allowed under paragraphs (e) or (f) of this definition, assets owing or receivables ("receivables") from or assets invested in, any person who:

(i) is an associate of the licensee; or

(ii) was an associate of the licensee at the time the liability was incurred or the investment was made; or

(iii) became liable to the licensee because of, or in connection with, the acquisition of interests in a managed investment scheme the licensee operates; and

(c) except when allowed under paragraph (g) of this definition, assets:

(i) held as a beneficial interest or an interest in a managed investment scheme; or

(ii) invested in any superannuation product, in respect of which the licensee or its associate may exercise any form of power or control; and

(d) except when allowed under paragraphs (e) or (f) of this definition, receivables from the trustee of any trust in respect of which the licensee or its associate may exercise any form of power or control; and

(e) despite paragraphs (b) and (d) of this definition, a receivable is not excluded to the extent that:

(i) it is adequately secured; or

(ii) the following apply:

(A) it is receivable as a result of a transaction entered into by the licensee in the ordinary course of its business on its standard commercial terms applicable to persons that are not associated with the licensee on an arm's length basis; and

(B) no part of the consideration in relation to the transaction is, in substance, directly or indirectly invested in the licensee; and

(C) the total value of such assets (before any discount is applied) is not more than 20% of the assets less liabilities of the licensee; and

(D) for the purposes of calculating ASLF, the amount is further discounted by 10% of the value after any adjustment required by paragraph (a) or (b) of the definition of "adjusted surplus liquid funds" in this licence; or

(iii) the following apply:

(A) it is receivable from an insurance company that is a body regulated by APRA and results from a transaction entered into by the licensee in the ordinary course of its business on its standard commercial terms applicable to persons that are not associated with the licensee on an arm's length basis; and

(B) there is no reason to believe that any amount invested in the licensee would not have been invested if the transactions that caused the receivable had not taken place or were not at the time of the investment expected to take place; and

(C) there is no reason to believe that the recoverability of the receivable will materially depend on the value of an investment by any person in the licensee; and

(D) the total value of the receivables under this subparagraph (iii) before any adjustment required by paragraph (a) or (b) of the definition of "adjusted surplus liquid funds" in this licence is applied is not more than 60% of the adjusted liabilities of the licensee disregarding this subparagraph (iii); or

(iv) ASIC consents in writing to the licensee treating the amount owing as not being an excluded asset; and

(f) despite paragraphs (b) and (d) of this definition, the licensee can include a receivable amount to the extent that it is owing by way of fees from, or under rights of reimbursement for expenditure by the licensee out of property of, a superannuation entity as defined in the Superannuation Industry (Supervision) Act 1993, an IDPS or a registered scheme ("scheme") to the extent that the receivable:

(i) exceeds amounts invested by the scheme in, or lent (other than by way of a deposit with an Australian ADI in the ordinary course of its banking business) directly or indirectly by the scheme to, the licensee, a body corporate the licensee controls, a body corporate that controls the licensee or a body corporate that the licensee's controller controls; and

(ii) if receivable by way of fees, represents no more fees than are owing for the last 3 months; and

(iii) if receivable under rights of reimbursement for expenditure by the licensee, has not been receivable for more than 3 months; and

(g) despite paragraph (c) of this definition, the licensee does not have to exclude a managed investment product unless any part of the amount invested is, in substance, directly or indirectly, invested in the licensee.

financial asset means cash, cheques, orders for payment of money, bills of exchange, promissory notes, securities, deposit products and interests in managed investment schemes (including where the managed investment scheme invests in direct real property or mortgages) but does not include a derivative.

incidental property means:

(a) assets of any kind which are necessary for, or incidental to the effective operation of the scheme, the total value of which, and the total liability that may arise from the holding of which, does not exceed 10% of the value of the assets net of liabilities other than liabilities to members as members of the scheme; and

(b) cash, deposits or current accounts with an Australian ADI or units in a cash management trust that are held for no more than 3 months pending investment in assets to which the scheme relates, or expenditure or distribution to members; and

(c) derivatives, where:

(i) the value or amount of the derivative will ultimately be determined, derived or varied by reference to something else for the purposes of section 761D(1)(c) of the Act which is related to or may significantly and directly affect the receipts or costs of the fund; and

(ii) the derivative is acquired or disposed of by the licensee as a hedge which has the primary purpose of avoiding or limiting the financial consequences of fluctuations in, or in the value of, receipts or costs of the fund.

market participant means:

(a) a participant as defined in the operating rules of ASX Limited ("ASX"), as at the date of this licence (other than a Principal Trader, unless the Principal Trader is registered as a Market Maker), who complies with the ASX's operating rules that relate to financial requirements, taking into account any waiver by ASX; or

(b) a participant in the licensed market operated by Sydney Futures Exchange Limited ("SFE") that:

(i) restricts its financial services business to participating in the licensed market and incidental business supervised by SFE; and

(ii) complies with the SFE's operating rules, as at the date of this licence, that relate to financial requirements, taking into account any waiver by SFE.

MDA service means a service with the following features:

(a) a person ("the client") makes client contributions; and

(b) the client agrees with another person that the client's portfolio assets will:

(i) be managed by that other person at their discretion, subject to any limitation that may be agreed, for purposes that include investment; and

(ii) not be pooled with property that is not the client's portfolio assets to enable an investment to be made or made on more favourable terms; and

(iii) be held by the client unless a beneficial interest but not a legal interest in them will be held by the client; and

(c) the client and the person intend that the person will use client contributions of the client to generate a financial return or other benefit from the person's investment expertise.

net tangible assets or NTA means adjusted assets minus adjusted liabilities.

old law securities options contracts means "options contracts" as defined under section 9 of the Act immediately prior to 11 March 2002 which were "securities" as defined under section 92(1) of the Act immediately prior to 11 March 2002.

Option 1 means the reasonable estimate projection plus cash buffer basis where the licensee is required to:

(a) prepare a projection of the licensee's cash flows over at least the next 3 months based on the licensee's reasonable estimate of what is likely to happen over this term; and

(b) document the licensee's calculations and assumptions, and describe in writing why the assumptions relied upon are the appropriate assumptions; and

(c) update the projection of the licensee's cash flows when those cash flows cease to cover the next 3 months or if the licensee has reason to suspect that an updated projection would show that the licensee was not meeting paragraph (d) of this definition; and

(d) demonstrate, based on the projection of the licensee's cash flows, that the licensee will have access when needed to enough financial resources to meet its liabilities over the projected term of at least 3 months, including any additional liabilities the licensee projects will be incurred during that term; and

(e) hold (other than as trustee) or be the trustee of a relevant trust that holds, in cash an amount equal to 20% of the greater of:

(i) the cash outflow for the projected period of at least 3 months (if the projection covers a period longer than 3 months, the cash outflow may be adjusted to produce a 3-month average); or

(ii) the licensee's actual cash outflow for the most recent financial year for which the licensee has prepared a profit and loss statement, adjusted to produce a 3-month average.

For the purposes of this definition references to the licensee's cash flow include the licensee's own cash flow and any cash flow of a relevant trust but do not include cash flows of any other trust.

For the purposes of paragraph (e) of this definition, "cash" means:

(A) current assets valued at the amount of cash for which they can be expected to be exchanged within 5 business days; or

(B) a commitment to provide cash from an eligible provider that can be drawn down within 5 business days and has a maturity of at least a month;

but does not include any cash in a relevant trust if the licensee has reason to believe that the cash will not be available to meet all of the projected cash flows of the licensee.

Option 2 means the cash needs requirement on the contingency-based projection basis where the licensee is required to:

(a) prepare a projection of the licensee's cash flows over at least the next 3 months based on the licensee's estimate of what would happen if the licensee's ability to meet its liabilities over the projected term (including any liabilities the licensee might incur during the term of the projection) was adversely affected by commercial contingencies taking into account all contingencies that are sufficiently likely for a reasonable licensee to plan how they might manage them; and

(b) document the licensee's calculations and assumptions, and describe in writing why the assumptions relied upon are the appropriate assumptions; and

(c) update the projection of the licensee's cash flows when those cash flows cease to cover the next 3 months or if the licensee has reason to suspect that an updated projection would show that the licensee was not meeting paragraph (d) of this definition; and

(d) demonstrate, based on the projection of the licensee's cash flow, that the licensee will have access when needed to enough financial resources to meet its liabilities over the projected term of at least 3 months, including any

additional liabilities the licensee might incur during that term.

For the purposes of this definition references to the licensee's cash flow include any cash flow of a relevant trust.

regulated trust account means:

(a) a trust account maintained by an authorised trustee corporation under the law of a State or Territory; or

(b) a solicitor's trust account; or

(c) a real estate agent's trust account; or

(d) a trust account maintained by an entity other than the licensee and that provides protections similar to the accounts described in paragraphs (a) to (c) of this definition, and is approved by ASIC for the purpose in writing.

relevant trust means, for the purposes of the definitions of "Option 1" and "Option 2" of this licence, a trust:

(a) where substantially all of the financial services business carried on by the licensee is carried on as trustee of a trust; and

(b) that it is not a registered scheme or a superannuation entity as defined in subsection 10(1) of the Superannuation Industry (Supervision) Act 1993.

special custody assets means:

(a) for serviced strata schemes, cash held in a regulated trust account for the purposes of:

(i) refurbishment or improvement of real property associated with the scheme; or

(ii) alleviating seasonal fluctuations in payments of income from the scheme in accordance with provisions in the constitution;

provided that no more is held than the licensee reasonably considers necessary for the relevant purpose; and

(b) currency and chattels (other than documents) that it would not be reasonably practicable for a person other than the responsible entity to hold; and

(c) funds received from members of the scheme within the previous 6 months held in a regulated trust account; and

(d) cash held for up to 3 months in an account with an Australian ADI styled as a trust account that is audited at least once every 6 months by a registered company auditor where the auditor's report states that in the auditor's opinion the account has been operated in accordance with the trust:

(i) pending payment to members; or

(ii) to meet expected expenses (not including investments) over a 3 month period; or

(iii) pending application in acquiring a mortgage and paying any fees and costs incidental to the acquisition; and

(e) contractual, lease or licence rights that are not assignable except with the consent of the member or that it would not be reasonably practicable to assign (other than to a new responsible entity) and any documents evidencing those contractual, lease or licence rights; and

(f) assets of trivial value; and

(g) levies of a time sharing scheme which are held in an account with an Australian ADI styled as a trust account that is audited at least twice annually by a registered company auditor where the report from the auditor is provided to the responsible entity's board or compliance committee and states that in the auditor's opinion the account has been operated in accordance with the trust; and

(h) mortgages or documents of title held under a mortgage where:

(i) particular members have a specific beneficial or legal interest in the mortgage; and

(ii) the mortgage was acquired after disclosure in writing to the relevant members (at the time of the acquisition) of all information that would have been required to be in a Product Disclosure Statement (or in relation to mortgages acquired before Division 2 of Part 7.9 applies to interests in the registered scheme a disclosure document under Chapter 6D of the Act) if an offer of interests in the registered scheme conferring rights in connection with that mortgage had been made immediately prior to the mortgage; and

(iii) either of the following applies:

(A) the mortgage was acquired on the specific direction of the relevant members (at the time of acquisition of the interest); or

(B) members are able to withdraw from that mortgage for a period of 14 days commencing on the date of disclosure under sub-paragraph (h)(ii) of this definition; and

(iv) the scheme does not involve the mortgage being sold prior to its discharge.

standard adjustments means:

(a) discounts as follows:

(i) 8% for the values that reflect obligations to pay the licensee a certain sum maturing beyond 12 months unless the interest rate applicable is reset to reflect market interest rates at least annually; and

(ii) 16% for the values that reflect any assets other than:

(A) an obligation to pay the licensee a certain sum; or

(B) a derivative; or

(C) an interest in property held in trust by another licensee under Division 3 of Part 7.8 of the Act or the rights to money held by another licensee in an account under section 981B of the Act; and

(b) 8% of the values that reflect others' obligations to pay the licensee a certain sum except to the extent that the asset is adequately secured or is a right against another licensee in respect of money or property held by that other licensee in an account under section 981B or held in trust under Division 3 of Part 7.8 of the Act; and

(c) the following amounts for contingent liabilities and contingent liabilities of any trust (other than a registered scheme) of which the licensee is trustee:

(i) 5% of any contingent liabilities that can be quantified under an underwriting or sub-underwriting of financial products except:

(A) during the 5 business days after the commitment is assumed; and

(B) during any period it is unlawful to accept applications for the financial products to which the underwriting relates (such as under subsection 727(3) or section 1016B) and the period ending 5 business days after the first day on which it becomes lawful to accept applications; and

(C) to the extent that the underwriter holds funds from persons seeking to acquire the financial products subject to the underwriting; and

(ii) 5% of the potential liability of any contingent liabilities that can be quantified under a derivative other than to the extent there is an offsetting position in any of the following or a combination of the following:

(A) the "something else" for the purposes of paragraph 761D(1)(c) of the Act; and

(B) another derivative relating to that something else; and

(C) a thing that is so similar to the something else as to make the probability of net loss from the liability under the derivative exceeding any increase in the value of the thing less than 5% in the reasonable and documented opinion of the licensee,

except to the extent that the licensee is of the reasonable opinion that the risk that they will become liabilities (or become liabilities to a greater extent than taken into account for the purposes of applying the adjustment) because of a change in the price or value of the something else is trivial; and

(iii) 20% of the potential liability of any contingent liabilities that can be quantified under a guarantee or indemnity;

(d) the relevant percentage as set out in subparagraphs (c)(ii) and (c)(iii) of the amounts that in the licensee's reasonable opinion is the maximum amount that the licensee may be liable for in relation to a contingent liability referred to in paragraph (c) where the maximum liability cannot be quantified; and

(e) where the licensee has agreed to sell an asset that it does not hold, the amount of the adjustment that would apply if it held that asset is to be applied against adjusted assets.

For the purposes of this definition, the risk that a contingent liability will become a liability may be treated as trivial if the probability that this will occur is reasonably estimated by the licensee as less than 5%.

For the purposes of paragraphs (a) and (b) of this definition, discounts apply against the value of current assets:

(f) used in calculating "adjusted assets" in this licence; and

(g) of any trust (other than a registered scheme) of which the licensee is a trustee (see subparagraph (f)(ii) of the definition of "adjusted assets" in this licence); and

(h) that are deducted under paragraph (c) of the definition of "adjusted assets" in this licence as assets to which recourse may be had for a liability of the licensee where the licensee's liability is limited to those assets but the total discounts applied to those assets shall not exceed any excess of the value of the licensee's assets to which recourse may be taken over the amount of the liability; and

(i) that is the applicable percentage of the current assets that would be acquired in return for paying a contingent liability referred to in subparagraph (c)(i) or (iii) of this definition including rights against a sub-underwriter (see paragraph (g) of the definition of "adjusted assets" in this licence).

The licensee does not have to apply the discounts to the value of amounts payable from a client in the ordinary course of its financial services business for financial products that the client has agreed to buy, if the money is required to

be—and in the reasonable estimation of the licensee probably will be—paid no more than 5 business days after the client became liable.

surplus liquid funds or SLF means adjusted assets minus adjusted liabilities:

(a) plus any non-current liabilities that were used in calculating adjusted liabilities and the value of any assets that are encumbered (where the licensee is not liable and the assets do not secure another person's current liability) that were deducted when calculating the licensee's adjusted liabilities; and

(b) minus any non-current assets that were used in calculating adjusted assets; and

(c) if the licensee is an eligible provider under paragraph (b) of the definition of "eligible provider" under this licence—plus one quarter of the value of the licensee's non-current assets minus any intangible assets and the amount of its non-current liabilities.

Tier $500,000 class assets means:

(a) real property (including mortgages or leases over or licences in relation to real property) that is intended to be kept for the whole duration of the scheme or, the relevant mortgage; and

(b) physical assets including currency which as a matter of reasonable practice can be held by a custodian (such as valuables or precious metals); and

(c) funds received from members within the previous:

(i) 6 months if held for the purposes of the initial investment by the responsible entity as part of the scheme; or

(ii) 13 months if held pending payment of expenses of the scheme;

held in a regulated trust account; and

(d) special custody assets.

trigger point means either of the trigger points described in condition 15 of this licence.

value of assets means, for the purpose of condition 11 of this licence, the value of assets and other scheme property and/or IDPS property determined as follows:

(a) in the case of assets that would be recognised in preparing a balance sheet for members under Chapter 2M of the Act - their value as if at that time such a balance sheet was being prepared; and

(b) in the case of any other scheme property and/or IDPS property - its market value. For the purpose of this calculation mortgages held by members of a registered scheme and managed as part of the scheme must be treated as assets of the scheme.

ASIC

26 March 2013

Oakvale
TREASURY

Mr John Barry
Director
Trilogy Capital Group
Level 13, 56 Pitt Street
SYDNEY NSW 2090

Dear John

Engagement Letter

Further to our recent discussions, Oakvale Capital Limited ABN 72 009 070 884 of Level 3, 50 Colin Street, West Perth 6005 ("Oakvale") is pleased to have the opportunity to provide Trilogy Capital Group ABN 86 121 541 866 of Level 13, 56 Pitt Street, Sydney 2090 ("Trilogy") with Financial Risk Services (the "Services") as set out in this broad based engagement letter (the "Engagement") regarding advice on currency risk management in regards to funds Trilogy has an interest in.

We understand Trilogy is seeking support to review and assess ongoing currency risk management in several funds. We anticipate this work will include both high level currency advisory, and potentially, more in depth analysis. The work completed initially could lead to the requirement for ongoing support to be provided. This letter will address the initial broad Engagement requirements, focusing on the current challenges, any ongoing currency risk management support required will be addressed once there is more certainty around the requirement for an ongoing role.

Scope of the Engagement

The exact nature of the work to be completed is still to be determined. This may involve, among other things, reviewing documentation, currency transactions and providing views on potential currency risk management strategies. Should specific deliverables be required, these will be agreed in writing at that time.

Paul Travers will be the key contact for this Engagement, with Vic Jansen supporting Paul, particularly in regards to currency analysis and pricing. Both Paul and Vic will be responsible for the delivery of any analytical work should it be required.

Timing

Paul and his team are presently available to commence supporting Trilogy. We anticipate this support will be required for the next three (3) months.

Oakvale's Credentials

Oakvale is one of Australia's largest independent financial risk management firms, with more than 20 years experience providing organisations with independent, professional treasury services to assist corporate treasurers, finance executives and company directors.

Oakvale has a diverse client base across a range of sectors including, ASX listed & privately owned corporations, local councils, state government agencies, mining companies, health funds and utilities (a sample of Oakvale's clients are provided in Appendix 1) .

Oakvale has strong expertise in debt management, asset management (cash and interest rate securities), foreign exchange and metals (precious and base). Oakvale is well resourced with over 33 employees including risk advisors, dealers and support staff located in two main offices — Perth and Sydney, with representation in Brisbane.

PERTH HEAD OFFICE
Level 3, 50 Colin Street, West Perth, WA 6005
PO Box 645, West Perth, WA 6872
Telephone: 08 94605300 Facsimile: 08 9321 3466
Email: info@oakvale.com

OAKVALE CAPITAL LIMITED
t/as OAKVALE TREASURY
ABN 72 009 070 884 AFSL 229842
www.oakvaletreasury.com.au
BRISBANE PERTH SYDNEY

SYDNEY OFFICE
Level 2, 10 Barrack Street, Sydney, NSW 2000
Telephone: 02 8623 6200
Facsimile: 02 9299 4841
Email: info@oakvale.com

Oakvale assists Australian corporations and the government sector to manage more than $100 billion in debt, interest rate, foreign exchange and commodity exposures. Client relationships range from ongoing retainer services, to one off project or transaction based assignments.

Oakvale's advisory team is led by Paul Travers, who has over 25 years financial market experience and has advised a number of organisations operating in the currency markets. Full details of Paul and Vic's background are provided in Appendix 1.

Paul will, as stated above, will be the lead advisor and will be assisted by Vic and his team. Other appropriate Oakvale staff will be involved as needed.

Fees

Oakvale will charge an hourly rate of $500.00 (exclusive of GST) for advisory work provided by Paul and Vic. Oakvale will use its team of professionals to complete any analytical work required using an hourly rate of $250.00 (exclusive of GST). Were possible we will provide an estimate of the time required to complete analytical work.

Out-of Pocket Expenses

It is Oakvale's practice to seek reimbursement from clients for any out-of-pocket expenses including airfares, accommodation, courier charges, taxi fares and additional printing costs where applicable. Any out of pocket expenses about $300 will only be incurred with prior consent from Trilogy.

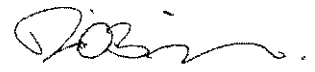
Conflicts of Interest

It is Oakvale's view that we do not currently, nor expect there to arise, any conflicts of interest in regard to this Engagement with Trilogy.

The work and any materials supplied under this Engagement remain the property of Oakvale and will be for the sole purpose and use of Trilogy and are not to be released to any third party without the prior written consent of Oakvale.

We request that Trilogy confirms its acceptance of the above terms by returning one of the two copies of this letter signed by a person duly authorised by Trilogy to do so as soon as possible in the attached return addressed envelope.

Yours faithfully



Ross O'Brien
Divisional Director
Finance & Administration
Oakvale Capital Limited

I hereby agree to the above terms and conditions
Signed for and on behalf of:
Trilogy Capital Group

John Barry
Director

Appendix 1

Team Backgrounds

Paul Travers – Executive Director

Paul is an Executive Director at Oakvale Capital based in Sydney with over 25 years' experience in treasury, risk management and banking. Prior to joining Oakvale Paul was a Director in Ernst & Young's Financial Risk Management Group (FRMG) and led Anderson's Financial Commodity Risk Consulting team. Paul was also involved with the derivatives distribution groups at BankAmerica and Security Pacific Ltd and was a member of Macquarie Risk Advisory Services, Macquarie Bank's independent treasury consulting and advisory service.

Paul has undertaken consulting assignments in Australia and Asia for financial institutions and corporations across the commodity, energy, manufacturing, and retailing sectors. Clients Paul has assisted in the past include; Woolworth's, Australian Energy Regulator, Aurora Energy, NSW Treasury and Integral Energy.

He has a Bachelor of Arts, Major in Economics for Claremont McKenna College, Los Angeles, California and a Master of Commerce – specialisation in Finance from the University of NSW, Sydney, NSW. He is also an associate Member of the Securities Institute of Australia and a full member of the Finance and Treasury Association (CFTP).

Paul is also a sought after speaker particularly on the topic of risk management. He speaks regularly at risk management conferences, conducts risk management workshops for clients and lectures for Kaplan (formerly FINSIA).

Vic Jansen – Divisional Director Services

Vic has been in the Financial Services industry for more than 30 years with a wide range of experience, particularly focused around financial market risk over the past 25 years, with an emphasis on foreign exchange and interest rate risk management.

Previously Vic was the State Manager WA, with St George Bank Treasury and had also spent an extensive period within NAB Markets, both in Perth and Melbourne.

Selected Clients

1. **Disclaimer**

In performing the Services set out in this Engagement Letter Oakvale to Trilogy, Trilogy Capital Group agrees that:

1.1 in carrying out the Services, Oakvale is entitled to rely on information received from Trilogy without making independent enquiries and is not responsible for inaccuracies in the information provided.

(a) Oakvale also relies on financial forecasts, which are made and provided by third parties, and Oakvale does not warrant their correctness;

(b) financial forecasts, by their nature can be wrong or overtaken by other events;

(c) Oakvale can only offer its services to Trilogy based on the information supplied and any forecasts sourced from third parties and does not in any manner make final decisions in respect of the Services, which are in each case made by Trilogy.

(d) Trilogy acknowledges that it must make its own tax and accounting judgment with respect to recommendations or indicative examples made by Oakvale and Trilogy should form it's own opinion or seek independent professional advice in reviewing and evaluating the information where required and its appropriateness in respect of the recipients own tax and accounting policies.

1.2 Not with standing anything in this Agreement, expressed or implied, Trilogy shall not be entitled to recover any Indirect or Consequential Loss from Oakvale.

1.3 No Claim may be made or shall subsist against Oakvale under this Agreement unless written notice of such claim, including full particulars of the basis for such claim and the date upon which it arose, is given to Oakvale within six months from the date upon which the circumstances giving rise to the Claim took place.

1.4 Not with standing anything in this Agreement to the contrary, the total liability of Oakvale under this Agreement shall:

(a) be limited in aggregate to the amount Oakvale recovers from its professional indemnity insurance policy in respect of the relevant Claim; and

(b) not arise in respect of any individual Claim against Oakvale for less than $A1,000.

2. **Confidentiality**

2.1 Oakvale will not disclose the Confidential Information to a third party, or use it for anything other than for the purposes of this Agreement, unless it is required by law to do so.

2.2 Both parties will limit disclosure of the Confidential Information to the officers or employees that either party consider need to receive such information to carry out the obligations under this Agreement.

2.3 Oakvale is not prevented from disclosing Confidential Information if required by:

(a) any law, rule or regulation of any country with jurisdiction over the affairs of Oakvale or requested by any court of competent jurisdiction or any applicable governmental, supervisory, regulatory or self-regulatory body;

(b) Oakvale's auditors or service providers who are under a duty of confidentiality to Oakvale; and

(c) provided, to the extent permitted by law and practical to do so, that Oakvale:

i) informs Trilogy in advance of any such disclosure; and

ii) attempts to restrict disclosure and distribution of the Confidential Information as far as is permitted by law.

3. **Indemnity**

3.1 Trilogy shall indemnify Oakvale against any Loss or Claim arising from or in connection with the performance or the non-performance of the Services, including by reason of any:

(a) breach of contract;

(b) tort, including negligence and breach of statute;

(c) breach of equitable duty, including breach of confidentiality or breach of fiduciary duty; and

(d) breach of the obligations of Trilogy under this Agreement,

3.2 Trilogy liability in Clause 3.1 shall be reduced proportionally to the extent that the Loss was caused by the negligence of or breach of this Agreement by Oakvale.

3.3 Oakvale need not incur any cost or make any payment before enforcing any right of indemnity under this Clause.

4. **Definitions**

'Business Day' means any day that banks are open and trading in Western Australia.

'Claim' means, a demand, action, or proceeding, whether actual or threatened and includes any claim for, damages, loss, cost, expense or liability.

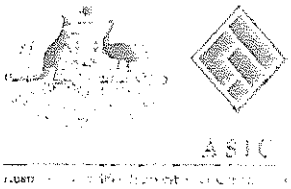
'Confidential Information' means any oral or written information, data, reports, accounts or other documentation made available by either party to the other, which is not at the time of its disclosure already in the public domain (as evidenced by written publication).

'Loss' means:

(a) any liability, cost, expense, loss, personal injury (including illness), death or damage;

(b) in relation to a Claim, includes amounts payable on the Claim and (whether or not the Claim is successful) legal costs and disbursements on a full indemnity basis; and

(c) includes Indirect or Consequential Loss.



OAKVALE CAPITAL LIMITED
AFS Licence Number 229842

Extracted from ASIC's database at AEST 16:10:56 on 03/05/2013

Current Details

Name:	OAKVALE CAPITAL LIMITED
Licence Number:	229842
Status:	Current
ABN:	72 009 070 884
Commenced:	13/06/2003

Previous License Details - Pre FSR

Role:	Securities Dealer
Licence number:	14247
Commenced:	12/04/1985

Addresses

Principal Business Address:	Level 3, 50 Colin Street, WEST PERTH WA 6005
Service Address:	PO BOX 645, WEST PERTH WA 6872

Roles

Role:	Auditor of FS Licensee
Name:	PRICEWATERHOUSECOOPERS
Commenced:	22/08/2003

Licence Authorisation Conditions

From: 05/02/2004

Details:

1. This licence authorises the licensee to carry on a financial services business to:
   (a) provide financial product advice for the following classes of financial products:
      (i) deposit and payment products limited to:
         (A) basic deposit products;
         (B) deposit products other than basic deposit products;
      (ii) derivatives;
      (iii) foreign exchange contracts;
      (iv) debentures, stocks or bonds issued or proposed to be issued by a government;
      (v) interests in managed investment schemes excluding investor directed portfolio services; and
      (vi) securities; and
   (b) deal in a financial product by:
      (i) applying for, acquiring, varying or disposing of a financial product on behalf of another person in respect of the following classes of products:
         (A) deposit and payment products limited to:
            (1) basic deposit products;
            (2) deposit products other than basic deposit products;
         (B) derivatives;

Licence Authorisation Conditions

(C) foreign exchange contracts;
(D) debentures, stocks or bonds issued or proposed to be issued by a government;
(E) interests in managed investment schemes excluding investor directed portfolio services; and
(F) securities;
to wholesale clients.

From: 13/06/2003
Details: 1. This licence authorises the licensee to carry on a financial services business to:
(a) provide general financial product advice only, for the following classes of financial products:
(i) deposit and payment products limited to:
(A) basic deposit products;
(B) deposit products other than basic deposit products;
(ii) derivatives;
(iii) foreign exchange contracts;
(iv) debentures, stocks or bonds issued or proposed to be issued by a government; and
(v) securities;
to wholesale clients.

Further information relating to this Licensee may be purchased from ASIC.

Trilogy Funds Management Limited

ABN: 59 080 383 679

AFS Licence No: 261 425

Annual Financial Report

For the year ended 30 June 2012

Trilogy Funds Management Limited
Contents page

	Page No
Directors' report	1
Auditor's independence declaration	6
Statement of comprehensive income	7
Statement of financial position	8
Statement of changes in equity	9
Statement of cash flows	10
Notes to the financial statements	11
Directors' declaration	31
Independent audit report	32

Trilogy Funds Management Limited
Directors' report

The Directors of Trilogy Funds Management Limited (Responsible Entity) (Company), a wholly owned subsidiary of Trilogy Capital Services Pty Limited (TCS) present their report together with the financial report for the Company for the financial year ended 30 June 2012.

Corporate information

The Company is incorporated and domiciled in Australia. The registered office and principal place of the Company is:

Brisbane Club Tower
Level 10
241 Adelaide Street, Brisbane, Queensland

Directors

The names of the directors in office at any time during, or since the end of the financial year are:

Name and qualifications	***Age***	***Experience and special responsibilities***
Robert M Willcocks Independent Non-Executive Chairman BA, LL.B, LL.M	64	Chairman of the Audit, Compliance and Risk Management Committee Former partner with the law firm now called King & Wood Mallesons. Mr Willcocks has been a director (including Chairman) of a number of listed public companies. He is currently a director of the following listed public companies: ARC Exploration Limited, APAC Resources Limited (Hong Kong listed) and Living Cell Technologies Limited. Chairman - Responsible Entity since 9 October 2009
Rodger I Bacon Executive Deputy Chairman BCom(Merit), AICD, SFFin	66	Member of the Audit, Compliance and Risk Management Committee Former executive director of Challenger International Limited Mr Bacon is a director of several public and private companies including, Financial Services Institute of Australasia and Trilogy Capital Services Pty Ltd. Director – Responsible Entity since 9 July 2004
John C Barry Executive Director BA, ACA	60	Member of the Audit, Compliance and Risk Management Committee Former executive director of Challenger International Limited Mr Barry is a director of several public and private companies including Trilogy Capital Services Pty Ltd and Chairman of Westpac RE Limited Director – Responsible Entity since 9 July 2004
Philip A Ryan Executive Director and Company Secretary LL.B, Grad Dip Leg Prac, FTIA, FFIN	51	Mr Ryan is a solicitor and member of the Queensland Law Society Inc. Member of the Compliance Committee Former partner of a Brisbane law firm Mr Ryan is a director of several private companies including Trilogy Capital Services Pty Ltd Director – Responsible Entity since 13 October 1997

Directors (continued)

Rohan C Butcher Non-Executive Director Grad Dip PM, BASc(QS), Registered Builder, Licensed Real Estate Agent	43	Member of the Lending Committee Consultant to several major public and private companies providing development management services Director – Responsible Entity since 29 July 2008
Nigel A Chamier Independent Non-Executive Director OAM, RN01kl, FAPI, FAIDC	61	Chairman of the Audit, Compliance and Risk Management Committee (resigned 14 May 2012) Chairman of NAC Investments (Qld) Pty Ltd and a Director of several private companies Mr Chamier is the Honorary Consul for Sweden Former Joint Managing Director (Qld) Jones Lang LaSalle Director – Responsible Entity since 14 October 2009 (resigned 14 May 2012)

Directors have been in office since the start of the financial year to the date of this report unless otherwise stated.

Principal activities

The Company holds an Australian Financial Services Licence (AFSL), and acts as the Responsible Entity for the following registered managed investment scheme's (Scheme's):

- Trilogy Monthly Income Trust (TMIT);
- Trilogy Wholesale First Mortgage Income Trust (TWFMIT);
- Pacific First Mortgage Fund (PFMF) (formerly City Pacific First Mortgage Fund)
- Trilogy Investor Choice Medilink Property Income Syndicate (Medilink);
- Trilogy Investor Choice Melbourne Campus Office Syndicate (Melbourne Campus);
- Trilogy HealthCare REIT (Healthcare REIT);
- Cape Park Funds (Cape Funds);
- Trilogy Epping Commercial Office Property Trust (TECOPT);
- Austgrowth Property Syndicate No 18 (APSPS);
- Austgrowth Property Syndicate No 18 Unit Trust (APSUT);
- Brisbane Property Syndicate (BNEPS) - (Property sold on 11 November 2011);
- Brisbane Property Syndicate Unit Trust (BNEUT) - (Property sold on 11 November 2011);
- Canberra Property Syndicate (CANPS) - (Property sold on 12 October 2012); and
- Canberra Property Syndicate Unit Trust (CANUT).

There has been no significant change in the nature of this activity during the year.

Review of operations

Financial summary

The Company produced a net profit after tax of $10,588 for the year ended 30 June 2012 (2011: Profit $56,686), after recording impairment losses of $99,022 (2011: $81,463). Total revenues reduced by 18.0% in comparison to the previous financial year, largely as a result of the decline in the gross asset value of the PFMF.

During the year, the Company repaid $400,000 (2011: $500,000) against its subordinated loan facility, resulting in a balance at year end of $1,750,000 (2011: $2,150,000). The total assets of the Company amounted to $4,310,580 as at 30 June 2012 (2011: $5,210,799).

Dividends

No dividends were declared or paid during the year (2011: nil), or since the end of the year.

Significant changes in state of affairs

In the opinion of the Director's there were no significant changes in the state of affairs of the Company that occurred during the financial year.

Events subsequent to the end of the reporting period

Proposal to replace LM Investment Management (LM) as Responsible Entity

Subsequent to the end of the reporting period, the Company has issued a Notice of Meeting (NoM) and Explanatory Memorandum (EM) to unitholders in the LM Wholesale First Mortgage Income Fund (FMIF) and the LM Currency Protected Australian Income Fund (CPAIF), following a meeting convened by certain investors in those funds to occur on 1 November 2012 to consider and pass resolutions to replace LM with Trilogy Funds Management Limited as Responsible Entity for the FMIF and the CPAIF.

Appointment as Responsible Entity

A meeting was held on 4 June 2012 and resumed on 14 June 2012, to vote on a resolution to remove APGF Management Limited (APGF) as Responsible Entity of APS Number 21 and APS Number 24 (property syndicates), and replace them with Trilogy Funds Management Limited. Legal proceedings were issued subsequent to the unitholder meeting.

On 9 August 2012 Justice M. Wilson made a consent order that APGF be removed as Responsible Entity, and Trilogy Funds Management Limited be appointed Responsible Entity for the property syndicates subject to the following terms and conditions listed in the Committments Note 19.

On 13 August 2012 the Company was listed on the ASIC register as Responsible Entity for both property syndicates.

The books and records of the Scheme were transferred to the New Responsible Entity on 17 August 2012.

Sale of investment properties

Canberra Property Syndicate and the Canberra Unit Trust

The investment property held by the Canberra Property Syndicate was sold on 12 October 2012. The Responsible Entity will proceed to wind-up the Scheme.

The Trilogy Healthcare REIT (Crows Nest)

A contract of sale for the Crows Nest property owned by Trilogy Healthcare REIT was signed on 22 October 2012, with settlement scheduled for 30 days after the exchange of contracts. The Responsible Entity will proceed to wind-up the Scheme following the settlement of the property.

Other than the items mentioned above, there has not arisen in the interval between the end of the financial year and the date of this report any item, transaction or event of a material and unusual nature likely, in the opinion of the Company, to affect significantly the operations of the Company, the results of those operations, or the state of affairs of the Company, in future financial years.

Likely developments and expected results of operations

Further information about likely developments in the operations of the Company and the expected results of those operations in future financial years has not been included in this report because disclosure of the information would be likely to result in unreasonable prejudice to the Company.

Environmental regulation

The operations of the Company are not subject to any particular or significant environmental regulation under a law of the Commonwealth or of a State or Territory. There have been no known significant breaches of any other environmental requirements applicable to the Company.

Options granted

No options over issued shares or interests in the Company were granted during or since the end of the financial year and there were no options outstanding at the date of this report.

Meetings of Directors'	Board Meetings		Audit, Compliance and Risk Management Committee Meetings	
	A	B	A	B
Robert M Willcocks (*)	11	5	6	4
Rodger I Bacon	11	10	2	2
John C Barry	11	10	6	5
Philip A Ryan	11	11	-	-
Trevor J D Gibson (resigned 1 August 2011)	2	2	-	-
Rohan C Butcher	11	11	-	-
Nigel A Chamier (resigned 14 May 2012)	10	6	5	4

A = Number of meetings held during the time the director was in office during the period.
B = Number of meetings attended.
(*) Leave of absence granted.

Indemnification of Directors and Officers

During the year, TCS paid a premium (the disclosure of the premium is prohibited by the contract) on behalf of the Company for the year ended 30 June 2012 to indemnify all current and former directors and officers of the Company (including agents of the Company) out of the property of the Company against:

(a) any liability for costs and expenses which may be incurred by that person in defending civil or criminal proceedings in which judgement is given in that person's favour, or in which the person is acquitted, or in the connection with an application in relation to any such proceedings in which the court grants relief to the person under the Corporations Act 2001 (Act); and
(b) liability incurred by the person, as a director or officer of the Company or of a related body corporate, to another person (other than the Company or a related body corporate) unless the liability arises out of conduct involving a lack of good faith.

No indemnities have been given or insurance premiums paid, during or since the end of the financial year for the auditor of the Company.

Litigation and contingent liabilities

Litigation involving borrowers of the PFMF and other Scheme's

The Responsible Entity of the PFMF is party to litigation with borrowers (Kosho Pty Ltd (Receiver & Manager Appointed) and City Co Pty Ltd (Receiver & Manager Appointed)) alleging it had breached the finance facility agreement or, alternatively, the Trade Practices Act 1974 (Cth). The maximum awardable amount for this contingent liability is estimated to be $81 million. The Responsible Entity has filed a defence denying liability in respect of this claim in June 2010.

The Responsible Entity's evidence in chief was filed and served on 10 September 2012, the trial commenced on 24 September 2012 and was expected to run for 7 days. On 2 October 2012 the matter was adjourned to 26 November 2012 (for 3 days) by reason of the borrowers' request to tender additional evidence (to which the Responsible Entity objected). The borrowers were ordered to pay the Responsible Entity's costs, fixed at $24,000, by reason of the adjournment.

The Company is also party to other proceedings in its capacity as Responsible Entity, however Directors are not aware of any material liability likely to arise to the Company as a result of litigation matters.

Litigation and contingent liabilities (continued)

Dispute with borrower

The Company was awarded judgement for unpaid application fees due from a borrower during the year. The borrower subsequently appealed the ruling to the Queensland Court of Appeal, which was unsuccessful. The borrower has since sought leave to appeal to the High Court of Australia for which a decision is pending.

The Company has recently served a bankruptcy notice on the borrower and have received legal advice to the effect that if the bankruptcy action is successful, the borrower will be precluded from pursuing his appeal. The Company is unable to determine the likely amount of the recovery should it be successful in its action.

No person has applied for leave of Court to bring proceedings on behalf of the Company or intervene in any proceedings to which the Company is a party under section 237 of the Act.

Auditor's independence declaration

The Auditor's independence declaration is set out on page 6 and forms part of the Directors' report for the year ended 30 June 2012..

This report is made in accordance with a resolution of the Directors of the Company.

Philip A Ryan
Executive Director
Dated: 31 October 2012
Brisbane

Rodger I Bacon
Executive Deputy Chairman
Dated: 31 October 2012
Brisbane

BDO

Tel: +61 7 3237 5999
Fax: +61 7 3221 9227
www.bdo.com.au

Level 18, 300 Queen St
Brisbane QLD 4000,
GPO Box 457 Brisbane QLD 4001
Australia

DECLARATION OF INDEPENDENCE BY P A GALLAGHER TO THE DIRECTORS OF TRILOGY FUNDS MANAGEMENT LIMITED

As the lead auditor of Trilogy Funds Management Limited for the year ended 30 June 2012, I declare that, to the best of my knowledge and belief, there have been no contraventions of:

- the auditor independence requirements of the *Corporations Act 2001* in relation to the audit; and
- any applicable code of professional conduct in relation to the audit.

P A Gallagher

Director

BDO Audit Pty Ltd

Brisbane, 31 October 2012

BDO Audit Pty Ltd ABN 33 134 032 870 is a member of a national association of independent entities which are all members of BDO Australia Ltd ABN 77 050 110 275, an Australian company limited by guarantee. BDO Audit Pty Ltd and BDO Australia Ltd are members of BDO International Ltd, a UK company limited by guarantee, and form part of the international BDO network of independent member firms. Liability limited by a scheme approved under Professional Standards Legislation, other than for the acts or omissions of financial services licensees, trustees or employees of the firm.

Trilogy Funds Management Limited
Statement of comprehensive income
For the year ended 30 June 2012

	Note	2012 $	2011 $
Revenue and other income			
Revenue from borrowers	4(a)	474,897	367,801
Revenue from managed investment schemes	4(b)	4,903,592	6,218,462
Other revenue	4(c)	166,916	192,452
		5,545,405	6,778,715
Expenses			
Accounting fees		(2,865)	(4,379)
Amortisation expense		(1,834)	-
Auditor's remuneration	5	(12,965)	(25,060)
Director's fees	17	(100,325)	(106,222)
Expenses from managed investment schemes		(785,305)	(828,953)
Finance costs	6	(243,959)	(318,448)
Impairment losses			
• Trade and other receivables	9(a)	(72,698)	(81,463)
• Investments	10	(26,324)	-
Legal fees		(21,443)	(24,382)
Management fees	15(a)	(4,246,040)	(5,319,039)
Other expenses		(16,069)	(12,173)
		(5,529,827)	(6,720,119)
Profit for the year before tax		15,578	58,596
Income tax expense	7	(4,990)	(1,910)
Profit for the year		10,588	56,686
Other comprehensive income			
Other comprehensive income		-	-
Total comprehensive income for the year		10,588	56,686

The Statement of comprehensive income is to be read in conjunction with the accompanying notes to the financial statements.

Trilogy Funds Management Limited
Statement of financial position
As at 30 June 2012

	Note	2012 $	2011 $
Current assets			
Cash and cash equivalents	8	2,691,317	2,140,107
Trade and other receivables	9	1,211,341	2,245,901
Total current assets		3,902,658	4,386,008
Non-current assets			
Trade and other receivables	9	149,000	218,254
Investments in joint ventures	10	-	-
Deferred tax assets	7	258,922	606,537
Total non-current assets		407,922	824,791
Total assets		4,310,580	5,210,799
Current liabilities			
Trade and other payables	11	1,665,581	1,735,163
Borrowings	12	-	100,000
Total current liabilities		1,665,581	1,835,163
Non-current liabilities			
Trade and other payables	11	149,000	149,000
Borrowings	12	1,744,687	2,138,449
Deferred tax liabilities	7	244,088	591,551
Total non-current liabilities		2,137,775	2,879,000
Total liabilities		3,803,356	4,714,163
Net assets	18(c)	507,224	496,636
Equity			
Share capital	13	392,400	392,400
Retained earnings		114,824	104,236
Total equity		507,224	496,636

The Statement of financial position is to be read in conjunction with the accompanying notes to the financial statements.

Trilogy Funds Management Limited
Statement of changes in equity
For the year ended 30 June 2012

	Share Capital				
	Ordinary shares	A class shares	Cumulative redeemable preference shares	Retained earnings	Total equity
	$	$	$	$	$
Balance at 1 July 2010	**100,400**	**27,000**	**265,000**	**47,550**	**439,950**
Total comprehensive income					
Profit/(loss) for the year				56,686	56,686
Other comprehensive income for the year				-	-
Total comprehensive income for the year	-	-		56,686	56,686
Transactions with owners, in their capacity as owners					
Dividends paid or provided for				-	-
Shares issued during the year	-	-	-	-	-
	-	-		-	-
Balance at 30 June 2011	**100,400**	**27,000**	**265,000**	**104,236**	**496,636**
Total comprehensive income					
Profit/(loss) for the year				10,588	10,588
Other comprehensive income for the year				-	-
Total comprehensive income for the year	-	-		10,588	10,588
Transactions with owners, in their capacity as owners					
Dividends paid or provided for				-	-
Shares issued during the year	-	-	-	-	-
	-	-	-	-	-
Balance at 30 June 2012	**100,400**	**27,000**	**265,000**	**114,824**	**607,224**

The Statement of changes in equity is to be read in conjunction with the accompanying notes to the financial statements.

Trilogy Funds Management Limited
Statement of cash flows .
For the year ended 30 June 2012

	Note	2012 $	2011 $
Cash flows from operating activities			
Receipts from customers		6,394,131	4,848,125
Payments to suppliers		(5,325,383)	(5,036,331)
Interest received		122,822	156,682
Finance costs		(240,360)	(315,881)
Net cash provided by/(used in) operating activities	14	951,210	(347,405)
Net cash provided by/(used in) investing activities		-	-
Cash flows from financing activities			
Proceeds from borrowings		-	-
Repayment of borrowings		(400,000)	(500,000)
Net cash used in financing activities		(400,000)	(500,000)
Net increase/(decrease) in cash held		551,210	(847,405)
Cash at beginning of financial year		2,140,107	2,987,512
Cash at end of financial year	8	2,691,317	2,140,107

The Statement of cash flows is to be read in conjunction with the accompanying notes to the financial statements.

Trilogy Funds Management Limited

Notes to the financial statements
For the year ended 30 June 2012

Note 1 Reporting entity

Trilogy Funds Management Limited, a wholly owned subsidiary of Trilogy Capital Services Pty Limited (TCS) is a public company limited by shares, incorporated in Brisbane on 13 October 1997, and domiciled in Australia. The financial report is for the year ended 30 June 2012.

The Company holds an Australian Financial Services Licence (AFSL), and is the Responsible Entity and Manager for a number of managed investment scheme's (MIS).

The registered office of the Company is located at Brisbane Club Tower, Level 10, 241 Adelaide Street, Brisbane, Queensland, 4000.

Note 2 Basis of preparation

(a) Statement of compliance

The financial statements are a general purpose financial report which has been prepared in accordance with Australian Accounting Standards including Australian Accounting Interpretations and the *Corporations Act 2001* (Act). The financial statements cover Trilogy Funds Management Limited as an individual entity. The financial statements of the Scheme complies with International Financial Reporting Standards and interpretations in their entirety.

The financial statements have been prepared on an accruals basis and are based on historical costs, modified where applicable, by the measurement at fair value for investment properties, financial assets and financial liabilities.

This financial report has been prepared for a for-profit entity.

The financial statements were approved by the Board of Directors of Trilogy Funds Management Limited on 31 October 2012.

(b) Interests in joint ventures

A joint venture is a contractual arrangement whereby two or more parties undertake an economic activity that is subject to joint control. The financial statements of the joint venture are prepared for the same reporting period as the Company, using consistent accounting policies. Adjustments are made to bring into line any dissimilar accounting policies that may exist in the underlying records of the joint venture.

(c) Functional and presentation currency

These financial statements are presented in Australian dollars, which is the Company's functional currency.

(d) Key assumptions and sources of estimation

The preparation of financial statements requires management to make judgements, estimates and assumptions that affect the application of accounting policies and the reported amounts of assets, liabilities, income and expenses. Actual results may differ from these estimates.

Estimates and underlying assumptions are reviewed on an ongoing basis. Revisions to accounting estimates are recognised in the period in which the estimate is revised and in any future periods affected.

In particular, information about significant areas of estimation uncertainty and critical judgements in applying accounting policies that have most significant effect on the amounts recognised are disclosed in:

- Note 9: Impairment losses (Trade and other receivables);
- Note 10: Investments in joint ventures (impairment losses);

Note 2 Basis of preparation

(e) Key assumptions and sources of estimation

- Note 13: Cumulative redeemable preference shares;
- Note 15(a): Financial risk management (credit risk).

Note 3 Significant accounting policies

The accounting policies set out below have been applied consistently to all periods presented in these financial statements, unless otherwise stated. The Scheme has not early adopted any accounting standard.

(a) Financial instruments

(i) Classification

Investments and financial assets in the scope of *AASB 139 Financial Instruments: Recognition and Measurement* are categorised as either financial assets at fair value through profit or loss, loans and receivables, held-to-maturity investments, or available-for-sale financial assets. The classification depends on the purpose for which the investments were acquired or originated. Designation is re-evaluated at each reporting date, but there are restrictions on reclassifying to other categories.

(ii) Recognition

The Scheme recognises financial assets and financial liabilities on the date it becomes a party to the contractual provisions of the instrument.

Financial assets are recognised using trade date accounting. From this date any gains and losses arising from changes in fair value of the financial assets or financial liabilities are recorded.

(iii) Measurement

Financial instruments are measured initially at fair value plus transaction costs except where the instrument is classed at fair value through profit or loss in which the transaction costs are expensed immediately. Transaction costs on financial assets and financial liabilities are amortised over the life of the asset or liability using the effective interest method.

Subsequent to initial recognition, all instruments classified at fair value through profit or loss are measured at fair value with changes in their fair value recognised in the profit or loss.

Loans and receivables are financial assets with fixed or determinable payments that are not quoted in an active market. Such assets are recognised initially at fair value plus any directly attributable transaction costs. Financial assets classified as loans and receivables subsequently are carried at amortised cost using the effective interest rate method, less impairment losses, if any.

Financial liabilities, other than those at fair value through profit or loss, are measured at amortised cost using the effective interest rate.

(iv) Impairments

Financial assets, other than those at fair value through profit or loss, are assessed for indicators of impairment at the end of each reporting period. Financial assets are considered to be impaired when there is objective evidence that, as a result of one or more events that occurred after the initial recognition of the financial asset, the estimated future cash flows of the investment have been affected.

An impairment loss in respect of a receivable carried at amortised cost is reversed if the subsequent increase in recoverable amount can be related objectively to an event occurring after the impairment loss was recognised.

Note 3 Significant accounting policies (continued)

(a) Financial instruments (continued)

(v) Derecognition

The Scheme derecognises a financial asset when the contractual rights to the cash flows from the financial asset expire or it transfers the financial asset and the transfer qualifies for derecognition in accordance with AASB 139.

The Scheme uses the weighted average method to determine realised gains and losses on derecognition of financial assets.

A financial liability is derecognised when the obligation specified in the contract is discharged, cancelled or expires.

(vi) Specific instruments

Cash and cash equivalents

Cash comprises current deposits with banks. Cash equivalents are short-term highly liquid investments that are readily convertible to known amounts of cash, are subject to an insignificant risk of changes in value, and are held for the purpose of meeting short-term cash commitments rather than for investment or other purposes.

(a) Revenue recognition

Revenue is recognised to the extent that it is probable that the economic benefits will flow to the Company and the revenue can be reliably measured. The following specific recognition criteria must also be met before revenue is recognised:

Revenue from borrowers

Administration and performance

The Company derives a fee from borrowers for managing the lending operations of the mortgage investment schemes. The fee is recognised as revenue when the Company has a right to receive the revenue.

Application, settlement and exit fees

The Company is entitled to a fee from borrowers on the approved value of loans. The fee is recognised as revenue on the date the loan has settled.

Revenue from MIS

Trust establishment fees

The Company is entitled to an establishment fee on the date of acquisition of a property for a syndicate. The fee is recognised as revenue on the date of acquisition.

Equity generation fees

The Company is entitled to an equity generation fee for raising investor funds to reduce the debt on a property syndicate. The fee is recognised as revenue on a proportional basis to the amount of funds raised.

Selling and performance fees

The Company may be entitled to a fee from the sale of a property syndicate where the net proceeds from sale exceed a particular benchmark. The fee is recognised as revenue when the Company has a right to receive it.

Note 3 Significant accounting policies (continued)

(a) Revenue recognition (continued)

Cost recovery fees

The Company levies a fee on the Pacific First Mortgage Fund (formerly City Pacific First Mortgage Fund) (PFMF) for the provision of custodian and investor registry services. This fee is determined by applying 12 basis points (bps) p.a. (plus GST, less reduced input tax credits (RITC)) to the gross asset value of the Scheme.

Interest revenue

Interest revenue is recognised using the effective interest method. All revenue is stated net of the amount of goods and services tax (GST).

Other

The Company incurs direct expenses on behalf of the MIS which it seeks recovery from the Scheme at cost. Cost recovery fees are recognised as revenue when the Company has a right to receive it.

(b) Expenses

All expenses, including management fees, are recognised in the profit or loss on an accruals basis.

(c) Taxation

Income tax

The income tax expense for the year is the tax payable on the current period's taxable income based on the national income tax rate for each jurisdiction adjusted by changes in deferred tax assets and liabilities attributable to temporary differences between the tax bases of assets and liabilities and their carrying amounts in the financial statements, and to unused tax losses.

Deferred tax assets and liabilities are recognised for temporary differences at the tax rates expected to apply when the assets are recovered or liabilities are settled, based on those tax rates which are enacted or substantially enacted for each jurisdiction. The relevant tax rates are applied to the cumulative amounts of deductible and taxable temporary differences arising from the initial recognition of an asset or a liability. No deferred tax asset or liability is recognised in relation to these temporary differences if they arose in a transaction, other than a business combination, that at the time of the transaction did not affect either accounting profit or taxable profit or loss.

Deferred tax assets are recognised for deductible temporary differences and unused tax losses only if it is probable that future taxable amounts will be available to utilise those temporary differences and losses.

Deferred tax assets and liabilities are offset when there is a legally enforceable right to offset current tax assets and liabilities and when the deferred tax balances relate to the same taxation authority. Current tax assets and tax liabilities are offset where the entity has a legally enforceable right to offset and intends either to settle on a net basis, or to realise the asset and settle the liability simultaneously. Current and deferred tax balances attributable to amounts recognised directly in equity are also recognised directly in equity.

Goods and Services Tax (GST)

Revenues, expenses and assets are recognised net of the amount of GST, except where the amount of GST incurred is not recoverable from the Australian Tax Office. In these circumstances the GST is recognised as part of the cost of acquisition of the asset or as part of an item of the expense. Receivables and payables in the statement of comprehensive income are shown inclusive of GST.

Cash flows are presented in the statement of cash flows on a gross basis, except for the GST component of investing and financing activities, which are disclosed as operating cash flows.

Note 3 Significant accounting policies (continued)

(d) Interest bearing loans and liabilities

All loans and borrowings are initially recognised at the fair value of the consideration received less directly attributable transaction costs.

After initial recognition, interest bearing loans and borrowings are subsequently measured at amortised cost using the effective interest method. Fees paid on the establishment of loan facilities that are yield related are included as part of the carrying amount of the loans and borrowings.

Borrowings are classified as current liabilities unless the Company has an unconditional right to defer settlement of the liability for atleast 12 months after the reporting date.

(e) Borrowings costs

Borrowings are initially recognised at fair value, net of transactions costs incurred. Borrowings are subsequently measured at amortised costs using the effective interest rate method. Under this method, fees, costs, discounts and premiums directly related to the financial liability are spread over its expected life. Borrowings are classified as current liabilities unless the Company has an unconditional right to defer settlement of the liability for at least 12 months after reporting date.

Finance costs directly attributable to the acquisition, construction and production of assets that necessarily take a substantial period of time to prepare for their intended use or sale, are added to the cost of those assets, until such time as the assets are substantially ready for their intended use. All other finance costs are recognised in the profit or loss in the period in which they are incurred.

(f) Trade and other receivables

Receivables are recognised and carried at original amount, less a provision for any uncollectible debts. An estimate for doubtful debts is made when collection of an amount is no longer probable. Bad debts are written off when identified.
Amounts are generally received within 30 days of being recorded as receivables.

(g) Impairment of assets

At the end of each reporting period, the Company assesses whether there is any indication that an asset maybe impaired. The assessment will include considering external and internal sources of information. If such an indication exists, an impairment test is carried out on the asset by comparing the recoverable amount of the asset to its carrying value. Any excess of the asset's carrying value over its recoverable amount is expensed to the profit or loss.

Where it is not possible to estimate the recoverable amount of an individual asset, the Company estimates the recoverable amount of the cash-generating unit to which the asset belongs.

(h) Trade and other payables

Trade and other payables represent the liability outstanding at the end of the reporting period for goods and services received by the Group during the reporting period, which remains unpaid. The balance is recognised as a current liability with the amounts normally paid within 30 days of recognition of the liability.

(i) Share capital

Share capital is recognised at the fair value of the consideration received by the Company. Any transaction costs arising on the issue of ordinary shares are recognised directly in equity as a reduction of the share proceeds received.

Note 3 Significant accounting policies (continued)

(j) Comparative figures

When required by Accounting Standards, comparative figures have been adjusted to conform to changes in presentation for the current year.

(k) New and amended standards and interpretations

A number of new standards, amendments and interpretations are effective for annual periods beginning after 1 July 2011, and have not been applied in preparing these financial statements. None of these is expected to have a significant effect on the financial statements, except for the

(i) AASB 9 Financial Instruments (effective from 1 January 2015)

AASB 9 Financial Instruments addresses the classification, measurement and de-recognition of financial assets and financial liabilities. It simplifies the approach for classification and measurement of financial assets compared with the requirements of AASB 139. Financial assets are to be classified based on (a) the objective of the entity's business model for managing the financial assets; and (b) the characteristics of the contractual cash flows. This replaces the numerous categories of financial assets in AASB 139. The Responsible Entity does not plan to adopt this standard early and the extent of the impact has not been determined.

Note 4 Revenue and other income

	Note	2012 $	2011 $
(a) Revenue from borrowers			
Administration and performance fees		202,399	153,291
Application and settlement fees		272,498	214,510
Total revenue from borrowers	15(a)	474,897	367,801
(b) Revenue from MIS			
Expense recoveries		481,719	468,113
Selling and performance fees		884,243	-
Management fees		3,562,160	5,802,270
Management fees waived/rebated		(24,530)	(51,921)
Total revenue from MIS	15(a)	4,903,592	6,218,462
(c) Other revenues			
Interest revenue		123,352	165,718
Other revenue		43,564	26,734
Total other revenues		166,916	192,452
Total revenue and other income		5,545,405	6,778,715

Note 5 Auditor's remuneration

During the year the following fees were paid or payable for services provided by the auditor of the Company:		
- audit and review of the financial reports of the Company (i)	(8,715)	(21,060)
- other assurance services in relation to the Company (i)		
• compliance plan audit	(2,500)	(2,500)
	(11,215)	(23,560)
- other services (ii)		
• taxation services	(1,750)	(1,500)
	(1,750)	(1,500)
	(12,965)	(25,060)

(i) The Responsible Entity engaged BDO Audit Pty Ltd as the Company's auditor. Total remuneration paid and or payable to BDO Audit Pty Ltd for the year ended 30 June 2012 totalled $11,215 (2011: $23,560), which includes an over-accrual of $11,310 from previous financial years.

Note 5 Auditor's remuneration (continued)

(ii) Taxation services have been undertaken by BDO Pty Ltd, a related practice of BDO Audit Pty Ltd.

Note 6 Finance costs

	Note	2012 $	2011 $
Amortised borrowing costs	12(iii)	(2,567)	(2,567)
Interest expense	12(i)	(241,392)	(315,881)
		(243,959)	(318,448)

Note 7 Income tax expense

The major components of income tax expense are:

Income tax expense comprises:		
Current tax	(4,838)	124,094
Deferred tax	(152)	(141,835)
Under provision in respect of prior years	-	15,831
Income tax expense	(4,990)	(1,910)

The aggregate amount of income tax expense attributable to the financial year differs from the amount calculated on the net operating profit. The differences are reconciled as follows:

Accounting profit before tax from continuing operations	16,678	58,596
Income tax expense calculated @ 30% (2011: 30%)	(4,673)	(17,579)
Less: Tax effect of;		
• Permanent differences	(317)	(162)
• Net over/under provision from prior year	-	15,831
Aggregate income tax expense	(4,990)	(1,910)

2012	Opening balance	Charged to income	Charged directly to equity	Exchange differences	Closing balance
Deferred tax assets	$	$	$	$	$
Current year tax loss	124,094	(124,094)	-	-	-
Carried forward tax losses from prior years	26,670	(26,670)	-	-	-
Trade and other payables	455,773	(196,851)	-	-	258,922
	606,537	**(347,615)**	**-**	**-**	**258,922**
2012					
Deferred tax liabilities					
Trade and other receivables	591,551	(347,463)	-	-	244,088
	591,551	**(347,463)**	**-**	**-**	**244,088**
Net deferred tax	**14,986**	**(152)**	**-**	**-**	**14,834**
2011					
Deferred tax assets					
Current year tax loss	-	124,094	-	-	124,094
Carried forward tax losses from prior years	26,670	-	-	-	26,670
Trade and other payables	47,343	408,430	-	-	455,773
	74,013	**532,524**	**-**	**-**	**606,537**

Note 7 Income tax expense (continued)

2011	Opening balance	Charged to income	Charged directly to equity	Exchange differences	Closing balance
Deferred tax liabilities	$	$	$	$	$
Trade and other receivables	57,117	534,434	-	-	591,551
	57,117	**534,434**	**-**	**-**	**591,551**
Net deferred tax	**16,896**	**(1,910)**	**-**	**-**	**14,986**

Note 8 Cash and cash equivalents

	2012	2011
	$	$
Cash at bank and in hand	**966,307**	115,097
Short-term bank deposits	**1,725,010**	2,025,010
	2,691,317	2,140,107

The effective interest rate on short-term bank deposits was 5.70% p.a. (2011: 6.24% p.a.) these deposits have an average maturity of 183 days (2011: 142 days).

Note 9 Trade and other receivables

Trade receivables		**43,355**	11,536
Other receivable		**57,129**	84,340
Prepaid expenses		**5,500**	-
Interest receivable		**36,237**	35,707
Related party loan - MIS	15(a)	**25**	123,818
Related party receivable - MIS	15(a)	**1,055,522**	1,973,917
Related party receivable - Trilogy Capital Services Pty Ltd (TCS)	15(a)	**149,000**	218,254
Related party receivable - Cyre Trilogy Investment Management Pty Ltd (CTIM)	15(a)	**14,460**	16,583
		1,361,228	2,464,155
Impairment losses		**(887)**	-
		1,360,341	2,464,155
Represented by:			
Current		**1,211,341**	2,245,901
Non-current		**149,000**	218,254
		1,360,341	2,464,155

(a) Provision for impairment of receivables

At 30 June 2012, as part of the annual balance date review procedures the Company recorded impairment losses in respect of its trade receivables of $72,698 (2011: $81,463) for the year. During the year the Directors wrote off $71,811 as a bad debt (2011: $100,899).

Movement in the provision for impairment of receivables is as follows:

	Opening balance	Charge for the year	Amounts written off	Closing balance
2012	$	$	$	$
Trade receivables	-	72,698	(71,811)	887
	-	72,698	(71,811)	887
2011				
Trade receivables	19,436	81,463	(100,899)	-
	19,436	81,463	(100,899)	-

Note 9 Trade and other receivables (continued)

(a) Provision for impairment of receivables (continued)

The Company considers that, based on evidence available as at 30 June 2012, the balance of net impaired trade debtors will be recovered in full and accordingly no further impairment losses have been recorded.

(b) Past due but not impaired receivables

The Company has a significant concentration of credit risk with respect to a single counterparty other than those receivables specifically provided for and mentioned within Note 9. The main source of credit risk to the Company is considered to relate to the class of assets described as Related party receivable - MIS.

The following table details the Company's trade and other receivables exposed to credit risk (prior to collateral and other credit enhancements) with ageing analysis and impairment provided for thereon. Amounts are considered as 'past due' when the debt has not been settled within the terms and conditions agreed between the Company and the customer or counterparty to the transaction. Receivables that are past due are assessed for impairment by ascertaining solvency of the debtors and are provided for where there are specific circumstances indicating that the debt may not be fully repaid to the company.

The balances of receivables that remain within initial trade terms (as detailed in the table) are considered to be of high credit quality.

		Past due	Past due but not impaired (days overdue)			
	Gross Amount	and impaired	less than 30	31 to 60	61 to 90	Greater than 90
2012	$	$	$	$	$	$
Trade receivables	43,355	-	20,181	14,708	4,645	3,821
Related party receivable - MIS	1,055,522	-	623,927	210,035	205,824	
Related party loan - MIS	25	-	25	-	-	-
Related party receivable - TCS	149,000	-	-	-	-	149,000
Related party receivable - CTIM	14,460	-	14,460	-	-	-
Total	1,262,362	-	658,593	224,743	210,469	152,821
2011						
Trade receivables	11,536	-	11,186	-	-	350
Related party receivable - MIS	1,973,917	-	519,296	924,961	517,636	12,024
Related party loan - MIS	123,818	-	123,818	-	-	-
Related party receivable - TCS	218,254	-	-	19,254	-	199,000
Related party receivable - CTIM	16,583	-	16,583	-	-	-
Total	2,344,108	-	670,883	944,215	517,636	211,374

The Company does not hold any financial assets whose terms have been renegotiated, but which would otherwise be past due or impaired.

(c) Collateral pledged

No collateral is held over trade and other receivables.

Note 10 Investments in joint ventures

	2012	2011
	$	$
CTIM	26,324	-
Impairment losses	(26,324)	-
	-	-

The Company entered into a joint venture agreement with Cyre Funds Management Limited (CYRE) to form Cyre Trilogy Investment Management Pty Ltd, a property and investment management entity. Under the Heads of Agreement governing the operation, Trilogy Funds Management Ltd holds a 50% interest in CTIM. The results of operations from CTIM are not material, hence no disclosure has been made in this financial report.

(a) Provision for impairment of investments

At 30 June 2012, as part of the annual balance date review procedures the Company recorded impairment losses in respect of its investment in CTIM of $26,324 (2011: Not applicable) for the year.

Movement in the provision for impairment of investments is as follows:

	Opening balance	Charge for the year	Amounts written off	Closing balance
	$	$	$	$
2012				
Investments	-	26,324	-	26,324
	-	26,324	-	26,324
2011				
Investments	-	-	-	-
	-	-	-	-

Note 11 Trade and other payables

	Note	2012	2011
		$	$
Audit and tax fees		20,325	26,410
GST payable		157,133	92,655
Income tax payable		4,839	-
Related party payable - Rojacan Pty Ltd	15(a)	149,000	149,000
Related party payable - MIS	15(a)	68,297	-
Related party payable - BTIM	15(a)	768,163	1,410,142
Related party payable - CTIM	15(a)	213,964	16,583
Related party payable - TCS	15(a)	287,556	6,849
Trade payables		145,304	182,524
		1,814,581	1,884,163
Represented by:			
Current		1,665,581	1,735,163
Non-current		149,000	149,000
		1,814,581	1,884,163

Note 12 Borrowings

Loan - Popandnic Pty Ltd (BESF)	-	100,000
Loan - Bacon Management Services Pty Limited (BMS)	1,744,687	2,138,449
	1,744,687	2,238,449
Represented by:		
Current	-	100,000
Non-current	1,744,687	2,138,449
	1,744,687	2,238,449

Note 12 Borrowings (continued)

The details of borrowings as at 30 June 2012 are set out below:

Facility	Secured	Maturity date	**Facility 30 Jun 2012**	**Utilised 30 Jun 2012**	Facility 30 Jun 2011	Utilised 30 Jun 2011
Loan BESF (ii)	Yes	30/06/2012	-	-	200,000	100,000
Loan BMS (i)	Yes	28/07/2019	**3,150,000**	**1,750,000**	3,150,000	2,150,000
Total facilities			**3,150,000**	**1,750,000**	3,350,000	2,250,000
Less unamortised transaction costs (iii)				**(5,313)**		(11,551)
Total borrowing			**3,150,000**	**1,744,687**	3,350,000	2,238,449

(i) The Company entered into a loan agreement with Bacon Management Services Pty Limited ATF the Bacon Family Trust (an entity associated with an Executive Director of the Company) on 24 July 2009. The purpose of the loan was to provide funding in support of the Company's AFSL requirements (as at 30 June 2012 the amount of the loan which has been subordinated with ASIC totals $1,750,000 (2011: $2,250,000)). The interest rate charged on the facility is the business overdraft rate issued by Westpac Banking Corporation Limited (Westpac) plus 2.00% p.a. margin to be reset quarterly.

Interest	**2012**	2011
Variable	**10.71%**	11.81%

The loan was written on normal commercial terms and conditions. The Company repaid $400,000 against the facility during the year (2011: $500,000).

(ii) The Company entered into a loan agreement with Popandnic Pty Ltd ATF for the Bacon Executive Superannuation Fund (an entity associated with an Executive Director of the Company) on 30 June 2011 to fund the costs associated with the Epping Commercial Office Income Trust (EPCOIT). The Company ultimately resolved not to proceed with the property acquisition and the loan was subsequently repaid.

(iii) Deferred borrowing costs comprise all costs in relation to the establishment, arrangement and documentation of the debt facility. Such costs are recognised as part of the amortised cost of the borrowing using the effective interest method.

Note 13 Issued capital

	2012 $	2011 $
(a) Share capital		
Ordinary shares		
100,400 (2011: 100,400) fully paid ordinary shares	**100,400**	100,400
	100,400	100,400
A class shares		
27,000 (2011: 27,000) fully paid A class shares	**27,000**	27,000
	27,000	27,000
Cumulative redeemable preference shares		
265,000 (2011: 265,000) fully paid cumulative redeemable preference shares	**265,000**	265,000
	265,000	265,000

Note 13 Issued capital (continued)

(b) Movement in share capital	2012 Number	2011 Number
Balance at 1 July	392,400	392,400
New shares issued	-	-
Shares redeemed	-	-
Balance at 30 June	392,400	392,400

(c) Terms and conditions

The ordinary shares, A class shares and cumulative redeemable preference shares entitle the holder to receive notice of meetings and to cast one vote for each share held. All shares carry the right to receive dividends when declared at the discretion of the Directors, however the amount declared on the shares of any such class may be at a higher or lower rate than or at the same rate as the dividend declared on the shares of the other classes provided that the shares in each class are treated equally. Upon a reduction of capital or winding up of the company, each share class ranks equally with other shares in the capital of the Company.

Note 14 Reconciliation of cash flow from operations with profit for the year

	2012 $	2011 $
Profit for the year	10,588	56,686
Adjustments for:		
Amortised borrowing costs	2,567	2,567
Impairment - loans and other receivables	72,698	81,463
Change in operating assets and liabilities:		
(Increase)/decrease in trade and other receivables	1,103,813	(1,722,850)
(Increase)/decrease in deferred taxes	347,615	(532,524)
Increase/(decrease) in trade and other payables	(69,562)	1,232,819
Increase/(decrease) in deferred tax liabilities	(347,463)	534,434
Adjustments for balance sheet:		
(Increase)/decrease in trade and other receivables	(172,697)	-
Increase/(decrease) in trade and other payables	3,671	-
Net cash provided by operating activities	951,210	(347,405)

Note 15 Related party transactions

(a) Transactions with related parties

Transactions between related parties are on normal commercial terms and conditions no more favourable than those available to other parties unless otherwise stated.

The following transactions occurred with related parties:

Transactions recorded in the Statement of comprehensive income	Note	2012 $	2011 $
Revenue from borrowers	4(a)	474,897	367,801
Revenue from managed investment scheme's (refer Table 15.1)	4(b)	4,903,592	6,218,462
		5,378,489	6,586,263

Note 15 Related party transactions (continued)	Note	2012	2011
(a) Transactions with related parties (continued)		$	$
Transactions recorded in the Statement of comprehensive income			
Management fees expense			
Management fees - TCS (i)		(1,269,563)	(1,032,873)
Management fees - Balmain Trilogy Investment Management Pty Limited (BTIM) (ii)		(2,170,278)	(4,286,166)
Management fees - (CTIM) (iii)		(806,199)	-
		(4,246,040)	(5,319,039)
Finance costs (iv)		(241,391)	(315,881)
Director's fees		(100,325)	(106,222)
		(341,716)	(422,103)
		(4,587,756)	(5,741,142)
Transactions recorded in the Statement of financial position			
Assets			
Related party loan - MIS (refer table 15.1)		25	123,818
Related party receivable - MIS (refer table 15.1)		1,055,522	1,973,917
Related party receivable - TCS		149,000	218,254
Related party receivable - CTIM		14,460	16,583
Total assets		1,219,007	2,332,572
Liabilities			
Related party payable - BTIM		(768,163)	(1,410,142)
Related party payable - CTIM		(213,964)	(16,583)
Related party payable - MIS (refer table 15.1)		(68,297)	-
Related party payable - Rojacan Pty Limited		(149,000)	(149,000)
Related party payable - TCS		(287,556)	(6,849)
Borrowings		(1,744,687)	(2,238,449)
Total liabilities		(3,231,666)	(3,821,023)
Net assets		(2,012,659)	(1,488,451)

(i) Represents charges by TCS to the Company for the provision of management, client service, accounting, administration and compliance services;
(ii) Upon the Company's appointment as Responsible Entity for the PFMF, it entered into an agreement with BTIM to provide asset management services to the Company on behalf of the Scheme. BTIM is a joint venture enterprise between TCS and Balmain Corporation;
(iii) Upon the Company's appointment as Responsible Entity for the Austgrowth funds, it entered into an agreement with CYRE to provide asset management services to the Company on behalf of the Scheme. CYRE Trilogy is a joint venture enterprise between TFM and CYRE; and
(iv) Represents interest charged on the loan from BMS to the Company.

Note 15 Related party transactions (continued)

(a) Transactions with related parties (continued)

Table 15.1	2012 Revenue from MIS $	2012 Related party receivable (i) $	2012 Related party payable $	2011 Revenue from MIS $	2011 Related party receivable (i) $	2011 Related party payable $
TMIT	73,682	15,457	68,297	70,177	8,145	-
TWFMIT	(111)	-	-	-	-	-
PFMF	3,662,027	661,242	-	5,992,703	1,936,130	-
Medilink	51,941	4,792	-	52,254	4,803	-
Melbourne Campus	74,420	6,966	-	86,467	7,978	-
Cape Funds	874	1,238	-	277	277	-
TECOPT	-	-	-	-	123,818	-
APSPS	52,500	4,813	-	4,375	4,375	-
BNEPS	556,979	-	-	5,542	5,542	-
CANPS	431,280	361,039	-	6,667	6,667	-
Total	4,903,592	1,055,547	68,297	6,218,462	2,097,735	-

(i) Includes related party loans receivable.

Trilogy Monthly Income Trust (TMIT);
Trilogy Wholesale First Mortgage Income Trust (TWFMIT);
Pacific First Mortgage Fund (PFMF) (formerly City Pacific First Mortgage Fund);
Trilogy Investor Choice Medilink Property Income Syndicate (Medilink);
Trilogy Investor Choice Melbourne Campus Office Syndicate (Melbourne Campus);
Cape Park Funds (Cape Funds);
Trilogy Epping Commercial Office Property Trust (TECOPT);
Austgrowth Property Syndicate No 18 (APSPS);
Brisbane Property Syndicate (BNEPS); and
Canberra Property Syndicate (CANPS).

(c) Related party investments held by the Company

The Company has no investment in the MIS's it act's as Responsible Entity for.

Note 16 Dividends

	2012 $	2011 $
No dividends were paid nor declared during the year, or the prior year.		
The balance of the franking account at year end, adjusted for franking credits from payment of provision for income tax and dividends recognised as receivables, franking debits arising from payment of proposed dividends and franking credits that may be prevented from distribution in subsequent financial years.	**52,211**	52,211

Note 17 Key personnel

Fees paid to Directors for attendance at Board meetings during the year are as follows:

Post employment benefits	**(4,122)**	(4,635)
Short term benefits	**(96,203)**	(101,587)
Total	**(100,325)**	(106,222)

Note 18 Financial risk management

Overview

The Company's assets principally consist of investments in short term deposits with financial

Specific financial risk exposures and management

The main risks the Company is exposed to through its financial instruments are credit risk, liquidity risk, and market risk relating to interest rate risk.

The nature and extent of the financial instruments employed by the Company are discussed below. This note presents information about the Company's exposure to each of the above risks, the Company's objectives, policies and processes for measuring and managing risk.

The Board of Directors of the Company has overall responsibility for the establishment and oversight of the Company's risk management framework.

The Board is responsible for developing and monitoring the Company's risk management policies, including those related to MIS. The Responsible Entity's risk management policies are established to identify and analyse the risks faced by the Company, to set appropriate risk limits and controls, and to monitor risks and adherence to limits. Risk management policies and systems are reviewed regularly to reflect changes in market conditions and the Company's activities.

The Company's Compliance Committee and its Audit, Compliance and Risk Management Committee oversees how management monitors compliance with the Company's risk management policies and procedures and reviews the adequacy of the risk management framework in relation to the risks faced by the Company.

(a) Credit risk

Credit risk is the risk that a counterparty to a financial instrument will fail to discharge an obligation or commitment that it has entered into with the Company and cause a loss. The Company manages the exposure to credit risk on an ongoing basis.

The carrying amount of the Company's financial assets represents the maximum credit exposure. The Company's maximum exposure to credit risk at the reporting date is as follows:

	Note	2012 $	2011 $
Financial assets			
Trade and other receivables	9	**1,360,341**	2,464,155
Total financial assets		**1,360,341**	2,464,155

All cash held by the Company is invested with approved deposit institutions (ADI's).

The Company has a single credit risk exposure in relation to the management fees receivables from the PFMF (a scheme for which it acts as Responsible Entity) totalling $661,242 (2011: $1,936,131), equating to 48.61% (2011: 78.57%) of total trade and other receivables.

This risk is minimised by regularly reviewing the Company's trade and other receivables. Refer note 9 for information regarding ageing of trade receivables, and impairments recorded during the period.

(b) Liquidity risk

Liquidity risk arises from the possibility that the Company might encounter difficulty in settling its debts or otherwise meeting its obligations related to financial liabilities. The Company manages this risk through the following mechanisms:

- preparing forward-looking cash flow analysis in relation to its operational, investing and financing activities;
- monitoring undrawn credit facilities;

Note 18 Financial risk management (continued)

(b) Liquidity risk (continued)

- maintaining a reputable credit profile;
- managing credit risk related to financial assets;
- only investing surplus cash with major financial institutions; and
- comparing the maturity profile of financial liabilities with the realisation profile of financial assets.

The timing of cash flows presented in the table below to settle financial liabilities reflect the earliest contractual settlement dates and do not reflect management's expectations that banking facilities will be rolled forward.

The tables below reflect an undiscounted contractual maturity analysis for financial liabilities.

2012	Contractual cash flows	Less than 1 month	1-3 months	3-12 months	Greater than 12 months
Financial liabilities	$	$	$	$	$
Borrowings	1,744,687	-	400,000		1,344,687
Trade and other payables	1,814,581	1,613,856	31,035	20,690	149,000
Total contractual outflows	3,559,268	1,613,856	431,035	20,690	1,493,687
2011					
Financial liabilities					
Borrowings	2,238,449	-	100,000	-	2,138,449
Trade and other payables	1,884,163	38,130	1,688,230	8,803	149,000
	4,122,612	38,130	1,788,230	8,803	2,287,449

Interest on borrowings have not been included as they have been paid to the end of the respective financial year.

(c) Capital management

Management controls the capital of the Company in order to maintain a good debt to equity ratio, provide the shareholders with adequate returns and to ensure that it can fund its operations and continue as a going concern.

The Company's capital management objectives aim to:

- ensure that the Company complies with its AFSL requirements;
- ensure sufficient capital resources to support the Company's operational requirements;
- continue to support the Company's credit worthiness; and
- safeguard the Company's ability to continue as a going concern.

Management effectively manages the Company's capital by assessing its financial risks and adjusting its capital structure in response to changes in these risks and in the market. These responses include the management of debt level, distributions to shareholders and share issues.

There have been no changes in the strategy adopted by management to control the capital of the group since the prior year.

The Company monitors capital on the basis of the gearing ratio. The ratio is calculated as net debt divided by adjusted assets. Net debt is calculated as total borrowings less cash and cash equivalents. Adjusted assets are calculated as total assets less cash and cash equivalents. The gearing ratios as at 30 June 2012 and as at 30 June 2011 were as follows:

Note 18 Financial risk management (continued)

(c) Capital management (continued)	Notes	2012	2011
		$	$
Total borrowings	12	1,744,687	2,238,449
Less: Cash and cash equivalents	8	(2,691,317)	(2,140,107)
Net debt		(946,630)	98,342
Total assets		4,310,580	5,210,799
Less: Cash and cash equivalents	8	(2,691,317)	(2,140,107)
Adjusted		1,619,263	3,070,692
Gearing ratio		(58.5%)	(3.2%)

The Company's gearing ratio is low due to cash and cash equivalents being in excess of total borrowings.

AFSL adjusted net tangible asset requirement

It is a requirement of the Company's AFSL that it hold adjusted net tangible assets (NTA) (refer table below) of 0.50%, of the value of total funds under management for all MIS for which it acts as Responsible Entity. The amount of this requirement as at 30 June 2012 totalled $1,048,222 (2011: $2,276,624).

	Notes	2012	2011
Adjusted net assets		$	$
Net assets from the Statement of financial position		507,224	496,636
Adjustments:			
Subordinated loan - BMS	12(i)	1,750,000	2,150,000
Other adjustments		(1,746)	(72,609)
Deferred tax assets		(258,922)	(606,537)
Deferred tax liabilities		244,088	591,551
Total adjusted net assets		2,240,644	2,559,041

The Company has maintained sufficient NTA in satisfaction of its AFSL for the year ended 30 June 2012.

(d) Market risk

Market risk is the risk that changes in market prices, such as interest rates, will affect the Company's income or the value of its holdings of financial instruments. Market risk embodies the potential for both loss and gains. The objective of market risk management is to manage and control market risk exposures within acceptable parameters, while optimising the return on risk.

i. *Interest rate risk*

The majority of the Company's financial liabilities are interest bearing loans which are subject to variable interest rates. The following table summaries the balances at risk:

	2012	2011
	$	$
Loan BESF	-	100,000
Loan BMS	1,750,000	2,150,000
	1,750,000	2,250,000

Note 18 Financial risk management (continued)

(d) Market risk (continued)

i. *Interest rate risk (continued)*

The following table provides a sensitivity analysis of a 3.00% p.a. increase/decrease in the interest rate for the above balances at risk at the end of the financial year.

As at 30 June 2012	Profit $	Equity $
+ 3% in interest rates	6,273	513,497
- 3% in interest rates	14,903	522,127
As at 30 June 2011		
+ 3% in interest rates	51,138	547,774
- 3% in interest rates	62,234	558,870

ii. *Other market risk*

The Company is not exposed to other material market risk on its financial assets and liabilities.

(e) Estimation of fair value

The carrying values approximate the value of the Scheme's financial assets and liabilities.

Note 19 Commitments

The Supreme Court of Queensland made a consent order on 9 August 2012 in the matter of APGF Management Limited vs. Vivian Annette Anderson (Chair person elected at a meeting of unitholders on 4 June 2012) that the following costs be paid on the terms stipulated below:

- $665,278 (representing the balance of an MIS's unsecured facility with its former Responsible Entity) is due and payable by a MIS to APGF Management Limited upon the registration of the Company as Responsible Entity (refer Note 21). It is a condition of the Court Order that no interest be charged provided the Company ensure the payment is made on or before 31 December 2012;
- $17,474 (representing unpaid management fees to a former Responsible Entity) is due and payable on demand by the MIS to APGF Administration Pty Ltd;
- $12,913 (representing unpaid property management fees) is due and payable on demand by an MIS to APGF Investment Management Pty Ltd; and
- $150,000 (representing a portion of the performance fees payable on sale of the property) is due and payable by an MIS to APGF Investment Management Pty Ltd.

In the event the MIS is unable to pay the amounts stated above by the due date, the Company will be liable for these debts.

Note 20 Litigation and contingent liabilities

Litigation involving borrowers of the PFMF

The Responsible Entity of the PFMF is party to litigation with borrowers (Kosho Pty Ltd (Receiver & Manager Appointed) and City Co Pty Ltd (Receiver & Manager Appointed)) alleging it had breached the finance facility agreement or, alternatively, the Trade Practices Act 1974 (Cth). The maximum awardable amount for this contingent liability is estimated to be $81 million. The Responsible Entity has filed a defence denying liability in respect of this claim in June 2010.

The Responsible Entity's evidence in chief was filed and served on 10 September 2012, the trial commenced on 24 September 2012 and was expected to run for 7 days. On 2 October 2012 the matter was adjourned to 26 November 2012 (for 3 days) by reason of the borrowers' request to tender additional evidence (to which the Responsible Entity objected). The borrowers were ordered to pay the Responsible Entity's costs, fixed at $24,000, by reason of the adjournment.

Note 20 Litigation and contingent liabilities (continued)

Litigation involving borrowers of the PFMF (continued)

The Company is also party to other proceedings in its capacity as Responsible Entity for the PFMF, however Directors are not aware of any material liability likely to arise to the Company as a result of litigation matters.

Dispute with borrower

The Company was awarded judgement for unpaid application fees due from a borrower during the year. The borrower subsequently appealed the ruling to the Queensland Court of Appeal, which was unsuccessful. The borrower has since sought leave to appeal to the High Court of Australia for which a decision is pending.

The Company has recently served a bankruptcy notice on the borrower and have received legal advice to the effect that if the bankruptcy action is successful, the borrower will be precluded from pursuing his appeal. The Company is unable to determine the likely amount of the recovery should it be successful in its action.

No person has applied for leave of Court to bring proceedings on behalf of the Company or intervene in any proceedings to which the Company is a party under section 237 of the Act.

Note 21 Events subsequent to reporting date

Proposal to replace LM Investment Management (LM) as Responsible Entity

Subsequent to the end of the reporting period, the Company has issued a Notice of Meeting (NoM) and Explanatory Memorandum (EM) to unitholders in the LM Wholesale First Mortgage Income Fund (FMIF) and the LM Currency Protected Australian Income Fund (CPAIF), following a meeting convened by certain investors in those funds to occur on 1 November 2012 to consider and pass resolutions to replace LM with Trilogy Funds Management Limited as Responsible Entity for the FMIF and the CPAIF.

Appointment as Responsible Entity

A meeting was held on 4 June 2012 and resumed on 14 June 2012, to vote on a resolution to remove APGF Management Limited (APGF) as Responsible Entity of APS Number 21 and APS Number 24 (property syndicates), and replace them with Trilogy Funds Management Limited. Legal proceedings were issued subsequent to the unitholder meeting.

On 9 August 2012 Justice M. Wilson made a consent order that APGF be removed as Responsible Entity, and Trilogy Funds Management Limited be appointed Responsible Entity for the property syndicates subject to the following terms and conditions listed in the Note 19.

On 13 August 2012 the Company was listed on the ASIC register as Responsible Entity for both property syndicates.

The books and records of the Scheme were transferred to the New Responsible Entity on 17 August 2012.

Sale of investment properties

Canberra Property Syndicate (CANPS) and the Canberra Unit Trust (CANUT)

The investment property held by the Canberra Property Syndicate was sold on 12 October 2012. The Responsible Entity will proceed to wind-up the Scheme.

BDO

Tel: +61 7 3237 5999
Fax: +61 7 3221 9227
www.bdo.com.au

Level 18, 300 Queen St
Brisbane QLD 4000,
GPO Box 457 Brisbane QLD 4001
Australia

INDEPENDENT AUDITOR'S REPORT

To the members of Trilogy Funds Management Limited

Report on the Financial Report

We have audited the accompanying financial report of Trilogy Funds Management Limited, which comprises the statement of financial position as at 30 June 2012, the statement of comprehensive income, statement of changes in equity, and statement of cash flows for the year then ended, notes comprising a summary of significant accounting policies and other explanatory information, and the directors' declaration of the company.

Directors' Responsibility for the Financial Report

The directors are responsible for the preparation of the financial report that gives a true and fair view in accordance with Australian Accounting Standards and the *Corporations Act 2001* and for such internal control as the directors determine is necessary to enable the preparation of the financial report that gives a true and fair view is free from material misstatement, whether due to fraud or error. In Note 1, the directors also state, in accordance with Accounting Standard AASB 101 *Presentation of Financial Statements*, that the financial statements comply with *International Financial Reporting Standards*.

Auditor's Responsibility

Our responsibility is to express an opinion on the financial report based on our audit. We conducted our audit in accordance with Australian Auditing Standards. Those standards require that we comply with relevant ethical requirements relating to audit engagements and plan and perform the audit to obtain reasonable assurance about whether the financial report is free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial report. The procedures selected depend on the auditor's judgement, including the assessment of the risks of material misstatement of the financial report, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the company's preparation of the financial report that gives a true and fair view in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the company's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the directors, as well as evaluating the overall presentation of the financial report.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Independence

In conducting our audit, we have complied with the independence requirements of the *Corporations Act 2001*. We confirm that the independence declaration required by the *Corporations Act 2001*, which has been given to the directors of Trilogy Funds Management Limited, would be in the same terms if given to the directors as at the time of this auditor's report.

BDO Audit Pty Ltd ABN 33 134 022 870 is a member of a national association of independent entities which are all members of BDO Australia Ltd ABN 77 050 110 275, an Australian company limited by guarantee. BDO Audit Pty Ltd and BDO Australia Ltd are members of BDO International Ltd, a UK company limited by guarantee, and form part of the international BDO network of independent member firms. Liability limited by a scheme approved under Professional Standards Legislation other than for the acts or omissions of financial services licensees in each State or Territory other than Tasmania.

BDO

Opinion

In our opinion:

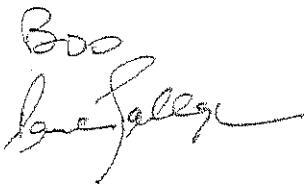
(a) the financial report of Trilogy Funds Management Limited is in accordance with the *Corporations Act 2001*, including:

(i) giving a true and fair view of the company's financial position as at 30 June 2012 and of its performance for the year ended on that date; and

(ii) complying with Australian Accounting Standards and the *Corporations Regulations 2001*; and

(b) the financial report also complies *with International Financial Reporting Standards* as disclosed in Note 1.

BDO Audit Pty Ltd



P A Gallagher

Director

Brisbane, 31 October 2012

BDO Audit Pty Ltd ABN 33 134 022 870 is a member of a national association of independent entities which are all members of BDO Australia Ltd ABN 77 050 110 275, an Australian company limited by guarantee. BDO Audit Pty Ltd and BDO Australia Ltd are members of BDO International Ltd, a UK company limited by guarantee, and form part of the international BDO network of independent member firms. Liability limited by a scheme approved under Professional Standards Legislation (other than for the acts or omissions of financial services licensees) in each State or Territory other than Tasmania.

Notice of Meeting and Explanatory Memorandum

LM Wholesale First Mortgage Income Fund

ARSN 099 857 511

THIS IS AN IMPORTANT DOCUMENT

Please read the information in this document carefully. If you are in any doubt about the resolutions or the action to be taken, you should seek your own professional financial advice without delay.

PLEASE COMPLETE AND RETURN THE ENCLOSED PROXY FORM BY 5.00pm AEDT ON 29 OCTOBER 2012

TRILOGY FUNDS

Recommendation

Trilogy believes that the proposal to replace LM with Trilogy as the responsible entity of the Fund is in the best interests of the Members and accordingly recommends that you vote "FOR" the Resolutions.

Remember that a failure to vote is effectively a "no" vote and counts as a vote against the resolutions proposed.

Questions

If you have any further questions about the Meeting or the Resolutions, please contact Client Services from Monday to Friday between 8:30am and 5:00pm AEST:

⇒ 1800 176 559 (within Australia)

⇒ +61 7 3089 2818 (outside Australia)

Alternatively please speak to your financial adviser.

TRILOGY FUNDS

Contents

Important notices 4

Notice of Meeting 6

Explanatory Memorandum 7

1. Introduction
2. The FMIF - a snapshot
3. Deterioration of the loan portfolio under LM
4. Declining NAV under LM
5. Why replace LM?
6. What are the advantages of Trilogy becoming responsible entity of the Fund?
7. What is Trilogy's strategy for the FMIF should it be appointed responsible entity of the Fund and FMIF?
8. What are the disadvantages of the change of responsible entity for the Fund and the FMIF?
9. Who is Trilogy?
10. Who is CYRE Trilogy?
11. Other considerations in respect of the Resolutions
12. What happens if the Resolutions are not passed?
13. Recommendation
14. Questions
15. Preparation of certain portions of this Notice
16. Definitions

Important information about the Meeting 20

Important notices

LM Wholesale First Mortgage Income Fund
ARSN 099 857 511

What is this document?

This document dated 28 September 2012 provides important information for all Members of the LM Wholesale First Mortgage Income Fund ARSN 099 857 511 ("Fund") for a meeting of Members which will be held at 9.30am AEDT on 1 November 2012 ("Meeting").

All information in this document forms part of the Notice of Meeting. The current responsible entity of the Fund is LM Investment Management Limited ACN 077 208 461 ("LM"). This document is not issued by LM, but is issued on behalf of certain of your fellow Members.

What is the purpose of the Meeting?

The Meeting has been called by a certain concerned Member (the "Convening Member") for the purpose of removing LM as responsible entity of the Fund and appointing Trilogy Funds Management Limited ACN 080 383 679 AFSL 261425 ("Trilogy") as the responsible entity of the Fund. The Resolutions are supported by holders of more than 48% of the units in the Fund.

Who is paying for the Meeting?

The cost of calling and holding the Meeting will be met by Trilogy. Trilogy is not charging the Fund, nor any Member of the Fund, any fee whatsoever to call and hold this Meeting.

Action required of Members

Step 1: Read this Notice of Meeting and Explanatory Memorandum.

Step 2: If you have any questions about this document or the Meeting, please contact our office on 1800 176 559 (within Australia) or +61 7 3039 2888 (outside Australia). If you are in any doubt on how to vote on the Resolutions or the action to be taken, please seek your own professional financial advice without delay.

Step 3: Vote on the Resolutions either by attending the Meeting or by completing and returning the enclosed Proxy Form prior to 5.00pm AEDT on 29 October 2012 by any of:

Online:	**www.linkmarketservices.com.au** See the Proxy Form for further details
Mail:	**Link Market Services Limited, Locked Bag A14, Sydney South, NSW, 1235**
Fax:	**+61 2 9287 0309**
Email:	**vote@linkmarketservices.com.au** See the Proxy Form for further details
By hand:	**Link Market Services Limited, 1A Homebush Bay Drive, Rhodes, NSW, 2138**

Updates to the Notice of Meeting and Explanatory Memorandum

The Convening Member may update the Notice of Meeting and Explanatory Memorandum.

Such updates will be available for inspection on the Trilogy website (www.trilogyfunds.com.au). A hard copy of any updates can be obtained by calling 1800 176 559 (within Australia) or +61 7 3039 2888 (outside Australia).

Notice of Meeting

LM Wholesale First Mortgage Income Fund
ARSN 099 857 511

NOTICE IS GIVEN pursuant to Section 252D of the Corporations Act 2001 (Cth) that a meeting of Members in the LM Wholesale First Mortgage Income Fund ARSN 099 857 511 will be held at the time, date and place detailed below, or such later time and date as notified to Members, to consider and vote on the extraordinary resolutions in this notice.

Meeting information

Date:	Thursday 1 November 2012
Venue:	Christie Conference Centre
Address:	Level 2, 3 Spring Street, Sydney, NSW, 2000
Time:	9.30am AEDT

Business

1. Extraordinary Resolution—Removal of current responsible entity

To consider and, if thought fit, pass the following resolution as an extraordinary resolution:

"That, subject to the passing of Resolution 2, LM Investment Management Limited ACN 077 208 461 be removed as responsible entity of the LM Wholesale First Mortgage Income Fund ARSN 099 857 511 in accordance with Section 601FM(1) of the Corporations Act 2001 (Cth)."

2. Extraordinary Resolution—Appointment of new responsible entity

To consider and, if thought fit, pass the following resolution as an extraordinary resolution:

"That, subject to the passing of Resolution 1, Trilogy Funds Management Limited ACN 080 383 679 be appointed as responsible entity of the LM Wholesale First Mortgage Income Fund ARSN 099 857 511 in accordance with Section 601FM(1) of the Corporations Act 2001 (Cth)."

By order of the Convening Member
Convening Members' Agent Pty Ltd

As agent for the Convening Member
28 September 2012

Explanatory Memorandum

LM Wholesale First Mortgage Income Fund
ARSN 089 343 288

1. Introduction

At the Meeting, Members will be asked to vote on replacing LM Investment Management Limited ("LM") as responsible entity of the Fund with Trilogy Funds Management Limited ("Trilogy"). The proposal has been brought forward at the instigation of a member (the Convening Member), which holds more than 5% of the units in the Fund and is supported by other members providing total support of over 46% of the units in the Fund, who are concerned with the performance of LM as responsible entity of the Fund and of its underlying investment in the LM First Mortgage Income Fund ARSN 089 343 288 ("FMIF")

The Fund was set up to hold units in the FMIF as its major asset. It is one of a number of similar "feeder" funds into the FMIF and, as at 31 December 2011, it held in excess of 20%[1] of the units in the FMIF.

Under the management of LM:

- Redemptions in the Fund ceased in March 2009[2]. Redemptions in excess of $64 million have been requested by Members of the Fund but remain unsatisfied[3].
- Distributions from the Fund were suspended on 1 January 2011[4].
- The unit price for the class of units held by the Fund in the FMIF has reduced from $1.00 to $0.73 in just over 12 months[5] as a result of the reduction in value of the underlying FMIF investments.
  - As at 31 May 2011, approximately 89% of the loans made by the FMIF were in default[6].

    As at 31 December 2011, loans exceeding $331 million in the FMIF were individually impaired with a total impairment loss of $108,173,720[7].
  - As at 31 December 2011, the amount of unpaid interest from borrowers in the FMIF which is non-accrued and which LM considers unrecoverable was $114,307,191[8].
- Funds received by the FMIF from the realisation of assets or in settlement of secured loans which may otherwise have been available for distribution to the FMIF members (including the Fund) are being applied to the payment of interest on the FMIF's external debt facility with Deutsche Bank at a rate of at least 15% p.a. (if the loan was extended past its due date of 30 June 2012, that interest rate was due to rise to 18% p.a.)[9].

1. LM First Mortgage Income Fund Half-year Financial Report for the half-year ended 31 December 2011, page 22.
2. LM Wholesale First Mortgage Income Fund Annual Report for the year ended 30 June 2011, page 1.
3. LM Wholesale First Mortgage Income Fund Annual Report for the year ended 30 June 2011, page 15.
4. LM Wholesale First Mortgage Income Fund Annual Report for the year ended 30 June 2011, page 35.
5. LM First Mortgage Income Fund Half-year Financial Report for the half-year ended 31 December 2011, page 2.
6. LM Wholesale First Mortgage Income Fund Portfolio Update as at 24 August 2011, page 10.
7. LM First Mortgage Income Fund First-year Financial Report for the half-year ended 31 December 2011, page 16.
8. LM First Mortgage Income Fund Half-year Financial Report for the Half-year ended 31 December 2011, page 16 ("interest on arrears loans is suspended and not brought to account when the responsible entity considered that the amounts are not ultimately recoverable from the sale proceeds of the property").
9. LM First Mortgage Income Fund Half-year Financial Report for the Half-year ended 31 December 2011, page 17.

And in spite of all of this, LM still paid management fees at the rate of 2.50% p.a. of funds under management (FUM) of the FMIF and 2.46% p.a. of the FUM of the Fund. This equates to a Fund management fee of 4.96% of funds under management in 2011 on a look through basis[10].

If the Resolutions are approved, then Trilogy will cause a meeting of members in the FMIF to be convened to vote on the removal of LM, and the appointment of Trilogy, as responsible entity of the FMIF. If Trilogy is appointed responsible entity of the FMIF, then Trilogy will commence the orderly realisation of the FMIF's assets. Further details of Trilogy's strategy for the FMIF are set out in Section 7.

In this regard, similar resolutions to appoint Trilogy as responsible entity have been proposed in respect of another fund which invests in the FMIF (together with the Fund, the "Feeder Funds"). Collectively, the Feeder Funds hold approximately 44% of the units in the FMIF as at 31 December 2011[11].

The cost of calling and holding a meeting of the FMIF members will be met by Trilogy in its personal capacity. Trilogy will not charge the FMIF, any Feeder Fund nor any member of a Feeder Fund any fee to call and hold the FMIF meeting.

Trilogy believes that the replacement of LM with Trilogy will have significant benefits to Members of the Fund, including:

- **Reduced management fees** - The management fees for the Fund will be significantly reduced (after the existing management arrangement has been terminated (see Sections 6 and 8(a)).
- **Independent and experienced responsible entity** - Trilogy has significant expertise and experience in the funds management sector and will use its influence as a 20% unitholder in the FMIF to oversee the performance of LM as responsible entity of the FMIF with a view to enhancing Member wealth and providing Members with liquidity.
- **Regular reporting** - Trilogy will make information regarding the status and performance of the Fund available to Members and will administer and manage the Fund on a fully transparent basis.

Further details of the expected benefits to Members if Trilogy is appointed as responsible entity of the Fund are set out in Section 6. Expected disadvantages of Trilogy becoming responsible entity of the Fund (including that additional management fees will be paid until the existing management arrangement has been terminated) are addressed in Section 8(a).

Key elements of this strategy include:

- **Asset review** - Trilogy will undertake a comprehensive review of all assets of the FMIF and will report its findings to members of the FMIF, including the Fund.
- **Experienced investment manager** - Trilogy intends to engage CYRE Trilogy as investment manager of the FMIF. CYRE Trilogy specialises in identifying and unlocking sustainable value in property assets and presenting the asset to investors (refer to Section 10 for more information regarding CYRE Trilogy).

10 LM's Liquidity Strategy - LM First Mortgage Income Fund dated 27 June 2012. This is expressed to be calculated on funds under management which Trilogy has taken to be the net assets of each fund.

11 LM First Mortgage Income Fund Half-year Financial Report for the half-year ended 31 December 2011, page 22.

- **Independent management** - Trilogy will be independent of the related parties of LM to whom the FMIF extended loans. As such, Trilogy will manage such loans impartially and solely in the best interests of members of FMIF.
- **Legal review** - Trilogy will conduct a full legal review of the FMIF's disclosure material, lending protocols and previous dealings which will determine whether any grounds exist for the recovery of Fund assets.
- **Capital distributions** - Following the realisation of assets in the FMIF, and subject to the terms of the Deutsche Bank loan facility, Trilogy will aim to make capital distributions to all members of the FMIF (including the Fund) as expeditiously as possible.
- **No related party lending** - Trilogy will not lend money from the FMIF or the Fund to any related entity of Trilogy or any of their associated companies, directors, management, friends or family members.
- **Change the Constitution** - Subject to the Corporations Act requirements, Trilogy will seek to change the Constitution of the FMIF to introduce mechanisms which facilitate the members of the Feeder Fund's being able to consider any resolutions put to the FMIF members and being able to influence the relevant Feeder Fund responsible entity as to how it is to vote on the relevant matter.

Further details of Trilogy's strategy with respect to the FMIF are set out in Section 7. Expected disadvantages of Trilogy becoming responsible entity of the FMIF are addressed in Section 8(b).

Trilogy recommends that you vote "FOR" the Resolutions.

In order for Trilogy to become the responsible entity of the Fund both Resolutions must be passed.

2. The FMIF - a snapshot

As set out above, as at 31 December 2011, the Fund held in excess of 20% of the units in the FMIF. Units in the FMIF are the primary asset of the Fund.

Trilogy has prepared the following summary of the FMIF's loan portfolio based on the latest publicly available information disclosed by LM on 24 August 2011. Please note that while LM is required under ASIC policy to issue updated RG45 reports every six months, LM has failed to do so such that the information below may be outdated.

The FMIF primarily (approximately 97.5%) consists of first mortgage, development and construction loans with the remaining portion of its loans being covered by a second mortgage[12].

The largest loan is an amount exceeding $63 million and represents over 10% of the loan portfolio as at 31 December 2011[13].

12 LM Wholesale First Mortgage Income Fund Prentuin Update 24 August 2011, page 5

13 LM First Mortgage Income Fund Half-Year Financial Report for the Half-Year ended 31 December 2011, page 14

FMIF portfolio summary (AUD)

		31 May 2011	% of total
Type	Registered first mortgage securities	$449,915,576	98%
	Registered second mortgage securities	$11,187,499	2%
	Total first and second mortgage securities	**$461,103,075**	
Loan to Valuation Ratio	90.01% to 100.00%	$388,323,342	84%
	80.01% to 90.00%	$21,448,846	5%
	Below 80.01%	$51,330,887	11%
		$461,103,075	
	Average LVR	[illegible]	[illegible]
Interest rate profile	0% interest rate	$297,565,730	65%
	10% to 15% ^	$131,383,355	28%
	Above 15%	[illegible]	[illegible]
		$461,103,075	
Arrears/default profile	Current (ie not in default)	$50,335,049	11%
	30 - 60 days	$0	0%
	60 - 90 days	$11,926,879	3%
	Over 90 days	[illegible]	[illegible]
		$461,103,075	

Source: LM Wholesale First Mortgage Income Fund Portfolio Update, 24 August 2011.
^ Includes capitalised interest and non-paid interest

3. Deterioration of the loan portfolio under LM

In Trilogy's opinion, the average loan to valuation ratio for the total loan book of the FMIF was very high at approximately 92% as at May 2011[14] and represents a significant level of deterioration of the underlying security value from April 2009 levels of approximately 73%[15].

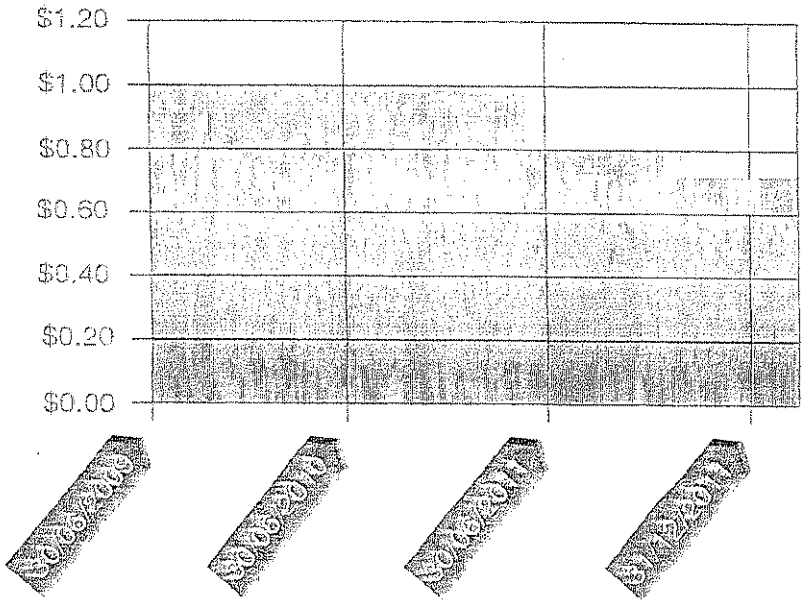
14 LM Wholesale First Mortgage Income Fund Portfolio Update 24 August 2011, page 6
15 LM First Mortgage Income Fund Portfolio Update 30 April 2009, page 4

As at 31 May 2011, the majority (approximately 89%) of the loan portfolio was in arrears and or default, compared with approximately 51% in August 2009[16]. Therefore, only an extremely small portion of the borrowers (approximately 11%) were actually servicing their loans.

As at 31 May 2011, the majority of loans had a built-in capitalised interest facility (27 out of 30 loans[17]) with approximately 89% of the loan portfolio having interest built into the facility and / or capitalised, rather than paid to the FMIF[18].

4. Declining NAV under LM

FMIF unit price movements



Source: FMIF Half Year Financial Report 31 December 2011, p.4

In Trilogy's opinion, the FMIF's heavy concentration of coastal (tourist-town) property development mortgage loans, coupled with high average LVRs, made the FMIF, and therefore the Fund, particularly vulnerable to the global financial crisis.

16. LM Currency Protected Australian Income Fund Portfolio Update 31 August 2009, page 6.
17. LM Wholesale First Mortgage Income Fund Portfolio Update 24 August 2011, page 9.
18. LM Wholesale First Mortgage Income Fund Portfolio 24 August 2011, page 9.

A number of other practices have exacerbated the decline of the FMIF:

a. For the year ending 30 June 2011, LM Administration Pty Limited charged a fee of 2.50% of the FUM of the FMIF (this does not include the fee charged at the Fund level of 2.46% of the FUM of the Fund[19]).

b. The Deutsche Bank Loan facility had an outstanding balance of $53.8 million as at 31 December 2011[20] (although, based on recent correspondence from LM, this has been reduced to $33 million). The interest rate charged on this loan is at least 15% p.a. (there was provision to increase the interest rate to 18% p.a. if the loan was extended from 30 June 2012, however Trilogy has not been able to confirm whether the increase has occurred).

5. Why replace LM?

The Convening Member of the Fund is concerned with the performance of LM as responsible entity of the Fund and of its underlying investment in the FMIF.

Trilogy believes that Members have a number of reasons to be dissatisfied with LM's performance including:

- The decline in the net asset value per class of FMIF unit in which the Fund invests from $1.00 to $0.73;
- The excessive level of fees being paid to the manager of the Fund and the FMIF equating to 4.96% of FUM in 2011 on a look through basis;
- The ongoing suspension of Fund distributions;
- The ongoing failure to satisfy redemption requests from Members;
- Lack of clear statements and information on the current position of the Fund and the underlying loans in the FMIF (including no new RG45 reports) and plans for recovery of these loans;
- Lack of a clear strategy for the Fund and the FMIF; and
- Concerns that LM has not been adequately managing conflicts of interest, including in respect of related party transactions undertaken by the FMIF (representing approximately $7.8 million in loans as at 31 December 2011[21]).

6. What are the advantages of Trilogy becoming responsible entity of the Fund?

If the Resolutions are passed, Trilogy believes the following benefits will ensue to Members of the Fund:

- **Reduced management fees** - Management fees will be reduced after the existing Fund management arrangement has been terminated (see Section 8 for a discussion of the risk that they will increase until this time).

19 LM Liquidity Strategy - LM First Mortgage Income Fund dated 22 June 2012. These fees are expressed in as a percentage of funds under management which Trilogy has taken to be the net assets of each fund.
20 LM First Mortgage Income Fund Half-year Financial Report for the Half-year ended 31 December 2011, page 17.
21 LM First Mortgage Income Fund Half-year Financial Report for the Half-year ended 31 December 2011, page 21.

Management fees charged by Trilogy as the new responsible entity for the Fund will be set at 0.5% p.a. of the gross assets of the Fund. In the event that Trilogy also becomes the responsible entity for the FMIF, it will reduce the management fee for the Fund to nil and set the management fee for the FMIF to 1.5% p.a. of the gross assets of the Fund (refer Section 7 and 8 below)[22].

- **Regular reporting** - Trilogy will make information regarding the status and performance of the Fund and the FMIF which it receives in its capacity as a unitholder available to Members and will administer and manage the Fund on a fully transperent basis. Full compliance with Trilogy's statutory disclosure obligations will be enhanced by regular Member newsletters/reports on a quarterly basis and continuous disclosure using the website.
- **Independent and experienced responsible entity** - Trilogy has significant expertise and experience in the funds management sector and will use its influence as a 20% unitholder in the FMIF to oversee the performance of LM as responsible entity of the FMIF. Initially, this will involve convening a meeting of members in the FMIF to replace LM with Trilogy as responsible entity of the FMIF.

7. What is Trilogy's strategy for the FMIF should it be appointed responsible entity of the Fund and FMIF?

As set out above, if Trilogy is appointed responsible entity of the Fund, Trilogy will convene a meeting of members of the FMIF to vote on the resolutions to replace LM with Trilogy as responsible entity of the FMIF. There is no guarantee that Trilogy will be successful in replacing LM as responsible entity of the FMIF. If this does not occur, LM will remain the responsible entity of the FMIF and Trilogy will not be able to implement the strategy set out in this Section 7. However, in this event, Trilogy believes the benefits set out in Section 6 will still ensue to Members.

If Trilogy is successful in replacing LM as responsible entity of the FMIF, Trilogy will put in place a robust strategy designed to wind down the FMIF, carefully realise the assets of the FMIF without a fire sale, reduce management fees and increase the transparency and integrity with which the FMIF is managed.

Key elements of Trilogy's strategy for the FMIF include:

- **Reduced management fee** - Management fees will be reduced after the existing FMIF management arrangement has been terminated (see Section 8 for a discussion of the risk that they will increase until this time). Management fees charged by Trilogy, as the new responsible entity of the FMIF will be 1.5% p.a. of the gross assets under management.
- **Asset review** - Trilogy will undertake a comprehensive review of all assets of the FMIF and will report its findings to members of the FMIF.
- **Investment management** - Trilogy will engage CYRE Trilogy as the investment manager of the FMIF. CYRE Trilogy specialises in identifying and unlocking sustainable value in property assets and presenting

22 Based upon the accounts for the half year ending 31 December 2011 and adjusted for the repayments made under the terms of the current debt recently expressed by LM to be $30 million, this is equivalent to a management fee of 1.64% p.a. calculated on the net assets of the FMIF. As the Fund has no borrowings, its management fee is the same whether calculated on gross or net assets.

the asset to investors. Trilogy believes these skills will be valuable in enhancing the performance of the underlying loans and securities property of the FMIF (refer to Section 10 for more information regarding CYRE Trilogy). The fees paid to CYRE Trilogy for this work will be paid directly from Trilogy's own funds and will not be charged to the FMIF.

- **Project Management** - Where appropriate, CYRE Trilogy will engage project managers on behalf of the FMIF, including Knight Frank and Avive Asset Management Pty Ltd (a related party of CYRE Trilogy) and other specialists, to assist in the completion and realisation of certain assets. Knight Frank, an international property advisory group, has agreed to work with CYRE Trilogy on a project by project basis as agreed between the two parties. Fees charged by such specialists will be charged to the FMIF.
- **Legal review** - Trilogy will conduct a full legal review of the FMIF's disclosure material, lending protocols and previous dealings which will determine whether any grounds exist for the recovery of Fund assets.
- **Capital distributions** - Following the realisation of assets in the FMIF, and subject to the terms of the Deutsche Bank loan facility, Trilogy will aim to make capital distributions to all members of the FMIF (including the Fund) as expeditiously as possible.
- **Repay/refinance Deutsche Bank debt** - Trilogy believes the terms applicable to the current Deutsche Bank debt facility are not optimal for the FMIF and will seek to renegotiate the FMIF debt on more favourable terms. Failing this, Trilogy will seek to refinance the debt or repay the debt from asset sales in the FMIF.
- **No related party lending** - Trilogy will not lend money from the FMIF or the Fund to any related entity of Trilogy or any of their associated companies, directors, management, friends or family members.
- **Investor Committee** - Trilogy will set up an Investor Committee to create a forum for members to discuss issues relevant to the FMIF and progress with the strategy concerning the realisation of the assets. Members will be encouraged to channel questions, comments or concerns direct to the Investor Committee which will consist of an Independent Chairman together with members including where possible, a member of each of the Feeder Funds. The selection process will be conducted by the external auditor of the FMIF.
- **Change the Constitution** - Subject to the Corporations Act, Trilogy will seek to change the Constitution of the FMIF to introduce mechanisms which facilitate the members of the Feeder Funds being able to consider any resolutions put to the FMIF members and being able to influence the relevant Feeder Fund's responsible entity as to how to vote on the relevant matter.

8. What are the disadvantages of the change of responsible entity for the Fund and the FMIF?

a. Fund

At present, LM Administration Pty Ltd ("LM Administration") receives management fees from the Fund. Trilogy will seek to terminate this arrangement immediately upon it becoming the responsible entity of the Fund. The terms of this arrangement have not been disclosed to Members, and there is a risk that this termination may take time to effect. Therefore, the current Fund management fees may continue to be paid for a period (in addition to the fees proposed by Trilogy). There is also a risk that there may be a liability to the Fund as a result of the termination of this arrangement.

Trilogy does not believe there are any other disadvantages to it becoming responsible entity of the Fund.

Please note that once the management arrangement is terminated, Trilogy will ensure that the rate charged as its management fee will never be more than the rate paid to LM and LM Administration as management fees (as a percentage of net assets) for the year ending 30 June 2011.

b. FMIF

If Trilogy is successful in also being appointed responsible entity of the FMIF, then Trilogy believes the following risks should be considered:

- It may be that various financing transactions to which the FMIF is a party may provide that a change of responsible entity is a review or default event. While this is a risk, Trilogy believes, based on its experience with other funds, that it is unlikely in the circumstances that the change of responsible entity would cause a financier to commence enforcement proceedings. On becoming responsible entity Trilogy will work with any financiers to FMIF with the objective of ensuring no enforcement proceedings are commenced. Trilogy is only aware of one financing facility to which the FMIF is a party, being the Deutsche Bank facility which, as at 31 December 2011, was $53.8 million secured over loan assets in the FMIF of $405 million[23] (although, based on recent correspondence from LM, this facility has been reduced to $33 million).
- In addition to receiving fees from the Fund, LM Administration also receives management fees from the FMIF. As with the Fund management arrangement, Trilogy will seek to terminate this arrangement immediately upon it becoming responsible entity of the FMIF. The terms of this arrangement have not been disclosed and there is a risk that this termination may take time to effect. Therefore, the current FMIF management fees will continue to be paid for a period (in addition to the fees proposed by Trilogy). There may also be a liability to the FMIF as a result of the termination of this arrangement. Please note that once this management arrangement is terminated, Trilogy will ensure that the rate charged as its management fee will never be more than the rate paid to LM and LM Administration as management fees (as a percentage of net assets) for the year ending 30 June 2011.

23 LM First Mortgage Income Fund Half-year Financial Report for the half year ended 31 December 2011, page 10.

9. Who is Trilogy?

Trilogy Funds Management Limited ("Trilogy") was formed in 1998 and came under its current ownership in 2004. Trilogy holds an Australian Financial Services License No. 261425. It acts as responsible entity and manager for a number of mortgage funds, property syndicates (REITS) and asset based investment trusts across Queensland, New South Wales and Victoria with funds under management of approximately $300 million[34]. Trilogy has offices in Brisbane, Sydney and Melbourne and representative offices in Tokyo and Taipei.

Trilogy is experienced in change-overs of responsible entities. In July 2009 Trilogy was successfully voted in as the new responsible entity of the Gold Coast based City Pacific First Mortgage Fund replacing City Pacific Limited. Trilogy is now the responsible entity for that fund (now called the Pacific First Mortgage Fund) and manages the fund in association with Balmain NB Corporation Limited.

Trilogy in association with CYRE Funds Management Limited took over management of a number of Austgrowth property funds in 2011 from APGF. More recently, Trilogy has become the responsible entity in 2012 of a further two property funds, previously subject to management from APGF.

All of these actions were as a result of investor dissatisfaction with the existing management of their respective funds, and in each case a meeting of investors was held to vote to remove the incumbent responsible entity and to replace it with Trilogy.

Trilogy's objective is to offer investors, both institutional, wholesale and retail, competitive investment performance and high quality services through a range of managed investment products and investment mandates. The underlying philosophy of all Trilogy products and services is the belief that property represents one of the most significant planks for generating secure income streams and wealth creation for all investors, large or small.

Trilogy's strength is underpinned by its governance structure and the quality and experience of its directors, senior management and staff - harnessing more than 150 years' of management experience across property investment, mortgage management, financial services and law. Trilogy's management team includes former Challenger International senior executives Rodger Bacon, John Barry and David Hogan who have channelled their combined property and funds management expertise into developing a solid business organisation.

At Challenger International, Rodger, John and David were responsible for the Howard Mortgage Trust which became the largest commercial mortgage trust in Australia, Challenger Annuities which grew to capture 30% of long term annuity sales in Australia and investments both as principal and via property syndicates which together amounted to a property portfolio of over A$2.5 billion in Australia, the United Kingdom and the USA.

The role of Trilogy in acting as responsible entity is to ensure that fund assets are managed and dealt with in accordance with the Constitution, the Corporations Act and ASIC regulations, and, of course, in the best interests of Members.

A strong compliance structure is integral to Trilogy's continued business success. Robust compliance procedures are paramount and include an independent Compliance Committee and an independent Audit, Compliance and Risk Management Committee.

[34] As at 31st December 2011

10. Who is CYRE Trilogy?

CYRE Trilogy is a joint venture between CYRE Funds Management Limited ("CYRE") and Trilogy. CYRE is a Sydney based unlisted public company that specialises in identifying and unlocking sustainable value in property assets and presenting the asset to investors. Its simple objective is to maximize a property's value.

CYRE's directors include Peter Arnold who has over 20 years' experience in funds management, including extensive commercial, industrial and retail property trust expertise gained with one of Australia's leading unlisted REITs.

Peter was a co-founder of Austgrowth Property Syndicates Limited, which was established in 1997 and which was the responsible entity for over $230 million of syndicated commercial, industrial and retail property. Peter has been a responsible manager on a number of Australian Financial Services Licenses.

A company associated with some of the directors of CYRE Trilogy is Avive Asset Management Pty Ltd ("Avive"). This company is a project and property management group with access to a range of experience from the various members of Trilogy and CYRE Trilogy, who have hands-on experience in all aspects of property development, town planning, and retirement villages. It has acted as distressed property workout specialists for a number of major banks and institutions having been involved in over $300 million of property transactions over the last 15 years. Along with other project management groups such as Knight Frank, Avive may be employed on specific assets to perform project management work.

11. Other considerations in respect of the Resolutions

11.1 Taxation consequences

In Trilogy's opinion, there should be no change to the tax treatment of the units held by a Member of the Fund when LM is replaced by Trilogy as responsible entity. The tax treatment of investments held by the Fund should not change.

11.2 Your vote is important

The Resolutions are important as they affect who will be responsible for the ongoing operation and management of your Fund. You are encouraged to exercise your vote on the Resolutions by either sending in your Proxy Form prior to 5.00pm AEDT on 29 October 2012 or attending the Meeting.

Please remember that a failure to vote is effectively a "no" vote and counts against the Resolutions proposed.

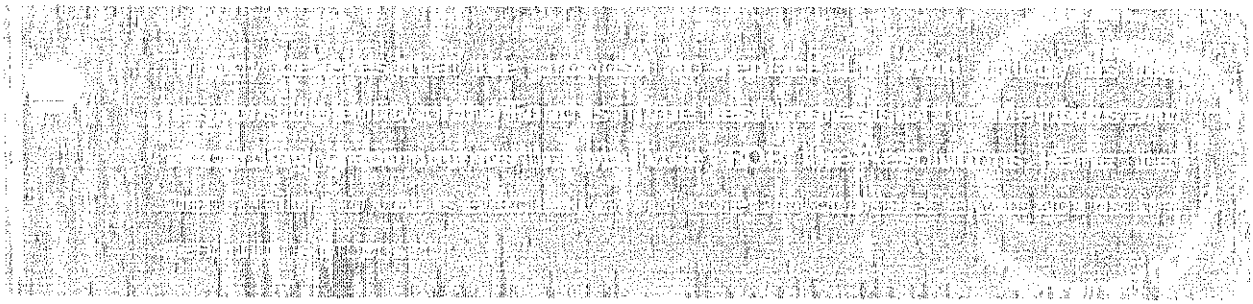
11.3 Why is Member approval required?

Member approval is required under the Corporations Act in relation to the removal of a responsible entity of a registered managed investment scheme.

12. What happens if the Resolutions are not passed?

If either one or both of the Resolutions are not passed then the removal of LM as responsible entity will not proceed and LM will remain as the responsible entity of the Fund.

13. Recommendation



14. Questions

If you have any further questions about the Meeting or the Resolutions, please contact Client Services from Monday to Friday between 8.30am and 5.00pm AEST.

- 1800 176 559 (within Australia)
- +61 7 3039 2888 (outside Australia)

Alternatively please speak to your financial adviser.

15. Preparation of certain portions of this Notice

Certain portions of this Notice, including Sections 1 to 10 inclusive have been prepared by Trilogy in its personal capacity. To the maximum extent permitted by law, the Convening Member and its respective employees, officers, agents and associates assume no responsibility for the accuracy or completeness of this information or any other statements in this Notice which are expressed to be based on Trilogy's views, beliefs or intentions.

16. Definitions

AFSL	Australian Financial Services Licence
ASIC	Australian Securities and Investments Commission
Constitution	The constitution of the Fund (as amended from time to time)
Convening Member	The Member, who holds interests carrying greater than 5% of the votes that may be cast at a meeting, who called the Meeting
Convening Members' Agent	Convening Members' Agent Pty Ltd, the agent appointed by the Convening Member to call and conduct the Meeting
Corporations Act	Corporations Act 2001 (Cth)
CYRE Trilogy	CYRE Trilogy Investment Management Pty Ltd ACN 150 001 157 (a joint venture company established by both Trilogy and CYRE Funds Management Limited)
Deutsche Bank	Deutsche Bank AG (ABN 13 064 165 162)
Explanatory Memorandum	The explanatory memorandum contained in this document
Feeder Funds	Feeder Funds include: – the Fund – LM Currency Protected Australian Income Fund ARSN 110 247 875
FMF	LM First Mortgage Income Fund ARSN 089 343 288
Fund	LM Wholesale First Mortgage Income Fund ARSN 099 857 511
Knight Frank	Knight Frank Australia Pty Ltd ABN 17 004 973 684
LM	LM Investment Management Limited ACN 077 208 461, the current responsible entity of the Fund
LM Administration	LM Administration Pty Ltd ACN 055 691 426
Meeting	The meeting of Members to be held at 9.30am AEDT on 1 November 2012 or such later date and time as notified to Members
Members	The registered holders of Units in the Fund
Notice of Meeting	This document, including the notice of meeting set out on page 6 of this document
Proxy Form	The proxy form enclosed with this document
Resolutions	The resolutions set out in the Notice of Meeting (or any one of them, as the context requires)
Trilogy	Trilogy Funds Management Limited ACN 080 383 679 Level 10, 241 Adelaide Street, Brisbane, Qld, 4000
Units	Units in the Fund

Important information about the Meeting

LM Wholesale First Mortgage Income Fund
ARSN 094 507 511

This information forms part of the Notice of Meeting.

Calling the Meeting

In accordance with the Corporations Act, Members who together hold interests carrying greater than 5% of the votes that may be cast at a meeting may call a meeting themselves directly or retain an agent to do so on their behalf. In order to co-ordinate, and cover the expenses of, the calling and conduct of the Meeting, the Convening Member appointed Convening Members' Agent Pty Ltd as their agent to call and conduct the Meeting. Convening Members' Agent Pty Ltd represents the interests of the Convening Member who carries in excess of 5% of the votes that may be cast at this Meeting. Consequently Convening Members' Agent Pty Ltd has standing to call this Meeting on the Convening Member's behalf.

Who is paying for the Meeting?

The cost of calling the Meeting will be met by Trilogy. Trilogy is not charging the Fund, nor any Member, any fee whatsoever to call the Meeting.

Quorum

The quorum required for the Meeting is two Members present in person or by proxy and a quorum must be present at all times during the meeting.

Resolution voting requirements

The Resolutions are each extraordinary resolutions which must be passed by at least 50% of the total votes that may be cast by Members entitled to vote on the resolution (including Members who are not present in person or by proxy).

Voting

As your vote is important, you are encouraged to attend and vote at the Meeting. If you propose to attend the Meeting, then please arrive at the Meeting venue early so that the registration formalities can be completed on time. If you cannot attend the meeting, Trilogy recommends that you complete and return a PROXY FORM and appoint Rodger Bacon as your proxy (see enclosed Proxy Form).

Voting entitlement

For the purposes of this Meeting, persons who are registered holders of Units in the Fund at the time that is 48 hours prior to the Meeting will be entitled to vote.

How do you vote?

The Resolutions will be decided on a poll. On a poll, each Member present has one vote for each dollar of the value of the total interests they have in the Fund.

Voting by proxy

If you cannot, or prefer not to attend the meeting, then you are entitled to appoint another person/s to attend and vote for you as your proxy(ies). A proxy does not need to be a Member, but should be a natural person over the age of 18 years. A form of appointment of proxy is enclosed. The Proxy Form must be signed by the Member or his/her attorney duly authorised in writing.

Under the Corporations Act, in order for your proxy to be effective, Link will need to forward your Proxy Form to LM as it needs to be received by LM 48 hours prior to the Meeting.

Return the Proxy Form prior to 5.00pm AEDT on 29 October 2012 by any of:

Online:	**www.linkmarketservices.com.au** See the Proxy Form for further details
Mail:	**Link Market Services Limited, Locked Bag A14, Sydney South, NSW, 1235**
Fax:	**+61 2 9287 0309**
Email:	**vote@linkmarketservices.com.au** See the Proxy Form for further details
By hand:	**Link Market Services Limited, 1A Homebush Bay Drive, Rhodes, NSW, 2138**

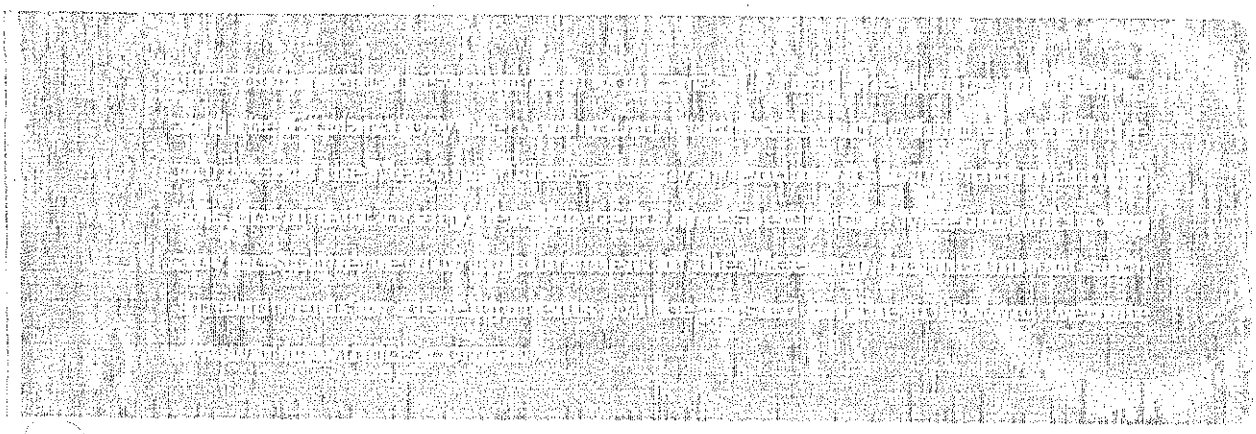
If you appoint two proxies, you may specify the proportion or number of votes each proxy is entitled to exercise. However, if you do not specify the proportion or number of your votes for each proxy, then each proxy may exercise half of the votes.

If you appoint Rodger Bacon as your proxy and you do not direct how Rodger Bacon is to vote, then you will be taken to have directed Rodger Bacon to vote in favour of the Resolutions and Rodger Bacon will vote accordingly.

Appointment of Link Market Services Limited

To ensure the integrity of the proxy voting process, Trilogy has engaged a professional and independent expert, Link Market Services Limited ("Link") to properly collect and collate all Proxy Forms returned by Members. Link is under strict obligations pursuant to its appointment to at all times handle the Proxy Forms with due care and skill and to safeguard the Proxy Forms against tampering, filtering or other inappropriate handling. Trilogy has entered into a Deed Poll in favour of the Members pursuant to which Link undertakes to ensure that the Proxy Forms are handled appropriately and to hold Link to account (including by way of commencing legal action if required) in respect of their obligations regarding the Proxy Forms.

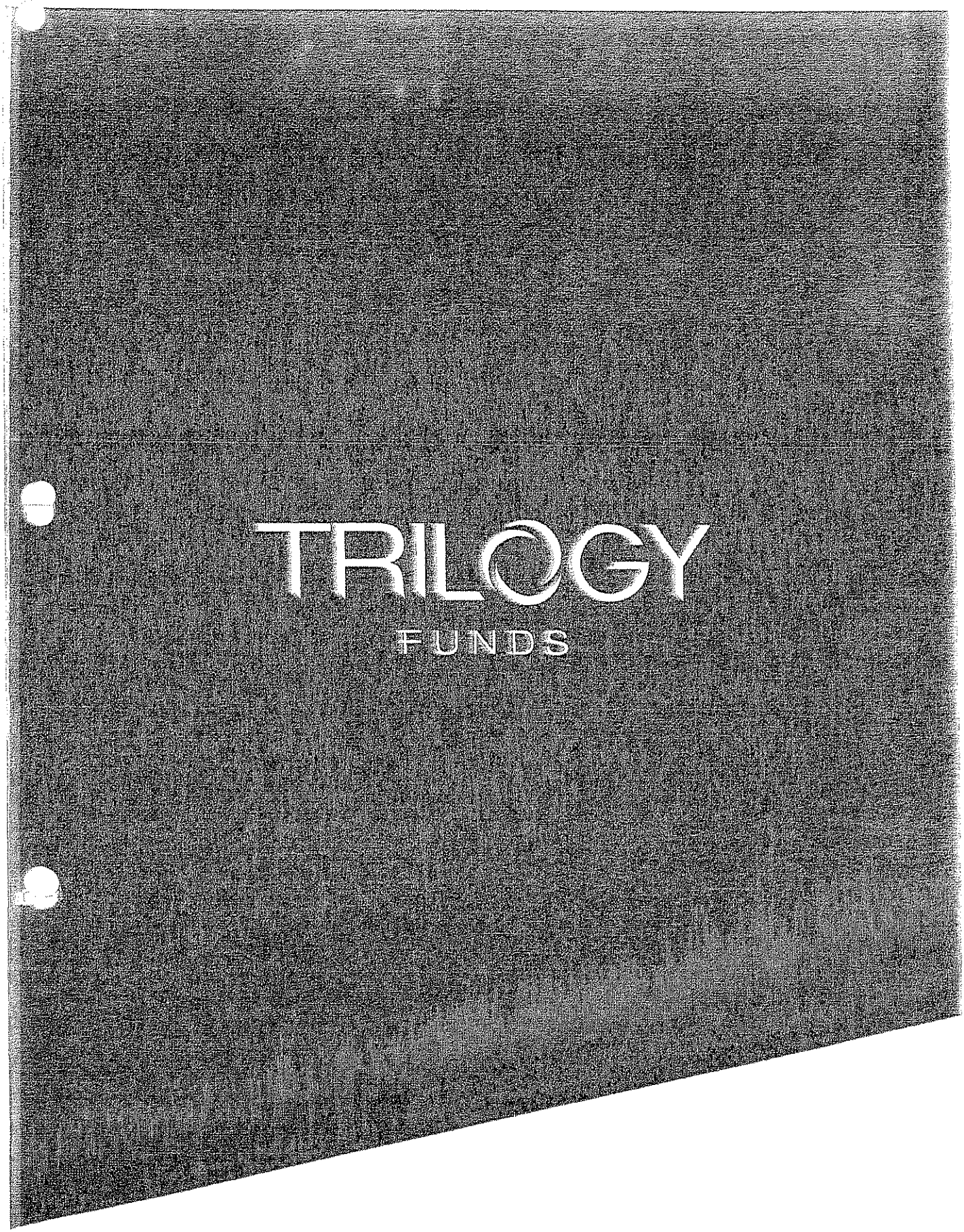
Under the Corporations Act, in order for your proxy to be effective, Link will need to forward your Proxy Form to LM so it is received by LM 48 hours prior to the Meeting. Please make sure you submit your Proxy Form well before this time to ensure your vote counts on the Resolutions.



Notes

TRILOGY

FUNDS



Issued by Trilogy Funds Management Limited (ACN 080 383 679 | AFSL 261425)
This Notice of Meeting and Explanatory Memorandum is dated 28 September 2012

P +61 7 3039 2828 F +61 7 3039 2829 E info@trilogyfunds.com.au W www.trilogyfunds.com.au

Anne Freeman

From: Philip Ryan
Sent: Tuesday, 15 January 2013 12:37 PM
To: 'Paula.McLuskie@au.ey.com'; 'Mike.Reid@au.ey.com'
Cc: Paul Eastment; jeremy.holiday@asic.gov.au; Jenny.Gentles@asic.gov.au; Leanne.Damary@asic.gov.au
Subject: LM Audit and Compliance Audit

Dear Paula and Mike

As you are aware, we are the Responsible Entity of the second largest investor in the LM First Mortgage Income Fund " FMIF" (with a holding of approximately 20% of units). Consequently, we represent the interests of some 80 investors in the LM Wholesale First Mortgage Income Fund "WFMIF".

As a result we are concerned about a number of issues affecting our investment in the FMIF, and also the ability of M Investment Management Limited "LM" to act as Responsible Entity of that Fund. We have highlighted our concerns below:

FMIF

- The 2012 accounts for the FMIF at note 3 reveal that the Fund has made past distributions of $16.9m to the Feeder Funds which would appear to be used to offset a potential reduction in value of the wholesale fund.

1.We are concerned that these payments may be in breach of section 601FC(d) Corporations Act 2001 in that LM has failed to treat investors equally and investors who hold different classes fairly.

2.We note that this was an emphasis of matter in your report but what is the legal basis for justifying these payments and what is the regulator's view on this?

- The 2012 accounts for the FMIF at note 6 reveal that the FMIF made selective redemptions during the year in an amount exceeding $6m which was to pay back LM for financing its own fees and expenses in the feeder funds.

3.We are concerned that these redemptions are in breach of section 601FC(d) of the Corporations Act 2001 in that LM has failed to treat all investors equally and investors who hold different classes fairly in that the FMIF has been frozen to redemptions outside hardship since 2009 ;

4.It has not been disclosed in the accounts what proportion (if any) of these redemptions relate to hardship

- We refer to the PDS dated 10 April 2008 together with supplementaries for the CPF and the FMIF.

5.At no time does it appear that LM has disclosed that distributions could be made to some investors (and not others) when the FMIF is frozen.

6.Further, LM does not seem to have disclosed that redemptions of certain of its unitholders in the FMIF could take place (outside hardship payments) notwithstanding the freezing of the fund.

- We note that the Bellamby asset was sold during the course of 2012 and we are led to believe that approximately half of its proceeds (some $20m) was paid to an associate of LM (the LM Managed Performance Fund "MPF").

7. This has not been explained or addressed by LM and our opinion is that this money should be accounted to investors in the FMIF

- We are led to believe that there have been no external valuations carried out in the FMIF since 2009.

8. Can you please explain how you can rely on directors' valuations of fund assets for a period of 4 years as being a fair and reasonable representation of asset value, especially given the GFC, which has been ongoing since 2008.

- We note that LM Administration Pty Ltd "LMA" has received prepayment of management fees of certain funds that LM manages. In particular, we draw your attention to note 10 of the 2012 accounts for the FMIF which refer to a prepayment of management fees in an amount of $8.2m in 2011.

9. How can a prepayment or advance of management fees be justified (let alone an amount of $8.2m and from a frozen fund)?

10. Have management fees been prepaid on other occasions?

LM

- We note from the 2011 accounts for LM at note 10B that the property at 38 Cavill Ave Surfers Paradise "Cavill" was last independently valued at 28 September 2009 by CBRE in an amount of $10.5m and that it was stated in the accounts that the property would be revalued at least every " 3 years" (ie. 2012). We note that it was not revalued in 2012. We also note that directors had increased their own valuation to $12.67m in 2011 which, if true, must really be an exception to the Gold Coast commercial market over that time.

11. Since this asset is the mainstay in calculating LM's NTA, why was the failure to obtain an independent valuation not addressed by you in 2012?

12. How is the apparent increase in valuation otherwise substantiated?

- We also note that the entity which owns this asset (Baronsand Pty Ltd) has two shareholders (one owned by Mr McMurtrie and the other being Mr Drake himself). It is disclosed that Mr Drake does not hold this share beneficially but it does seem inappropriate if he holds this on trust for LMIM itself.

13. Please explain the status of any arrangement to confirm that LM actually holds this asset for the purposes of satisfying its AFSL requirements.

14. Do you think the holding of a major asset by Mr Drake on trust for a public company is appropriate, and if so how has it protected its security from being otherwise dealt with (for example, it would seem available for Mr Drake [and not LM] to dispose of or mortgage the property)?

- In the 2011 accounts, it was highlighted that Mr Drake had a loan from the MPF which apparently was guaranteed by him (a nonsense if he is also the borrower) and secured over the assets of Century Star Investments "Pty Ltd". Mysteriously, any reference to this loan disappeared in the 2012 accounts. We understand that the loan has increased to $19m and could be in arrears. Moreover, the loan is described in the accounts as being secured by way of a charge over the assets of Century Star Investments. The loan is otherwise unsecured (there is no real estate security). We understand that Century Star Investments is not resident in Australia (it is apparently a Hong Kong company) and believe that it has limited assets apart from a shareholding in LM itself.

15. How is it feasible that a facility provided by an investment fund to one of its directors on such terms be construed as being commercial and arms length (see MPF IM issued 28 October 2012 at page 10) ?

16. Please also confirm what the total facility amount is and if it is in arrears.

17. If the facility is in arrears does Mr Drake sit on the Arrears Committee and what recovery action has been undertaken ?

- We note that the constitution for the MPF dated 4 December 2001 (and varied on 11 November 2002) states at clause 15.8 that LM provides a capital guarantee to all investors in that Fund where they were members on or before 4 November 2002.

18. Why has this not been referred to in LM's accounts as a contingent liability?

FMIF COMPLIANCE

- We note that the Compliance Committee met on 2 occasions in 2012 year and on 3 occasions in the 2011 year.

19. Given that the committee is required to meet quarterly, has this failure been explained and noted as a systemic breach?

We note that this has not been commented on in your report.

- We understand that Simon Tickner resigned from LM on about 1 August 2012. We also note that he is a key person in the AFSL held by LM.

20. If Mr Tickner is now a consultant, has this been notified to the regulator?

21. Otherwise, has Mr Tickner been replaced and Asic notified within the time frames imposed by the Corporations Act?

22. Please also confirm that the other key persons, namely Michael Skeggs and Wendy List, are still engaged by the company and are still key people.

We look forward to your prompt reply and detailed response to each of the numbered questions and comments above.

Regards

Philip Ryan
Managing Director
Trilogy Funds Management Limited

p 07 3039 2828 f 07 3039 2829
Level 10, 241 Adelaide Street Brisbane QLD 4000 | GPO Box 1048 Brisbane QLD 4001
e p.ryan@trilogyfunds.com.au

Click here to report this email as spam.

From: "Philip Ryan" <p.ryan@trilogyfunds.com.au>
Subject: LM Compliance Committee
Date: 18 January 2013 4:49:41 PM AEST
To: <compliancefirst@bigpond.com>, <amvlaw@optusnet.com.au>
Cc: <Jenny.Gentles@asic.gov.au>, <Leanne.Damary@asic.gov.au>, "Paul Eastment" <paul.eastment@asic.gov.au>, <jeremy.holiday@asic.gov.au>

Dear Michele and Angelo

We note that both of you sit as members of the Compliance Committee for a number of registered managed investment schemes run by LM Investment Management Limited.

As you will be aware, we are the Responsible Entity of the second largest investor in the LM First Mortgage Income Fund " FMIF" (with a holding of approximately 20% of units). Consequently, we represent the interests of over 230 investors in the LM Wholesale First Mortgage Income Fund "WFMIF".

As a result we are concerned about a number of issues affecting our investment in the FMIF, and also the ability of LM Investment Management Limited "LM" to act as Responsible Entity of that Fund. In particular, we are concerned that some of matters highlighted have already or could result in losses to the Fund for which investors may seek recourse. We have set out these issues below:

Compliance Committee

- We are only aware of two formal positions on the Compliance Committee (which are held by yourselves). If this indeed is the case, then:

1.How long has LM operated with only 2 members in the Compliance Committee?

2.What steps have been undertaken to appoint a third member?

3. Who is the current Compliance Officer for the FMIF?

- We note that the Compliance Committee met on 2 occasions in the 2012 year and on 3 occasions in the 2011 year.

4.Given that the committee is required to meet quarterly, has this failure been explained and noted as a systemic breach?

5. Has this been reported to Asic? If so, then please provide us with a copy of this notification and Asic's response.

- We understand that Simon Tickner resigned from LM on about 1 August 2012. We also note that he is a key person in the AFSL held by LM.

6. If Mr Tickner is now a consultant, has this been notified to the regulator? If so, please advise when and provide us with a copy of the notification and Asic's response.

7.Otherwise, has Mr Tickner been replaced and Asic notified within the time frames imposed by the Corporations Act?

8. Please also confirm that the other key persons, namely Michael Skeggs and Wendy List, are still engaged by the company and are still key people.

- On 26 June 2012, it was noted that in the Compliance Minutes that periodic statements were not provided to investors for the previous year (ie. for the year ending 30 June *2011*). It was stated that they would be sent out with this years periodic statements.

9. Has this been notified as a breach and have these statements now been provided to unit holders (including the Wholesale Fund investors)? If so, please advise when and provide us with a copy of the notification and Asic's response.

- In the Compliance minutes, it was noted that Carolyn Hodge suggested that internal audits needed to commence after reading that many of the breaches on the register are as a result of processes.

10. Please provide the particulars of these breaches and a copy of the breaches register.

11. Have these breaches been reported to Asic? If so, when and what was their response?

12. Have the internal audits recommended been implemented? If so, what was the outcome of those audits?

13. Have the breaches been rectified to your satisfaction?

14. Have adequate systems been introduced so that these breaches do not recur?

FMIF

- The 2012 accounts for the FMIF at note 3 reveal that the Fund has made past distributions of $16.9m to the Feeder Funds which would appear to be used to offset a potential reduction in value of the wholesale fund.

15.We are concerned that these payments may be in breach of section 601FC(d) Corporations Act 2001 in that LM has failed to treat investors equally and investors who hold different classes fairly.

16.We note that this was an emphasis of matter in Ernst and Young's report but what is the legal basis for justifying these payments?

17. Are you personally comfortable with this legal position?

18.Have these payments been specifically drawn to the regulator's attention? If so, when and what was their response?

- The 2012 accounts for the FMIF at note 6 reveal that the FMIF made selective redemptions during the year in an amount exceeding $6m which was to pay back LM for financing its own fees and expenses in the feeder funds.

19.We are concerned that these redemptions are in breach of section 601FC (d) of the Corporations Act 2001 in that LM has failed to treat all investors equally and investors who hold different classes fairly (in that the FMIF has been frozen to redemptions outside hardship since 2009). Please advise your formal position on this as we understand that the Compliance Committee has formally reviewed and agreed on this point, and why you personally feel that this is not a breach as considered above.

20.It has not been disclosed in the accounts what proportion (if any) of these redemptions relate to hardship.

- The 2012 accounts for the FMIF reveal that currency losses relating to specific offshore investors appear to be borne by all investors while the same offshore investor has gained the benefit of any gain due to the strength of the $AUD.

21.We are concerned that this treatment of foreign exchange losses is in breach of section 601FC(d) of the Corporations Act 2001 in that LM has failed to treat all investors equally and investors who hold different classes fairly. Please advise your formal position on this as we understand that the Compliance Committee has formally reviewed and agreed on this point, and why you personally feel that this is not a breach as considered above.

- We refer to the PDS dated 10 April 2008 together with supplementaries for the CPF and the FMIF.

22.At no time does it appear that LM has disclosed that distributions could be made to some investors (and not others) when the FMIF is frozen. What is the reasoning behind this position?

23.Further, LM does not seem to have disclosed that redemptions of certain of its unitholders in the FMIF could take place (outside hardship payments) notwithstanding the freezing of the fund. What is the reasoning behind this position?

24.Again, LM does not appear to have disclosed that the treatment of foreign exchange losses would be borne by all investors and that offshore investors would gain a benefit due to the strength of the $AUD. What is the reasoning behind this position?

- We note that the Beliamby asset was sold during the course of 2012 and we are led to believe that approximately half of its proceeds (some $20m) was paid to an associate of LM (the LM Managed Performance Fund "MPF").

25.This has not been explained or addressed by LM and our opinion is that this money should be accounted to investors in the FMIF.

- We are led to believe that there have been no external valuations carried out in the FMIF since 2009.

26.Please confirm if this is indeed the case, or not.

27.If so, please explain how you can rely on directors valuations of Fund assets for a period of 4 years as being a fair and reasonable representation of asset value, especially given the GFC, which has been ongoing since 2008.

- We note that a contract for the sale of the Cairns Student Accommodation Lodge in an amount of $3.8m was entered into by LM prior to the signing off of the 2012 accounts for the FMIF. We understand that this asset was previously acquired for approx $10m and believe that it was previously in the accounts for an amount in excess of this figure.

28. Do you believe that this asset was adequately provisioned in the accounts prior to its sale?

29. Have other sales occurred in the FMIF which are materially different to the provisioned value ascribed by LM in the accounts?

30. If this is the case, please particularise the sales that have occurred and how directors can justify the difference between the sale prices that have been achieved for each property and the provisioning that they have adopted in the accounts.

- We note that LM Administration Pty Ltd "LMA" has received prepayment of management fees of certain funds that LM manages. In particular, we draw your attention to note 10 of the 2012 accounts for the FMIF which refer to a prepayment of management fees in an amount of $8.2m in 2011.

31. How can a prepayment or advance of management fees be justified (let alone an amount of $8.2m and from a frozen fund)?

32.Have management fees been prepaid on other occasions? If so, please provide the details and circumstances under which this was accepted by the Compliance Committee.

LM

- We note from the 2011 accounts for LM at note 10B that the property at 38 Cavill Ave Surfers Paradise "Cavill" was last independently valued at 28 September 2009 by CBRE in an amount of $10.5m and that it was stated in the accounts that the property would be revalued at least every " 3 years" (ie. 2012). We note that it was not revalued in 2012. We also note that directors had increased their own valuation to $12.67m in 2011 which, if correct, must really be an exception to the Gold Coast commercial market over that time.

33.Please provide a copy of the Directors' valuation and workings to substantiate this.

34.Since this asset is the mainstay in calculating LM's NTA, is the failure to obtain an independent valuation a concern to you?

35.How is the apparent increase in valuation otherwise substantiated? Please provide all documentation submitted to justify this increase, and upon which you have signed off on.

- We also note that the entity which owns this asset (Baronsand Pty Ltd) has two shareholders (one owned by Mr McMurtrie and the other being Mr Drake himself). It is disclosed that Mr Drake does not hold this share beneficially but it does seem inappropriate if he holds this on trust for LMIM itself.

36.Could you please confirm the arrangement by which that LM actually holds this asset for the purposes of satisfying its AFSL requirements. If this arrangement is documented, then please provide a copy of such document.

37. In your professional opinion, do you think the holding of a major asset by Mr Drake on trust for a public company is appropriate, and if so how has it protected its security from being otherwise dealt with (for example, it would seem available for Mr Drake [and not LM] to dispose of or mortgage the property)?

- You will be aware of the changes introduced in November 2012 for AFSL holders to satisfy the financial requirements implemented through class order CO 11/1140 and updated versions of RG 166.

38. Are you satisfied that LM is compliant with these new rules?

We look forward to your promot reply and detailed response to each of the numbered questions and comments above.

Regards

Philip Ryan
Managing Director
Trilogy Funds Management Limited

p 07 3039 2828 f 07 3039 2829

Level 10, 241 Adelaide Street Brisbane QLD 4000 | GPO Box 1648 Brisbane QLD 4001
e p.ryan@trilogyfunds.com.au

Anne Freeman

From: Francene Mulder [mailto:FMulder@lmaustralia.com]
Sent: Wednesday, 13 February 2013 12:14 PM
To: Philip Ryan
Subject: FW:

Dear Phil

See response below.

Regards
Francene

From: Francene Mulder
Sent: Wednesday, 13 February 2013 12:06 PM
To: pryan@trilogyfunds.com.au
Cc: Jenny Gentles (Jenny.Gentles@asic.gov.au); jeremy.holiday@asic.gov.au; Leanne.Damary@asic.gov.au; Paul.Eastment@asic.gov.au
Subject:

Dear Philip,

Michele and Angelo have forwarded to us your email which is attached for your reference.

Many of the statements in your email are factually incorrect.

We assure you that LM understands its legal obligations and is committed to properly discharging them.

Regards
Francene

Francene Mulder
Executive Director - Distribution/Product |
T +61 7 5584 4500 | D +61 7 5584 4529 | M +61 409 207 337 | F +61 7 5592 2505 | E fmulder@lmaustralia.com |
Skype:
A Level 1, 38 Cavill Ave Surfers Paradise, 4217, Queensland, Australia | P PO Box 485, Surfers Paradise, 4217, Queensland, Australia
www.LMaustralia.com

LM Investment Management Ltd

The global pathway to Australian investment solutions

LM Managed Performance Fund underlying asset Maddison Estate featured in Gold Coast Business News, February 2013.

View LM in the Media

LM provides a global pathway to Australian investment solutions, and holds under management Australian assets with a gross realisation value in excess of A$3 billion. LM receives new business inflows from a licensed intermediary network spanning more than 70 countries, serviced by 130 LM people across nine global offices. The LM Funds are authorised by the financial regulators of Australia, New Zealand, Luxembourg and Singapore, with further approvals imminent in the jurisdictions of the USA, Canada, the United Kingdom and Pan-European UCITS. Options include cash; savings; conservative, enhanced and retirement income – debt securities and cash; Luxembourg domiciled SICAV-SIF, Australian equities – protected income and capital protected growth.

This e-mail and any files transmitted with it are confidential and are intended solely for the use of the recipient to whom it is addressed. If you are not the intended recipient or the person responsible for delivering this e-mail to the intended recipient, you are advised that any use, dissemination, forwarding, printing, or copying of this e-mail and any file attachments is strictly prohibited. If you have received this e-mail in error, you must destroy the original transmission and any attachments and immediately notify the sender by reply e-mail.

Click here to report this email as spam.

ASIC
Australian Securities & Investments Commission

Australian Financial Services Licensee

LM INVESTMENT MANAGEMENT LIMITED
AFS Licence Number 220281

Extracted from ASIC's database at AEST 12:19:53 on 11/04/2013

Current Details

Name:	LM INVESTMENT MANA GEMENT LIMITED
Licence Number:	220281
Status:	Suspended
ABN:	68 077 208 461
Commenced:	15/07/2002

Previous Licence Details - Pre FSR

Role:	Securities Dealer
Licence number:	176119
Commenced:	27/02/1998

Addresses

Principal Business Address:	LM INVESTMENT MANA GEMENT LTD, Level 4 Rsl Building, 44A Cavill Avenue SURFER S PARADISE QLD 4217
Service Address:	LM INVESTMENT MANA GEMENT LTD, Level 4 Rsl Building, 44A Cavill Avenue SURFER S PARADISE QLD 4217

Roles

Role:	Auditor of FS Licensee
Name:	ERNST & YOUNG
Commenced:	01/10/2003

External Dispute Resolution

Scheme:	Financial Ombudsman Service
Membership Number:	10599
Commenced:	01/07/2008

Licence Authorisation Conditions

From: 07/09/2012

Details:

1. This licence authorises the licensee to carry on a financial services business to:
   (a) provide financial product advice for the following classes of financial products:
      (i) life products limited to:
         (A) life risk insurance products as well as any products issued by a Registered Life Insurance Company that are backed by one or more of its statutory funds; and
      (ii) superannuation;
   (b) deal in a financial product by:
      (i) issuing, applying for, acquiring, varying or disposing of a financial product in respect of the following classes of financial products:
         (A) interests in managed investment schemes limited to:
            (1) own managed investment scheme only; and
      (ii) applying for, acquiring, varying or disposing of a financial product on behalf of another person in respect of the following classes of products:

Licence Authorisation Conditions	
	(A) deposit and payment products including: (1) basic deposit products; (2) deposit products other than basic deposit products; and (3) non-cash payment products; (B) derivatives; (C) foreign exchange contracts; (D) life products limited to: (1) life risk insurance products as well as any products issued by a Registered Life Insurance Company that are backed by one or more of its statutory funds; (E) interests in managed investment schemes including: (1) investor directed portfolio services; (F) securities; and (G) superannuation; (c) operate the following kinds of registered managed investment schemes (including the holding of any incidental property) in its capacity as responsible entity: (i) "Lm Australian Structured Products Fund" scheme (ARSN: 149 875 669), (A) a scheme which only holds the following types of property: (1) derivatives; and (2) financial assets; and (ii) schemes which only hold the following types of property: (A) direct real property; (B) financial assets; and (C) mortgages; and (d) provide the following custodial or depository services: (i) operate custodial or depository services other than investor directed portfolio services; to retail and wholesale clients.
From: 15/06/2012 Details:	1. This licence authorises the licensee to carry on a financial services business to: (a) provide financial product advice for the following classes of financial products: (i) life products limited to: (A) life risk insurance products as well as any

Licence Authorisation Conditions

products issued by a Registered Life Insurance Company that are backed by one or more of its statutory funds; and

(ii) superannuation;

(b) deal in a financial product by:

(i) issuing, applying for, acquiring, varying or disposing of a financial product in respect of the following classes of financial products:

(A) interests in managed investment schemes limited to:

(1) own managed investment scheme only; and

(ii) applying for, acquiring, varying or disposing of a financial product on behalf of another person in respect of the following classes of products:

(A) deposit and payment products including:

(1) basic deposit products;

(2) deposit products other than basic deposit products; and

(3) non-cash payment products;

(B) derivatives;

(C) foreign exchange contracts;

(D) life products limited to:

(1) life risk insurance products as well as any products issued by a Registered Life Insurance Company that are backed by one or more of its statutory funds;

(E) interests in managed investment schemes including:

(1) investor directed portfolio services;

(F) securities; and

(G) superannuation;

(c) operate the following kinds of registered managed investment schemes (including the holding of any incidental property) in its capacity as responsible entity:

(i) "Lm Australian Structured Products Fund" scheme (ARSN: 149 875 669),

(A) a scheme which only holds the following types of property:

(1) derivatives; and

(2) financial assets; and

(ii) schemes which only hold the following types of property:

Licence Authorisation Conditions

(A) direct real property;
(B) financial assets; and
(C) mortgages; and
(d) provide the following custodial or depository services:
(i) operate custodial or depository services other than investor directed portfolio services;
to retail and wholesale clients.

From: 30/03/2011
Details: 1. This licence authorises the licensee to carry on a financial services business to:
(a) provide financial product advice for the following classes of financial products:
(i) life products limited to:
(A) life risk insurance products as well as any products issued by a Registered Life Insurance Company that are backed by one or more of its statutory funds;
(b) deal in a financial product by:
(i) issuing, applying for, acquiring, varying or disposing of a financial product in respect of the following classes of financial products:
(A) interests in managed investment schemes limited to:
(1) own managed investment scheme only; and
(ii) applying for, acquiring, varying or disposing of a financial product on behalf of another person in respect of the following classes of products:
(A) deposit and payment products including:
(1) basic deposit products;
(2) deposit products other than basic deposit products; and
(3) non-cash payment products;
(B) derivatives;
(C) foreign exchange contracts;
(D) life products limited to:
(1) life risk insurance products as well as any products issued by a Registered Life Insurance Company that are backed by one or more of its statutory funds;
(E) interests in managed investment schemes including:
(1) investor directed portfolio services; and

Licence Authorisation Conditions	
	(F) securities; (c) operate the following kinds of registered managed investment schemes (including the holding of any incidental property) in its capacity as responsible entity: (i) "Lm Australian Structured Products Fund" scheme (ARSN: 149 875 669), (A) a scheme which only holds the following types of property: (1) derivatives; and (2) financial assets; and (ii) schemes which only hold the following types of property: (A) direct real property; (B) financial assets; and (C) mortgages; and (d) provide the following custodial or depository services: (i) operate custodial or depository services other than investor directed portfolio services; to retail and wholesale clients.
From:	23/03/2010
Details:	1. This licence authorises the licensee to carry on a financial services business to: (a) provide financial product advice for the following classes of financial products: (i) life products limited to: (A) life risk insurance products as well as any products issued by a Registered Life Insurance Company that are backed by one or more of its statutory funds; (b) deal in a financial product by: (i) issuing, applying for, acquiring, varying or disposing of a financial product in respect of the following classes of financial products: (A) interests in managed investment schemes limited to: (1) own managed investment scheme only; and (ii) applying for, acquiring, varying or disposing of a financial product on behalf of another person in respect of the following classes of products: (A) deposit and payment products including: (1) basic deposit products;

Licence Authorisation Conditions	
	(2) deposit products other than basic deposit products; and (3) non-cash payment products; (B) foreign exchange contracts; (C) life products limited to: (1) life risk insurance products as well as any products issued by a Registered Life Insurance Company that are backed by one or more of its statutory funds; (D) interests in managed investment schemes including: (1) investor directed portfolio services; and (E) securities; (c) operate the following kinds of registered managed investment schemes (including the holding of any incidental property) in its capacity as responsible entity: (i) schemes which only hold the following types of property: (A) direct real property; (B) financial assets; and (C) mortgages; and (d) provide the following custodial or depository services: (i) operate custodial or depository services other than investor directed portfolio services; to retail and wholesale clients.
From: 27/05/2009 Details:	1. This licence authorises the licensee to carry on a financial services business to: (a) provide financial product advice for the following classes of financial products: (i) life products limited to: (A) life risk insurance products as well as any products issued by a Registered Life Insurance Company that are backed by one or more of its statutory funds; (b) deal in a financial product by: (i) issuing, applying for, acquiring, varying or disposing of a financial product in respect of the following classes of financial products: (A) interests in managed investment schemes limited to: (1) own managed investment scheme only; and

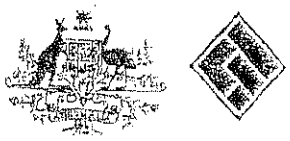
Licence Authorisation Conditions	
	(ii) applying for, acquiring, varying or disposing of a financial product on behalf of another person in respect of the following classes of products: (A) deposit and payment products including: (1) basic deposit products; (2) deposit products other than basic deposit products; and (3) non-cash payment products; (B) foreign exchange contracts; (C) life products limited to: (1) life risk insurance products as well as any products issued by a Registered Life Insurance Company that are backed by one or more of its statutory funds; (D) interests in managed investment schemes including: (1) investor directed portfolio services; and (E) securities; (c) operate the following kinds of registered managed investment schemes (including the holding of any incidental property) in its capacity as responsible entity: (i) schemes which only hold the following types of property: (A) direct real property; (B) financial assets; and (C) mortgages; and (d) provide the following custodial or depository services: (i) operate custodial or depository services other than investor directed portfolio services; to retail and wholesale clients.
From:	18/08/2006
Details:	1. This licence authorises the licensee to carry on a financial services business to: (a) provide financial product advice for the following classes of financial products: (i) life products limited to: (A) life risk insurance products as well as any products issued by a Registered Life Insurance Company that are backed by one or more of its statutory funds; (b) deal in a financial product by:

Licence Authorisation Conditions	
	(i) issuing, applying for, acquiring, varying or disposing of a financial product in respect of the following classes of financial products: (A) interests in managed investment schemes limited to: (1) own managed investment scheme only; and (ii) applying for, acquiring, varying or disposing of a financial product on behalf of another person in respect of the following classes of products: (A) deposit and payment products limited to: (1) basic deposit products; (B) foreign exchange contracts; (C) life products limited to: (1) life risk insurance products as well as any products issued by a Registered Life Insurance Company that are backed by one or more of its statutory funds; (D) interests in managed investment schemes including: (1) investor directed portfolio services; and (E) securities; (c) operate the following kinds of registered managed investment schemes (including the holding of any incidental property) in its capacity as responsible entity: (i) schemes which only hold the following types of property: (A) direct real property limited to: (1) serviced strata schemes; (2) stable property trusts or syndicates; (B) financial assets; and (C) mortgages; and (d) provide the following custodial or depository services: (i) operate custodial or depository services other than investor directed portfolio services; to retail and wholesale clients.
From:	08/07/2004
Details:	1. This licence authorises the licensee to carry on a financial services business to: (a) provide financial product advice for the following classes of financial products: (i) life products limited to:

Licence Authorisation Conditions	
	(A) life risk insurance products as well as any products issued by a Registered Life Insurance Company that are backed by one or more of its statutory funds; (b) deal in a financial product by: (i) issuing, applying for, acquiring, varying or disposing of a financial product in respect of the following classes of financial products: (A) foreign exchange contracts; (B) interests in managed investment schemes including: (1) investor directed portfolio services; and (C) securities; and (ii) applying for, acquiring, varying or disposing of a financial product on behalf of another person in respect of the following classes of products: (A) life products limited to: (1) life risk insurance products as well as any products issued by a Registered Life Insurance Company that are backed by one or more of its statutory funds; and (c) operate the following kinds of registered managed investment schemes (including the holding of any incidental property) in its capacity as responsible entity: (i) schemes which only hold the following types of property: (A) direct real property limited to: (1) serviced strata schemes; (2) stable property trusts or syndicates; (B) financial assets; and (C) mortgages; to retail and wholesale clients.
From:	20/02/2004
Details:	1. This licence authorises the licensee to carry on a financial services business to: (a) provide financial product advice for the following classes of financial products: (i) life products limited to: (A) life risk insurance products as well as any products issued by a Registered Life Insurance Company that are backed by one or more of its statutory funds;

Licence Authorisation Conditions	
	(b) deal in a financial product by: (i) issuing, applying for, acquiring, varying or disposing of a financial product in respect of the following classes of financial products: (A) interests in managed investment schemes including: (1) investor directed portfolio services; and (B) securities; and (ii) applying for, acquiring, varying or disposing of a financial product on behalf of another person in respect of the following classes of products: (A) life products limited to: (1) life risk insurance products as well as any products issued by a Registered Life Insurance Company that are backed by one or more of its statutory funds; and (c) operate the following kinds of registered managed investment schemes (including the holding of any incidental property) in its capacity as responsible entity: (i) schemes which only hold the following types of property: (A) direct real property limited to: (1) serviced strata schemes; (2) stable property trusts or syndicates; (B) financial assets; and (C) mortgages; to retail and wholesale clients.
From:	09/10/2002
Details:	1. This licence authorises the licensee to carry on a financial services business to: (a) provide financial product advice for the following classes of financial products: (i) interests in managed investment schemes; and (ii) securities; (b) deal in a financial product by: (i) issuing, applying for, acquiring, varying or disposing of a financial product in respect of the following classes of financial products: (A) interests in managed investment schemes; and (B) securities; and (c) operate the following kinds of registered managed investment schemes (including the holding of any

Licence Authorisation Conditions	
	incidental property) in its capacity as responsible entity: (i) schemes which only hold the following types of property: (A) direct real property limited to: (1) serviced strata schemes; (2) stable property trusts or syndicates; (B) financial assets; and (C) mortgages; to retail and wholesale clients.
From:	15/07/2002
Details:	1. This licence authorises the licensee to carry on a financial services business to: (a) provide financial product advice for the following classes of financial products: (i) interests in managed investment schemes; and (ii) securities; (b) deal in a financial product by: (i) issuing, applying for, acquiring, varying or disposing of a financial product in respect of the following classes of financial products: (A) interests in managed investment schemes; and (B) securities; and (c) operate the following kinds of registered managed investment schemes (including the holding of any incidental property) in its capacity as responsible entity: (i) "LM Cash Performance Fund" scheme (ARSN: 087 304 032), a scheme which only holds the following types of property: (A) financial assets; (ii) "LM Special Participation Fund" scheme (ARSN: 092 852 134), a scheme which only holds the following types of property: (A) financial assets; (iii) "Engineering House Canberra Syndicate" scheme (ARSN: 097 306 682), a scheme which only holds the following types of property: (A) financial assets; (iv) schemes which only hold the following types of property: (A) direct real property limited to: (1) serviced strata schemes; (2) stable property trusts or syndicates; and



ASIC
Australian Securities & Investments Commission

Australian Financial Services Licensee

LM INVESTMENT MANAGEMENT LIMITED
AFS Licence Number 220281

Licence Authorisation Conditions
(B) mortgages;
to retail and wholesale clients.

Further information relating to this Licensee may be purchased from ASIC.

ASIC Class Order [CO 11/1140]

Financial requirements for responsible entities

Issued 3/11/2011
Registered on Federal Register of Legislative Instruments 11/11/2011
Effective 1/11/2012 (later of 1/11/2012 or registration)

Class Order [CO 11/1140] imposes revised minimum standards for responsible entities to have available adequate financial resources to provide the financial services covered by their Australian financial services licence as discussed in ASIC Regulatory Guide 166 Licensing: Financial requirements. These revised minimum standards apply from 1 November 2012.

This instrument has effect under s926A(2)(c) of the *Corporations Act 2001*.

This compilation was prepared on 28 September 2012 taking into account amendments up to [CO 12/1295]. See the table at the end of this class order.

Prepared by the Australian Securities and Investments Commission.

Australian Securities and Investments Commission
Corporations Act 2001 – Paragraph 926A(2)(c) — Declaration

Enabling legislation

1. The Australian Securities and Investments Commission makes this instrument under paragraph 926A(2)(c) of the *Corporations Act 2001* (the ***Act***).

Title

2. This instrument is ASIC Class Order [CO 11/1140].

Commencement

3. This instrument commences on the later of:

   (a) the date it is registered under the *Legislative Instruments Act 2003*; and

   (b) 1 November 2012.

Note: An instrument is registered when it is recorded on the Federal Register of Legislative Instruments (***FRLI***) in electronic form: see *Legislative Instruments Act 2003*, section 4 (definition of ***register***). The FRLI may be accessed at http://www.frli.gov.au/.

Declaration

4. Part 7.6 (other than Divisions 4 and 8) of the Act applies in relation to all persons as if that Part were modified or varied by, after subsection 912A, inserting:

"Section 912AA Adequate financial resources for responsible entities

© Australian Securities and Investments Commission November 2011

(1) This section applies to a financial services licensee to which paragraph 912A(1)(d) applies that is authorised to operate a registered scheme as a responsible entity.

(2) Despite subsection (1), this section does not apply to a market participant or a clearing participant.

(3) A licensee that complies with this section is taken to comply with any conditions of its licence that relate to:

(a) the cash needs requirement;

(b) net tangible assets that apply because it is a responsible entity; and

(c) the obligation to lodge an audit opinion on the financial requirements to the extent the opinion is for a part of a financial year or other period during which the licensee was authorised to operate a registered scheme as a responsible entity.

Note: The conditions on the licence may include other requirements in relation to having available adequate financial resources for the purposes of paragraph 912A(1)(d).

Cash needs requirement

(4) The licensee must:

(a) prepare a projection of the licensee's cash flows over at least the next 12 months based on the licensee's reasonable estimate of what is likely to happen over this period; and

(b) update the projection of the licensee's cash flows when:

(i) those cash flows cease to cover the next 12 months; or

(ii) there is a material change; or

(iii) the licensee has reason to suspect that an updated projection would show that the licensee was not meeting paragraphs (e) or (f); and

(c) document the licensee's calculations and assumptions on which the projection is based and describe in writing why the assumptions relied upon are the appropriate assumptions; and

(d) have the projection of the licensee's cash flows approved at least quarterly by the licensee's directors as satisfying the requirements of this subsection; and

(e) demonstrate, based on the projection of the licensee's cash flows, that the licensee will have access to sufficient financial resources to meet its liabilities that are expected to be payable over the period to which the projection relates, including any additional liabilities the licensee projects will be incurred during that period; and

(f) demonstrate, based on the projection of the licensee's cash flows, that the licensee will hold at all times during the period to which the projection

© Australian Securities and Investments Commission November 2011

relates in cash or cash equivalents, an amount equal to or greater than the current amount the licensee is required to hold in cash or cash equivalents under paragraph (8)(a).

Net tangible assets

(5) The licensee must hold at all times NTA of:

(a) if subsection (7) applies or the licensee does not operate any registered schemes as a responsible entity—at least the greater of:

(i) $150,000; or

(ii) an amount up to $5 million being 0.5% of the average value of scheme property of the registered schemes and IDPSs (if any) operated by the licensee; or

(iii) 10% of average RE revenue of the licensee;

(b) otherwise—at least the greater of:

(i) $5 million; or

(ii) 10% of average RE revenue of the licensee.

[*Historical note*: Para 5 amended 1/11/2012 [CO 12/1295] by:

(a) in the introductory words, after 'if subsection (7) applies', inserting 'or the licensee does not operate any registered schemes as a responsible entity'; and

(b) in subpara (5)(a)(ii), after 'IDPSs', inserting '(if any)'.]

(6) A licensee that is the beneficiary of an eligible undertaking of an eligible provider for an unlimited amount is taken to satisfy subsections (5) and (8).

(7) This subsection applies if one or more of the following are satisfied in relation to each registered scheme operated by the licensee as a responsible entity:

(a) all the scheme property and other assets of the scheme not held by members are held by:

(i) a custodian appointed by the licensee that holds $5 million NTA or a sub-custodian appointed by such a custodian; or

(ii) an eligible custodian;

(b) all the scheme property and other assets of the scheme not held by members are Tier $500,000 class assets held by:

(i) the licensee; or

(ii) a custodian appointed by the licensee; or

(iii) a sub-custodian appointed by the custodian,

provided that:

(iv) where the person holding the scheme property or other assets is the licensee—the licensee holds at least $500,000 NTA; or

(v) where the person holding the scheme property or other assets is a custodian or sub-custodian—the custodian:

© Australian Securities and Investments Commission November 2011

(A) holds at least $500,000 NTA; or

(B) is an eligible custodian; or

(c) the only scheme property and other assets of the scheme that are not held under paragraph (a) or (b) are special custody assets, each of which is held by:

(i) the licensee; or

(ii) an eligible custodian; or

(iii) a custodian that holds at least the NTA that the licensee would be required to hold under paragraph (5)(a) or a sub-custodian appointed by such a custodian; or

(iv) a custodian or a sub-custodian appointed by the custodian if the only assets held for the scheme are those mentioned in:

(A) paragraphs (a), (c) or (g) of the definition of ***special custody assets*** in subsection (11); or

(B) paragraph (d) of the definition of ***special custody assets*** where the audited trust account is a regulated trust account; or

(v) the members of the scheme.

[*Historical note*: Para 7 amended 1/11/2012 [CO 12/1295] by:

(a) in the introductory words, after 'operated by the licensee', inserting 'as a responsible entity';

(b) in subpara (7)(a)(i), after '$5 million NTA', inserting 'or a sub-custodian appointed by such a custodian'; and

(c) in paragraph (7)(c):

(i) in subparagraph (iii), after 'under paragraph (5)(a)', inserting 'or a sub-custodian appointed by such a custodian';

(ii) in subparagraph (iv), after 'a custodian', inserting 'or a sub-custodian appointed by the custodian'.]

(8) The licensee must hold at all times:

(a) in cash or cash equivalents at least the greater of:

(i) $150,000; or

(ii) 50% of the amount of NTA that would be required under paragraph (5)(a) as if it applied; and

(b) in liquid assets the amount of NTA that would be required under paragraph (5)(a) as if it applied.

[*Historical note*: Para 8 amended 1/11/2012 [CO 12/1295] by:

(a) in subparagraph (8)(a)(ii), omitting 'subsection (7)' and substituting 'it'; and

(b) in paragraph (8)(b), omitting 'subsection (7)' and substituting 'it'.]

Audit opinion

(9) The licensee must lodge with ASIC a report by a registered company auditor addressed to the licensee and ASIC for each financial year of the licensee and any other period that ASIC directs (***audit opinion***) that states whether during any part of the period for which the licensee was authorised to operate a registered scheme:

© Australian Securities and Investments Commission November 2011

(a) in the auditor's opinion, the licensee:

(i) complied with paragraph (4)(d), subsections (5), (7) and (8) and other financial requirements in conditions on its licence; and

(ii) had at all times a projection (covering at least the following 12 months) that purports to, and appears on its face to, comply with paragraph (4)(a); and

(iii) correctly calculated the projections in paragraph (4)(a) on the basis of the assumptions the licensee adopted for the projections described in subparagraph 9(a)(ii); and

(b) following an examination of the documents the licensee relies on in complying with subsection (4), the auditor has no reason to believe that:

(i) the licensee did not satisfy paragraph 912A(1)(h) for managing the risk of having insufficient financial resources to comply with this section and other financial requirements in the conditions on its licence; or

(ii) the licensee failed to comply with paragraphs (4)(c), (e) or (f); or

(iii) the assumptions the licensee adopted for its projection were unreasonable.

(10) The audit opinion must be lodged by no later than:

(a) for each financial year of the licensee—the day the licensee is required to lodge a balance sheet under Division 6 of Part 7.8 and at the same time as the balance sheet is lodged; and

(b) for any period of time that ASIC directs—the date ASIC directs the audit opinion to be lodged.

(11) In this section:

adequately secured means:

(a) secured by an enforceable charge over a financial product (other than a financial product issued by the licensee or its associate) if:

(i) the financial product is:

(A) regularly traded on:

(I) a financial market (as defined in subsection 767A(1) and disregarding subsection 767A(2)) operated by a market licensee or a licensee other than the licensee or its associates that, in the reasonable opinion of the licensee, produces sufficiently reliable prices to assess the value of the security provided by the charge; or

(II) an approved foreign market; or

(B) an interest in a registered scheme for which withdrawal prices are regularly quoted by the responsible entity of the scheme and the licensee believes on reasonable grounds that withdrawal may be effected within 5 business days; and

© Australian Securities and Investments Commission November 2011

(ii) the market value of the financial product is:

(A) if the financial product is a debt instrument—at least 109% of the amount owing; or

(B) otherwise—at least 120% of the amount owing; or

(b) secured by a registered first mortgage over real estate that has a fair market valuation of at least 120% of the amount owing; or

(c) owing from an eligible provider; or

(d) secured by an enforceable charge over amounts owing to another licensee which themselves are adequately secured.

adjusted assets means the value of total assets as they would appear on a balance sheet at the time of calculation made up for lodgement as part of a financial report under Chapter 2M if the licensee were a reporting entity:

(a) minus the value of excluded assets that would be included in the calculation; and

(b) minus the value of any receivable that would be included in the calculation, up to the amount that the licensee has excluded from adjusted liabilities on the basis that there is an enforceable right of set-off with that receivable; and

(c) minus the value of any assets that would be included in the calculation that are encumbered as a security against liability to a person that provides a security bond to ASIC up to the amount of the bond; and

(d) minus the value of any assets that would be included in the calculation that may be required to be applied to satisfy a liability under a credit facility that is made without recourse to the licensee up to the amount of that liability excluded from adjusted liabilities; and

(e) plus the amount of any eligible undertaking that is not an asset.

adjusted liabilities means the amount of total liabilities as they would appear on a balance sheet at the time of calculation made up for lodgement as part of a financial report under Chapter 2M if the licensee were a reporting entity:

(a) minus the amount of any liability under any subordinated debt approved by ASIC that would be included in the calculation; and

(b) minus the amount of any liability the subject of an enforceable right of set-off that would be included in the calculation, if the corresponding receivable is excluded from adjusted assets; and

(c) minus the amount of any liability under a credit facility that would be included in the calculation, if it is made without recourse to the licensee; and

(d) plus the value of any assets that are encumbered (other than assets that are encumbered merely to support a guarantee provided by the licensee) as a security against another person's liability where the licensee is not otherwise

© Australian Securities and Investments Commission November 2011

liable, but only up to the lower of:

(i) the amount of that other person's liability; or

(ii) the value of the assets encumbered; and

(e) plus the maximum potential liability of any guarantee provided by the licensee other than a:

(i) guarantee limited to an amount recoverable out of any scheme property (and in the case of a scheme which is not registered, out of any contributions, money, property or income that would be scheme property if the scheme were registered) of a managed investment scheme operated by the licensee; or

(ii) guarantee of the obligations of another member of a stapled group, except where the licensee is the responsible entity of a registered scheme that is not part of the stapled group.

approved foreign market means each of the following:

(a) American Stock Exchange;

(b) Borsa Italiana;

(c) Bursa Malaysia Main Board and Bursa Malaysia Second Board;

(d) Euronext Amsterdam;

(e) Euronext Paris;

(f) Frankfurt Stock Exchange;

(g) Hong Kong Stock Exchange;

(h) JSE;

(i) London Stock Exchange;

(j) NASDAQ Stock Market;

(k) New York Stock Exchange;

(l) New Zealand Exchange;

(m) Singapore Exchange;

(n) SWX Swiss Exchange;

(o) Tokyo Stock Exchange;

(p) Toronto Stock Exchange; and

(q) a foreign market approved in writing for this purpose by ASIC.

© Australian Securities and Investments Commission November 2011

average RE revenue means:

(a) for a licensee in its first financial year, the licensee's forecast of its RE revenue from the commencement date for the remainder of the first financial year pro-rated to a 12 month period; and

(b) for a licensee in its second financial year in which it is authorized to operate a registered scheme as a responsible entity— the aggregate of the licensee's:

(i) estimate of its actual RE revenue for the second financial year to-date; and

(ii) forecast of its RE revenue for the remainder of the second financial year; and

(c) for a licensee in its third financial year in which it is authorized to operate a registered scheme as a responsible entity—the average of:

(i) the aggregate of the licensee's:

(A) estimate of its actual RE revenue for the third financial year to-date; and

(B) forecast of its RE revenue for the remainder of the third financial year; and

(ii) the licensee's RE revenue for its second financial year in which it is authorised to operate a registered scheme as a responsible entity; and

(d) for all subsequent financial years—the average of:

(i) the aggregate of the licensee's:

(A) estimate of its actual RE revenue for the current financial year to-date; and

(B) forecast of its RE revenue for the remainder of the current financial year; and

(ii) the licensee's RE revenue for the last preceding financial year; and

(iii) the licensee's RE revenue for the second preceding financial year.

average value of scheme property means the greater of:

(a) the current value of scheme property; and

(b) the value of the scheme property in the following circumstances:

(i) for a licensee in its first financial year of operation of a registered scheme as a responsible entity—the average of:

(A) the value of scheme property at the end of each calendar month since the commencement date; and

(B) the forecast value of scheme property at the end of each calendar month for the remainder of the first financial year; and

(ii) for a licensee in its second financial year of operation of a registered scheme as a responsible entity—the average of:

© Australian Securities and Investments Commission November 2011

(A) the value of scheme property at the end of each calendar month since the commencement date; and

(B) the forecast value of scheme property at the end of each calendar month for the remainder of the second financial year; and

(iii) for a licensee after the first 2 financial years of operation of a registered scheme as a responsible entity—the average of:

(A) the value of scheme property at the end of each calendar month since the beginning of the second preceding financial year; and

(B) the forecast value of scheme property at the end of each calendar month for the remainder of the current financial year.

cash or cash equivalents means:

(a) cash on hand, demand deposits and money deposited with an Australian ADI that is available for immediate withdrawal; and

(b) short-term, highly liquid investments that are readily convertible to known amounts of cash that are subject to an insignificant risk of changes in value; and

(c) the value of any eligible undertaking provided by an eligible provider; and

(d) a commitment to provide cash from an eligible provider that can be drawn down within 5 business days and has a maturity of at least 6 months.

clearing participant means a participant (as defined in section 761A in relation to a clearing and settlement facility) in the licensed CS facility operated by ASX Clear Pty Limited ACN 001 314 503 (***ASX Clear***) that is required to comply with, and complies with the operating rules of ASX Clear that relate to financial requirements, taking into account any waiver of those requirements by ASX Clear.

commencement date means the day on which the licensee was authorised to operate any registered scheme.

eligible custodian means:

(a) an Australian ADI; or

(b) a market participant or a clearing participant; or

(c) a sub-custodian appointed by a person referred to in paragraph (a) or (b).

eligible provider means:

(a) an Australian ADI; or

(b) a Commonwealth or a State or Territory government or a government of a country that is a member of the Organisation for Economic Co-operation and Development or an agency or instrumentality of such a government; or

© Australian Securities and Investments Commission November 2011

(c) a foreign deposit-taking institution:

(i) that is regulated by a regulator approved in writing by ASIC for this purpose; or

(ii) approved in writing by ASIC for this purpose; or

(d) an Australian CS facility licensee within the meaning of section 761A; or

(e) an entity approved by ASIC in writing for this purpose.

eligible undertaking means:

(a) an enforceable and unqualified undertaking by an eligible provider, expressed to be irrevocable without the written consent of ASIC, to pay, on written demand by the licensee, a certain amount; or

(b) an undertaking approved in writing by ASIC as an eligible undertaking.

The amount of an eligible undertaking is taken to be at any time the amount that remains payable despite any amount previously paid under the undertaking less any amount that would be repayable as a liability by the licensee if money were paid.

excluded assets means:

(a) intangible assets; and

(b) assets owed by, or receivables from, or assets invested in, any person who:

(i) is an associate of the licensee; or

(ii) was an associate of the licensee at the time the liability was incurred or the investment was made; or

(iii) became liable to the licensee in connection with the acquisition of interests in a managed investment scheme operated by the licensee; and

(c) assets:

(i) held as a beneficial interest or an interest in a managed investment scheme; or

(ii) invested in a superannuation product in respect of which the licensee or an associate may exercise any form of power or control; and

(d) receivables from a trustee of a trust in respect of which the licensee or an associate may exercise any form of power or control,

but, despite anything in the paragraphs above, does not include the following:

(e) a receivable mentioned in paragraph (b) or (d):

(i) to the extent that it is adequately secured; or

(ii) to which all of the following apply:

© Australian Securities and Investments Commission November 2011

(A) it is receivable as a result of a transaction entered into by the licensee in the ordinary course of its business on its standard commercial terms applicable to persons that are not associated with the licensee on an arm's length basis;

(B) no part of the consideration in relation to the transaction is, in substance, directly or indirectly invested in the licensee;

(C) the total value of the receivable (before any discount is applied) is not more than 20% of the assets less liabilities of the licensee; or

(iii) to which all of the following apply:

(A) it is receivable from an insurance company that is a body regulated by APRA and results from a transaction entered into by the licensee in the ordinary course of its business on its standard commercial terms applicable to persons that are not associated with the licensee on an arm's length basis;

(B) the licensee has no reason to believe that any amount invested in the licensee would not have been invested if the transaction that caused the receivable had not taken place or were not at the time of the investment expected to take place; and

(C) the licensee has no reason to believe that the recoverability of the receivable will materially depend on the value of an investment by any person in the licensee; and

(D) the total value of the receivables under this subparagraph is not more than 60% of the adjusted liabilities of the licensee disregarding this subparagraph; or

(iv) to which ASIC has given its consent in writing to the licensee treating the receivable as not being an excluded asset; or

(v) to the extent that it is owing by way of fees from, or under rights of reimbursement for expenditure by the licensee out of property of or in relation to:

(A) a superannuation entity within the meaning of section 761A;

(B) an IDPS;

(C) a registered scheme,

to the extent that the receivable:

(D) exceeds amounts invested by the entity, IDPS or scheme in, or lent (other than by way of a deposit with an Australian ADI in the ordinary course of its banking business) directly or indirectly by the entity, IDPS or scheme to:

(I) the licensee; or

(II) a body corporate the licensee controls; or

(III) a body corporate that controls the licensee; or

(IV) a body corporate that the licensee's controller controls; and

© Australian Securities and Investments Commission November 2011

(E) if receivable by way of fees, represents no more than the amount of fees owing for the previous 3 months; and

(F) if receivable under rights of reimbursement for expenditure by the licensee, has not been receivable for more than 3 months; and

(f) an asset mentioned in paragraph (c) to the extent it is a managed investment product unless any part of the amount invested is, in substance, directly or indirectly invested in the licensee.

first financial year means the financial year in which the commencement date occurs.

IDPS means an investor directed portfolio service, consisting of a number of functions including a custody, settlement and reporting system and service with the following features:

(a) the clients of the service have the sole discretion to decide what (but not necessarily when) assets will be acquired or disposed of, except where:

(i) there are any prior written directions to acquire or dispose of a particular asset in particular circumstances that the client has agreed not to vary (other than on the exercise of any discretion on the part of an operator); or

(ii) the client has authorised the operator or another person to give directions on their behalf, for the purpose of the other person receiving or securing payment of moneys owing by the client to the person; and

(b) subject to any prior contrary directions in order to ensure payment of moneys for which the client is liable, a client may direct the operator to:

(i) take reasonable steps to transfer assets to or to the order of the client;

(ii) realise assets held on account for the client and either:

(A) pay the proceeds to or to the order of the client; or

(B) if the operator and the client agree, hold the proceeds under the IDPS in an account with an Australian ADI designated as a trust account,

unless the assets cannot be transferred or realised under law or the terms of their issue; and

(c) except where otherwise mentioned in paragraph (a) or (b), any discretion of the holder of assets held through the service may be exercised only in accordance with the directions from time to time of the relevant client; and

(d) the service is provided in such a way that clients are led to expect, and are likely to receive, benefits in the form of:

(i) access to investments that the client could not otherwise access directly; or

(ii) cost reductions by using assets contributed by the client or derived directly or indirectly from assets contributed by the client with assets

© Australian Securities and Investments Commission November 2011

contributed by other clients or derived directly or indirectly from assets contributed by other clients.

IDPS property means property acquired or held through an IDPS other than property held by a client.

liquid assets means:

(a) cash or cash equivalents other than paragraph (d) of the definition of cash or cash equivalents; and

(b) assets that the licensee can reasonably expect to realise for their market value within 6 months,

that are free from encumbrances and, in the case of receivables, free from any right of set-off.

market participant means a participant as defined in section 761A in relation to a financial market:

(a) in the licensed financial market operated by ASX Limited ACN 008 624 691 that is required to comply with, and complies with the *ASIC Market Integrity Rules (ASX Market) 2010* that relate to financial requirements, taking into account any waiver by ASIC;

(b) in the licensed financial market operated by Chi-X Australia Pty Limited ACN 129 584 667 that is required to comply with, and complies with the *ASIC Market Integrity Rules (Chi-X Australia Market) 2011* that relate to financial requirements, taking into account any waiver by ASIC; or

(c) in the licensed financial market operated by Australian Securities Exchange Limited ACN 000 943 377 (***ASX 24 market***), that:

(i) restricts its financial services business to participating in the ASX 24 market and incidental business; and

(ii) complies with the *ASIC Market Integrity Rules (ASX 24 Market) 2010* that relate to financial requirements, taking into account any waiver by ASIC.

NTA means adjusted assets minus adjusted liabilities.

participant has the meaning given by section 761A.

regulated trust account means:

(a) a trust account maintained by a licensed trustee company within the meaning of Chapter 5D or the Public Trustee of a State or Territory; or

(b) a trust account maintained by a solicitor unless moneys in the account include moneys that are excluded from regulation as trust money under laws of the State or Territory relating to legal practitioners that are relevant to operation of the trust account by the solicitor; or

© Australian Securities and Investments Commission November 2011

(c) a trust account maintained by a real estate agent under the law of a State or Territory; or

(d) a trust account maintained by an entity other than the licensee and that provides protections similar to the accounts described in paragraphs (a) to (c), and is approved in writing by ASIC for this purpose.

RE revenue means:

(a) the licensee's revenue (within the meaning given by the accounting standards); and

(b) to the extent it is not the licensee's revenue (within the meaning of the accounting standards)—any amount paid or payable out of scheme property for the performance of the obligations imposed on the licensee as a responsible entity in connection with the registered schemes it operates, even if those obligations are performed by another entity (including asset management, investment management, property management, scheme administration and custodial and trustee services).

Note: An amount under paragraph (b) excludes any audit fees paid or payable to an auditor engaged to meet any audit requirements under the Act.

serviced strata scheme means a registered scheme that involves owners of strata title units, community title interests or similar real property interests at the one real property location, making their units or interests in real property available to a manager for use as part of a serviced apartment, hotel, motel or resort complex.

special custody assets means:

(a) for serviced strata schemes, cash held in a regulated trust account for the purposes of:

(i) refurbishment or improvement of real property associated with the scheme; or

(ii) alleviating seasonal fluctuations in payments of income from the scheme in accordance with provisions in the constitution,

provided that no more is held than the licensee reasonably considers necessary for the relevant purpose; and

(b) currency and chattels (other than documents) that it would not be reasonably practicable for a person other than the responsible entity to hold; and

(c) funds received from members of the scheme within the previous 6 months held in a regulated trust account; and

(d) cash held for up to 3 months in an account with an Australian ADI styled as a trust account that is audited at least once every 6 months by a registered company auditor where the auditor's report states that in the auditor's opinion the account has been operated in accordance with the trust:

(i) pending payment to members; or

© Australian Securities and Investments Commission November 2011

(ii) to meet expected expenses (not including investments) over a 3 month period; or

(iii) pending application in acquiring a mortgage and paying any fees and costs incidental to the acquisition; and

(e) contractual, lease or licence rights that are not assignable except with the consent of the member or that it would not be reasonably practicable to assign (other than to a new responsible entity) and any documents evidencing those contractual, lease or licence rights; and

(f) assets of trivial value; and

(g) land and other real property of a time-sharing scheme and levies of a time-sharing scheme which are held in an account with an Australian ADI styled as a trust account that is audited at least once every 6 months by a registered company auditor where the report from the auditor is provided to the responsible entity's board or compliance committee and states that in the auditor's opinion the account has been operated in accordance with the trust; and

(h) mortgages or documents of title held under a mortgage where:

(i) particular members have a specific beneficial or legal interest in the mortgage; and

(ii) the mortgage was acquired after disclosure in writing to the relevant members (at the time of the acquisition) of all information that would have been required to be in a Product Disclosure Statement (or in relation to mortgages acquired before Division 2 of Part 7.9 applied to interests in the registered scheme, a disclosure document under Chapter 6D) if an offer of interests in the registered scheme conferring rights in connection with that mortgage had been made immediately prior to the mortgage; and

(iii) either:

(A) the mortgage was acquired on the specific direction of the relevant members (at the time of acquisition of the interest); or

(B) members are able to withdraw from that mortgage for a period of 14 days commencing on the date of disclosure under subparagraph (ii); and

(iv) the scheme does not involve the mortgage being sold prior to its discharge.

stapled group means the group of entities consisting of:

(a) one or more stapled issuers who are issuers of securities that must be transferred together; and

(b) all wholly-owned entities controlled by the stapled issuers.

stapled issuer means an entity a security of which under the terms on which it is traded on a prescribed financial market or under the constitution of the entity or

under the terms of issue, must be transferred together with a security of one or more other entities.

Tier $500,000 class assets means:

(a) real property (including mortgages or leases over or licences in relation to real property) that is intended to be kept for the whole duration of the scheme or, the relevant mortgage; and

(b) physical assets which as a matter of reasonable practice can be held by a custodian (such as currency, valuables or precious metals); and

(c) funds held in a regulated trust account which were received from members within the following the periods:

(i) if held for the purposes of the initial investment by the responsible entity as part of the scheme—the previous 6 months; or

(ii) if held pending payment of expenses of the scheme—the previous 13 months; and

(d) special custody assets.

value of assets means the value of assets determined as follows:

(a) in the case of assets that would be recognised in preparing a balance sheet for members under Chapter 2M – the value as if at that time such a balance sheet was being prepared; and

(b) in the case of any other scheme property or IDPS property – its market value.

value of scheme property means the value of:

(a) assets (including mortgages held by members of a mortgage scheme and managed as part of the scheme);

(b) any scheme property not counted in calculating the value of assets; and

(c) any IDPS property not counted under paragraphs (a) or (b).

[*Historical note*: Para 11 amended 1/11/2012 [CO 12/1295] by:

(a) in the definition of ***adjusted liabilities***:

(i) in paragraph (d) (introductory words), after 'assets that are encumbered', inserting '(other than assets that are encumbered merely to support a guarantee provided by the licensee)';

(ii) replacing paragraph (e). Paragraph (e) formerly read:

'(e) plus the maximum potential liability of any guarantee provided by the licensee other than a:

(i) guarantee limited to an amount recoverable out of any scheme property of a registered scheme operated by the licensee as a responsible entity; or

(ii) guarantee of the obligations of another member of a stapled group.';

(b) in the definition of ***average RE revenue***:

(i) in paragraph (b) (introductory words), omitting 'of operation of' and substituting 'in which it is authorised to operate';

© Australian Securities and Investments Commission November 2011

(ii) in paragraph (c) (introductory words), omitting 'of operation of' and substituting 'in which it is authorised to operate';

(iii) in subparagraph (c)(ii), after 'second financial year' inserting 'in which it is authorised to operate a registered scheme as a responsible entity';

(c) in paragraph (g) of the definition of ***special custody assets***, omitting 'twice annually' and substituting 'once every 6 months';

(d) in the definition of ***stapled issuer***, after 'prescribed financial market', inserting 'or under the constitution of the entity or under the terms of issue';

(e) in paragraph (c) of the definition of ***value of scheme property***, after 'any IDPS property', inserting 'not counted under paragraphs (a) or (b)'.]

Dated 3 November 2011

Signed by Andrew Fawcett
as a delegate of the Australian Securities and Investments Commission

© Australian Securities and Investments Commission November 2011

Notes to ASIC Class Order [CO 11/1140]

Note 1

ASIC Class Order [CO 11/1140] (in force under s926A(2)(c) of the *Corporations Act 2001*) as shown in this compilation comprises that Class Order amended as indicated in the tables below.

Table of Instruments

Instrument number	Date of FRLI registration	Date of commencement	Application, saving or transitional provisions
[CO 11/1140]	11/11/2011 (*see* F2011L02348)	1/11/2012	
[CO 12/1295]	28/9/2012 (*see* F2012L01975)	1/11/2012	-

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Para 5	am. [CO 12/1295]
Para 7	am. [CO 12/1295]
Para 8	am. [CO 12/1295]
Para 11	am. [CO 12/1295]

© Australian Securities and Investments Commission November 2011

CURRENT TITLE SEARCH
DEPT OF NATURAL RESOURCES AND MINES, QUEENSLAND

Request No: 16022780
Search Date: 26/04/2013 10:57

Title Reference: 50322037
Date Created: 21/07/2000

Previous Title: 18534035

REGISTERED OWNER

Dealing No: 704173871 14/07/2000

BARONSAND PTY LTD A.C.N. 086 817 352

ESTATE AND LAND

Estate in Fee Simple

LOT 1 SURVEY PLAN 123106
County of WARD Parish of GILSTON
Local Government: GOLD COAST
COMMUNITY MANAGEMENT STATEMENT 28332

EASEMENTS, ENCUMBRANCES AND INTERESTS

1. Rights and interests reserved to the Crown by
Deed of Grant No. 10239056 (POR 30)

2. MORTGAGE No 703446620 12/07/1999 at 09:17
SUNCORP-METWAY LIMITED A.C.N. 010 831 722

3. LEASE No 713516744 14/10/2010 at 11:52
LOHAS TIMES AUSTRALIA PTY LTD A.C.N. 142 590 636
OF PART OF LEVEL B (LEASE AREA 1)
TERM: 23/08/2010 TO 22/08/2013 OPTION 3 YEARS

ADMINISTRATIVE ADVICES - NIL
UNREGISTERED DEALINGS - NIL

CERTIFICATE OF TITLE ISSUED - No

Caution - Charges do not necessarily appear in order of priority

** End of Current Title Search **

COPYRIGHT THE STATE OF QUEENSLAND (DEPT OF NATURAL RESOURCES AND MINES) [2013]
Requested By: D APPLICATIONS ANSTAT

CURRENT TITLE SEARCH
DEPT OF NATURAL RESOURCES AND MINES, QUEENSLAND

Request No: 16022766
Search Date: 26/04/2013 10:57

Title Reference: 50322038
Date Created: 21/07/2000

Previous Title: 18534035

REGISTERED OWNER

Dealing No: 704173871 14/07/2000

BARONSAND PTY LTD A.C.N. 086 817 352

ESTATE AND LAND

Estate in Fee Simple

LOT 2 SURVEY PLAN 123106
County of WARD Parish of GILSTON
Local Government: GOLD COAST
COMMUNITY MANAGEMENT STATEMENT 28332

EASEMENTS, ENCUMBRANCES AND INTERESTS

1. Rights and interests reserved to the Crown by
Deed of Grant No. 10239056 (POR 30)

2. MORTGAGE No 703446620 12/07/1999 at 09:17
SUNCORP-METWAY LIMITED A.C.N. 010 831 722

ADMINISTRATIVE ADVICES - NIL
UNREGISTERED DEALINGS - NIL

CERTIFICATE OF TITLE ISSUED - No

Caution - Charges do not necessarily appear in order of priority

** End of Current Title Search **

COPYRIGHT THE STATE OF QUEENSLAND (DEPT OF NATURAL RESOURCES AND MINES) [2013]
Requested By: D APPLICATIONS ANSTAT

CURRENT TITLE SEARCH
DEPT OF NATURAL RESOURCES AND MINES, QUEENSLAND

Request No: 16022769
Search Date: 26/04/2013 10:57

Title Reference: 50322039
Date Created: 21/07/2000

Previous Title: 18534035

REGISTERED OWNER

Dealing No: 704173871 14/07/2000

BARONSAND PTY LTD A.C.N. 086 817 352

ESTATE AND LAND

Estate in Fee Simple

LOT 3 SURVEY PLAN 123106
County of WARD Parish of GILSTON
Local Government: GOLD COAST
COMMUNITY MANAGEMENT STATEMENT 28332

EASEMENTS, ENCUMBRANCES AND INTERESTS

1. Rights and interests reserved to the Crown by Deed of Grant No. 10239056 (POR 30)

2. MORTGAGE No 703446620 12/07/1999 at 09:17
SUNCORP-METWAY LIMITED A.C.N. 010 831 722

ADMINISTRATIVE ADVICES - NIL
UNREGISTERED DEALINGS - NIL

CERTIFICATE OF TITLE ISSUED - No

Caution - Charges do not necessarily appear in order of priority

** End of Current Title Search **

COPYRIGHT THE STATE OF QUEENSLAND (DEPT OF NATURAL RESOURCES AND MINES) [2013]
Requested By: D APPLICATIONS ANSTAT

CURRENT TITLE SEARCH
DEPT OF NATURAL RESOURCES AND MINES, QUEENSLAND

Request No: 16022776
Search Date: 26/04/2013 10:57

Title Reference: 50322040
Date Created: 21/07/2000

Previous Title: 18534035

REGISTERED OWNER

Dealing No: 704173871 14/07/2000

BARONSAND PTY LTD A.C.N. 086 817 352

ESTATE AND LAND

Estate in Fee Simple

LOT 4 SURVEY PLAN 123106
County of WARD Parish of GILSTON
Local Government: GOLD COAST
COMMUNITY MANAGEMENT STATEMENT 28332

EASEMENTS, ENCUMBRANCES AND INTERESTS

1. Rights and interests reserved to the Crown by Deed of Grant No. 10239056 (POR 30)

2. MORTGAGE No 703446620 12/07/1999 at 09:17
SUNCORP-METWAY LIMITED A.C.N. 010 831 722

ADMINISTRATIVE ADVICES - NIL
UNREGISTERED DEALINGS - NIL

CERTIFICATE OF TITLE ISSUED - No

Caution - Charges do not necessarily appear in order of priority

** End of Current Title Search **

COPYRIGHT THE STATE OF QUEENSLAND (DEPT OF NATURAL RESOURCES AND MINES) [2013]
Requested By: D APPLICATIONS ANSTAT

CURRENT TITLE SEARCH
DEPT OF NATURAL RESOURCES AND MINES, QUEENSLAND

Request No: 16022779
Search Date: 26/04/2013 10:57

Title Reference: 50322041
Date Created: 21/07/2000

Previous Title: 18534035

REGISTERED OWNER

Dealing No: 704173871 14/07/2000

BARONSAND PTY LTD A.C.N. 086 817 352

ESTATE AND LAND

Estate in Fee Simple

LOT 5 SURVEY PLAN 123106
County of WARD Parish of GILSTON
Local Government: GOLD COAST
COMMUNITY MANAGEMENT STATEMENT 28332

EASEMENTS, ENCUMBRANCES AND INTERESTS

1. Rights and interests reserved to the Crown by
Deed of Grant No. 10239056 (POR 30)

2. MORTGAGE No 703446620 12/07/1999 at 09:17
SUNCORP-METWAY LIMITED A.C.N. 010 831 722

ADMINISTRATIVE ADVICES - NIL
UNREGISTERED DEALINGS - NIL

CERTIFICATE OF TITLE ISSUED - No

Caution - Charges do not necessarily appear in order of priority

** End of Current Title Search **

COPYRIGHT THE STATE OF QUEENSLAND (DEPT OF NATURAL RESOURCES AND MINES) [2013]
Requested By: D APPLICATIONS ANSTAT

CURRENT TITLE SEARCH
DEPT OF NATURAL RESOURCES AND MINES, QUEENSLAND

Request No: 16022773
Search Date: 26/04/2013 10:57 Title Reference: 50322042
Date Created: 21/07/2000

Previous Title: 18534035

REGISTERED OWNER

Dealing No: 704173871 14/07/2000

BARONSAND PTY LTD A.C.N. 086 817 352

ESTATE AND LAND

Estate in Fee Simple

LOT 6 SURVEY PLAN 123106
County of WARD Parish of GILSTON
Local Government: GOLD COAST
COMMUNITY MANAGEMENT STATEMENT 28332

EASEMENTS, ENCUMBRANCES AND INTERESTS

1. Rights and interests reserved to the Crown by
Deed of Grant No. 10239056 (POR 30)

2. MORTGAGE No 703446620 12/07/1999 at 09:17
SUNCORP-METWAY LIMITED A.C.N. 010 831 722

3. LEASE No 711015965 20/09/2007 at 13:09
AUSTRALIA GO PTY LTD A.C.N. 092 388 899
OF THE WHOLE OF THE LAND
TERM: 01/12/2006 TO 30/11/2009 OPTION 3 YEARS

ADMINISTRATIVE ADVICES - NIL
UNREGISTERED DEALINGS - NIL

CERTIFICATE OF TITLE ISSUED - No

Caution - Charges do not necessarily appear in order of priority

** End of Current Title Search **

COPYRIGHT THE STATE OF QUEENSLAND (DEPT OF NATURAL RESOURCES AND MINES) [2013]
Requested By: D APPLICATIONS ANSTAT

SAI GLOBAL PROPERTY

Order number: 13347160
Your Reference: AKB: 380287-0001
26/04/13 11:05

BARONSAND PTY LTD 086 817 352

ASIC - Current & Historical Extract - BARONSAND PTY LTD ACN: 086 817 352

This extract contains information derived from the Australian Securities and Investment Commission's (ASIC) database under section 1274A of the Corporations Act 2001.
Please advise ASIC of any error or omission which you may identify

IDENTIFICATION

ACN: 086 817 352
ABN:
Current Company Name: BARONSAND PTY LTD
Registered in: Queensland
Place of Registration:
Registration Date: 22/03/1999
Previous State Number:
Governance Type:
Review Date: 22/03/2014

CURRENT COMPANY DETAILS

Name: BARONSAND PTY LTD — Doc# 014 237 653
Period from: 22/03/1999
Name Start: 22/03/1999
Status: REGISTERED
Type: AUSTRALIAN PROPRIETARY COMPANY
Class: LIMITED BY SHARES
Subclass: PROPRIETARY COMPANY
Disclosing Entity: N

CURRENT COMPANY ADDRESS

Address Type: Registered Office — Doc# 08681735J ((AR 1999))
Address: PANNELL KERR FORSTER
LEVEL 5 RSL CENTRE
9 BEACH ROAD
SURFERS PARADISE QLD 4217
Period from: 05/05/1999

Address Type: Principal Place of Business — Doc# 014 882 123
Address: LEVEL 5 R S LEVEL CENTRE
9 BEACH ROAD
SURFERS PARADISE QLD 4217
Period from: 28/04/1999

FORMER COMPANY ADDRESS

Address Type: Registered Office — Doc# 014 237 653
Address: UNIT 2
33 CROMBIE AVENUE
BUNDALL QLD 4217
Period from: 22/03/1999 to 04/05/1999

Address Type: Principal Place of Business — Doc# 014 237 653
Address: UNIT 2
33 CROMBIE AVENUE
BUNDALL QLD 4217
Period from: 22/03/1999 to 27/04/1999

CURRENT COMPANY OFFICERS

Role: Director — Doc# 014 874 724
Name: MCMURTRIE, SCOTT JAMES
Address: 115 SKYLINE TERRACE
BURLEIGH HEADS QLD 4220

Date of Birth: 09/09/1954
Place of Birth: PROSERPINE QLD
Appointment Date: 29/03/1999
Cease Date:

Role: Director
Name: DRAKE, PETER CHARLES
Address: 13 ALBATROSS AVENUE
NOBBY BEACH QLD 4218
Date of Birth: 23/08/1955
Place of Birth: WHANGARA NEW ZEALAND
Appointment Date: 29/03/1999
Cease Date:
Doc# 7E1009017

Role: Secretary
Name: MCMURTRIE, SCOTT JAMES
Address: 115 SKYLINE TERRACE
BURLEIGH HEADS QLD 4220
Date of Birth: 09/09/1954
Place of Birth: PROSERPINE QLD
Appointment Date: 29/03/1999
Cease Date:
Doc# 014 874 724

FORMER COMPANY OFFICERS

Role: Director
Name: BUTLER, WARWICK VICTOR
Address: 28 ROSEMONT AVENUE
BROADBEACH WATERS QLD 4218
Date of Birth: 25/05/1951
Place of Birth: SYDNEY NSW
Appointment Date: 29/03/1999
Cease Date: 10/10/2006
Doc# 014 874 724

Role: Director
Name: SHEEHY, MICHAEL JOHN
Address: UNIT 1
5-7 CAMPBELL STREET
SORRENTO QLD 4217
Date of Birth: 30/06/1951
Place of Birth: SURFERS PARADISE QLD
Appointment Date: 29/03/1999
Cease Date: 10/10/2006
Doc# 1E0137999

Role: Director
Name: DWYER, MICHAEL PATRICK
Address: 1A YACHT STREET
SOUTHPORT QLD 4215
Date of Birth: 01/05/1955
Place of Birth: WARWICK QLD
Appointment Date: 29/03/1999
Cease Date: 27/03/2002
Doc# 014 874 724

Role: Director
Name: GILLTRAP, GEORGE STEPHENSON
Address: 16 DOUBLEVIEW DRIVE
ELANORA QLD 4221
Date of Birth: 20/02/1949
Place of Birth: ROTORUA NEW ZEALAND
Appointment Date: 22/03/1999
Cease Date: 29/03/1999
Doc# 014 237 653

Role: Secretary
Doc# 014 237 653

Name: GILLTRAP, GEORGE STEPHENSON
Address: 16 DOUBLEVIEW DRIVE
ELANORA QLD 4221
Date of Birth: 20/02/1949
Place of Birth: ROTORUA NEW ZEALAND
Appointment Date: 22/03/1999
Cease Date: 29/03/1999

CURRENT SHARE CAPITAL

Class: ORD ORDINARY
Number of Issued "Shares": 12
Amount Paid: $12.00
Amount Due: $0.00
Doc# 0E9946781

Note: For each class of shares issued by a proprietary company, ASIC records the details of the twenty members of the class (based on shareholdings). The details of any other members holding the same number of shares as the twentieth ranked member will also be recorded by ASIC on the database. Where available, historical records show that a member has ceased to be ranked amongst the twenty members! This may, but does not necessarily mean, that they have ceased to be a member of the company.

CURRENT(SHAREHOLDERS/MEMBER)

Class: ORD
Number of Shares Held: 4
Beneficially Owned: N
Fully Paid: Y
Name: BANDSIDE PTY LTD
ACN: 086 913 135
Address: 115 SKYLINE TERRACE
BURLEIGH HEADS QLD 4220
Joint Holding: N
Doc# 1F0120018

Class: ORD
Number of Shares Held: 8
Beneficially Owned: N
Fully Paid: Y
Name: DRAKE, PETER CHARLES
Address: 13 ALBATROSS AVENUE
NOBBY BEACH QLD 4218
Joint Holding: N
Doc# 7E1005955

FORMER(SHAREHOLDERS/MEMBER)

Class: ORD
Number of Shares Held: 2
Beneficially Owned: N
Fully Paid: Y
Name: CAFFE EVITA PTY LTD
ACN: 077 844 225
Address: PANNELL KERR FORSTER
LEVEL 5
9 BEACH ROAD
SURFERS PARADISE QLD 4217
Joint Holding: N
Doc# 08681735J ((AR 1999))

Class: ORD
Number of Shares Held: 2
Beneficially Owned: N
Fully Paid: Y
Name: M.J. SECURITIES PTY. LTD.
ACN: 070 668 174
Address: PANNELL KERR FORSTER
'RSL BUILDING' LEVEL 5
9 BEACH ROAD
SURFERS PARADISE QLD 4217
Joint Holding: N
Doc# 08681735J ((AR 1999))

Doc# 0E9946781

Class: ORD
Number of Shares Held: 3
Beneficially Owned: N
Fully Paid: Y
Name: DWYER, MICHAEL PATRICK
Address: 37 NASSIM ROAD #09/03 NASSIM REGENCY SINGAPORE
Joint Holding: N

DOCUMENTS RELATING TO EXTERNAL ADMINISTRATION AND/OR APPOINTMENT OF CONTROLLER

Note: This extract may not list all documents relating to this status. State and Territory records should be searched

No record

SATISFIED CHARGES

Note: On January 30, 2012 the Personal Property Securities Register (PPS Register) has commenced. The details of current charges will only be available from the PPS Register and the details of satisfied charges (as at 30th January 2012) can be obtained from ASIC. Further information can be obtained from www.ppsr.gov.au.

No record

ASIC DOCUMENTS (except charges)

Notes:

- A date or address shown as UNKNOWN has not been updated since the ASIC to over the records in 1991.
- Data from Documents with no Date Processed are not included in the Extract.
- Documents with "*" pages have not yet been imaged and are not available via DOCIMAGE. Imaging takes approximately 2 weeks from date of lodgement.
- Documents already listed under charges are not repeated here.

Form Type	Date Received	Date Processed	Effective Date	Pages	Doc No
492	16/02/2007	16/02/2007	16/02/2007	2	7E1009017
	Request For Correction Alters 0E6 784 250				
484	14/02/2007	14/02/2007	14/02/2007	2	7E1005955
	Change to Company Details				
	Change Officeholder Name or Address				
	Change Member Name or Address				
484	14/02/2007	14/02/2007	14/02/2007	2	7E1005945
	Change to Company Details Change Officeholder Name Or Address				
484	06/11/2006	06/11/2006	06/11/2006	8	1F0120018
	Change to Company Details				
	Appointment or Cessation of a Company Officeholder				
	Changes to (Members) Share Holdings				
484	29/07/2004	29/07/2004	28/07/2004	2	1E0137999
	Change to Company Details Change Officeholder Name Or Address				
484	10/06/2004	10/06/2004	10/06/2004	2	0E9946781
	Change to Company Details				
	Changes to Share Structure				
	Change Member Name or Address				
316	07/02/2003	08/02/2003	31/01/2003	3	0E8602721 ((AR 2002))
	Annual Return Annual Return - Proprietary Company				
304	06/02/2003	07/02/2003	27/03/2002	1	0E8586350
	Notification of Change to Officeholders of Australian Company				
316	14/01/2002	04/02/2002	14/01/2002	3	0E6784250 ((AR 2001))
	Annual Return Annual Return - Proprietary Company Altered by 7E1 009 017				
316	22/01/2001	01/03/2001	11/01/2001	4	08681735K ((AR 2000))
	Annual Return Annual Return - Proprietary Company				
316	25/01/2000	15/03/2000	21/01/2000	3	08681735J ((AR 1999))
	Annual Return Annual Return - Proprietary Company				
309	06/07/1999	06/07/1999	28/06/1999	27	014 549 465
	Notification of Details of a Charge				
304	10/05/1999	10/05/1999	29/03/1999	2	014 874 724
	Notification of Change to Officeholders of Australian Company				
207	29/04/1999	29/04/1999	29/03/1999	1	014 235 945
	Notification of Share Issue				

203	28/04/1999	29/04/1999	28/04/1999	1	014 882 123
Notification Of Change of Address					
Change of Address - Principal Place of Business					
284	08/04/1999	08/04/1999	29/03/1999	1	014 237 850
Notification of Share Cancellation Redeemable Preference Shares					
370	08/04/1999	08/04/1999	08/04/1999	2	014 237 851
Notice of Retirement or Resignation By Director or Secretary					
201	22/03/1999	22/03/1999	22/03/1999	3	014 237 653
Application For Registration as a Proprietary Company					

PRE-ASIC DOCUMENTS

No record

ANNUAL RETURNS

Year	Outstanding	Return Due Date	Extended Return Due Date	AGM Due Date	Extended AGM Due Date	AGM Held Date
1999	N	31/01/2000				
2000	N	31/01/2001				
2001	N	31/01/2002				
2002	N	31/01/2003				

FINANCIAL REPORTS

No record

CURRENT CONTACT ADDRESS FOR ASIC USE ONLY

Note: Section 146A of the Corporations Act 2001 states 'A contact address is the address to which communications and notices are sent from ASIC to the company.'

Address Type: Contact address for ASIC use only

Address: PO BOX 588
SURFERS PARADISE QLD 4217

Period from: 22/10/2003

FORMER CONTACT ADDRESS FOR ASIC USE ONLY

Note: Section 146A of the Corporations Act 2001 states 'A contact address is the address to which communications and notices are sent from ASIC to the company.'

Address Type: Contact address for ASIC use only

Address: PRIVATE BAG 9
CASTLE HILL NSW 1765

Period from: 28/06/2003 to 22/10/2003

PAGES 185 TO 200
ARE LEFT INTENTIONALLY BLANK.

SUPREME COURT OF QUEENSLAND

REGISTRY: Brisbane
NUMBER: 3383 /2013

Applicants: **RAYMOND EDWARD BRUCE AND VICKI PATRICIA BRUCE**

AND

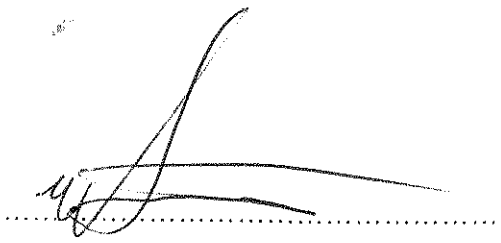
First Respondent: **LM INVESTMENT MANAGEMENT LIMITED (ADMINISTRATORS APPOINTED), ACN 077 208 461, IN ITS CAPACITY AS RESPONSIBLE ENTITY OF THE LM FIRST MORTGAGE INCOME FUND**

AND

Second Respondent: **THE MEMBERS OF THE LM FIRST MORTGAGE INCOME FUND ARSN 089 343 288**

EXHIBIT "PW1"

Bound and marked "PW1" (pages 201 – 404) is the Exhibit to the Affidavit of **PAUL WOOD** sworn on 6 May 2013.



Solicitor

Deponent

CERTIFICATE OF EXHIBIT

Filed on Behalf of the Applicants

Piper Alderman
Level 23, Governor Macquarie Tower, 1 Farrer Place, SYDNEY 2000
Ref: AB:WN.384396
Phone No: +61 2 9253 9999
Fax No: +61 2 9253 9900

Index to Exhibit "PW1"

No.	Document	Page
1.	ASIC historical company extract of LM Wholesale First Mortgage Income Fund (the **Wholesale Fund**)	1-6
2.	Wholesale Fund Annual Financial Report for the year ended 30 June 2011	7-45
3.	Trilogy Funds Management Limited (**Trilogy**) Australian Financial Services Licence (**AFSL**) dated 18 March 2009	46-69
4.	Engagement letter from Oakvale Captial Limited (**Oakvale**) to Trilogy date 26 March 2013	70-73
5.	Oakvale AFSL dated 13 June 2003	73A-73B
6.	Trilogy Annual Financial Report for the year ended 30 June 2012	74-108
7.	Notice of Meeting and Explanatory Memorandum issued by Trilogy	109-132
8.	Email from Philip Ryan of Trilogy to the Auditors of LM Investments Management Limited (**LMIM**) dated 15 January 2013	133-135
9.	Email from Philip Ryan to LMIM Compliance Committee dated 18 January 2013	136-141
10.	Email from Francene Mulder to Philip Ryan dated 13 February 2013	142-143
11.	LMIM AFSL dated 15 July 2002	144-155
12.	ASIC Class Order 11/1140	156-173
13.	Title search of 38 Cavill Avenue, Surfers Paradise dated 26 April 2013	174-179
14.	ASIC historical company extract of Baronsand Pty Ltd	180-184
15.	*Pages left Intentionally blank*	185-200
16.	ASIC historical company extract of LM Administration Pty Ltd (**LMA**)	201-209
17.	Order of the Chief Justice de Jersey dated 12 April 2013	210-211
18.	Constitution dated 24 August 1999	212-245
19.	Deed of Modification of Constitution dated 19 July 2002	246-248

20.	Replacement Constitution dated 6 June 2005	249-285
21.	Deed of modification of constitution dated 21 April 2006	286-289
22.	Replacement Constitution dated 31 May 2007	290-329
23.	ASIC Regulatory Guide 45	330-386
24.	Extract from Product Disclosure Statement dated 10 April 2008	387
25.	Extract from Product Disclosure Statement dated 10 April 2008	388
26.	Extract from ASIC Benchmark Disclosure dated 9 April 2010	389
27.	Extract from ASIC Benchmark Disclosure dated 2 September 2010	390
28.	Extract from ASIC Benchmark Disclosure and Update for Investors dated 24 August 2011	391
29.	Extract from ASIC Benchmark Disclosure dated 31 December 2012	392
30.	Extract from Annual Financial Report of the LM First Mortgage Income Fund (**LMFMIF**) for the year ended 30 June 2008	393
31.	Extract from Annual Financial Report of the LMFMIF for the year ended 30 June 2003	394
32.	Extract from Annual Financial Report of the LMFMIF for the year ended 30 June 2004	395
33.	Extract from Annual Financial Report of the LMFMIF for the year ended 30 June 2005	396
34.	Extract from Annual Financial Report of the LMFMIF for the year ended 30 June 2006	397
35.	Extract from Annual Financial Report of the LMFMIF for the year ended 30 June 2007	398
36.	Extract from Annual Financial Report of the LMFMIF for the year ended 30 June 2008	399
37.	Extract from Annual Financial Report of the LMFMIF for the year ended 30 June 2009	400
38.	Extract from Annual Financial Report of the LMFMIF for the year ended 30 June 2010	401
39.	Extract from Annual Financial Report of the LMFMIF for the year ended 30 June 2011	402
40.	Extract from Annual Financial Report of the LMFMIF for the year	403

	ended 30 June 2012	
41.	Extract from Annual Financial Report of the LMFMIF for the year ended 30 June 2009	404

SAI GLOBAL PROPERTY

Order number: 13180127
Your Reference: LG 380287-0001
18/04/13 10:05

LM ADMINISTRATION PTY LTD 055 691 426

ASIC - Current & Historical Extract - LM ADMINISTRATION PTY LTD ACN: 055 691 426

This extract contains information derived from the Australian Securities and Investment Commission's (ASIC) database under section 1274A of the Corporations Act 2001.
Please advise ASIC of any error or omission which you may identify.

IDENTIFICATION

ACN: 055 691 426
ABN:
Current Company Name: LM ADMINISTRATION PTY LTD
Registered in: Queensland
Place of Registration:
Registration Date: 03/04/1992
Previous State Number:
Governance Type:
Review Date: 03/04/2014

CURRENT COMPANY DETAILS

Name: LM ADMINISTRATION PTY LTD — Doc# 7E5097311
Period from: 19/03/2013
Name Start: 01/11/1999
Status: EXTERNALLY ADMINISTERED

Note: For information about this status refer to the documents listed under the heading "External Administration and/or appointment of Controller", below.

Type: AUSTRALIAN PROPRIETARY COMPANY
Class: LIMITED BY SHARES
Subclass: PROPRIETARY COMPANY
Disclosing Entity: N

FORMER COMPANY DETAILS

Name: LM ADMINISTRATION PTY LTD — Doc# 014 228 127
Period from: 01/11/1999 to 18/03/2013
Name Start: 01/11/1999
Status: REGISTERED
Type: AUSTRALIAN PROPRIETARY COMPANY
Class: LIMITED BY SHARES
Subclass: PROPRIETARY COMPANY
Disclosing Entity: N

Name: LAW MORTGAGE MANAGEMENT PTY LTD — Doc# 009 157 495
Period from: 23/06/1995 to 31/10/1999
Name Start: 23/06/1995
Status: REGISTERED
Type: AUSTRALIAN PROPRIETARY COMPANY
Class: LIMITED BY SHARES
Subclass: PROPRIETARY COMPANY
Disclosing Entity: N

Name: C.M.M. AUSTRALIA PTY. LTD. — Doc# 002 403 443
Period from: 03/04/1992 to 22/06/1995
Name Start: 03/04/1992
Status: REGISTERED
Type: AUSTRALIAN PROPRIETARY COMPANY
Class: LIMITED BY SHARES
Subclass: EXEMPT PROPRIETARY COMPANY
Disclosing Entity: N

CURRENT COMPANY ADDRESS

Address Type: Registered Office
Address: FTI CONSULTING
'CORPORATE CENTRE ONE' LEVEL 9
2 CORPORATE COURT
BUNDALL QLD 4217
Period from: 29/03/2013
Doc# 7E5105027

Address Type: Principal Place of Business
Address: LEVEL 4 RSL CENTRE
9 BEACH ROAD
SURFERS PARADISE QLD 4217
Period from: 31/01/1997
Doc# 010 248 517 ((AR 1996))

FORMER COMPANY ADDRESS

Address Type: Registered Office
Address: LEVEL 4 RSL CENTRE
9 BEACH ROAD
SURFERS PARADISE QLD 4217
Period from: 07/02/1997 to 28/03/2013
Doc# 010 248 517 ((AR 1996))

Address Type: Registered Office
Address: 3 ALISON STREET
SURFERS PARADISE QLD 4217
Period from: 07/02/1996 to 06/02/1997
Doc# 05569142F ((AR 1995))

Address Type: Registered Office
Address: BUTLER MCMURTRIE
LEVEL 5 RSL BUILDING
9 BEACH ROAD
SURFERS PARADISE QLD 4217
Period from: 14/06/1994 to 06/02/1996
Doc# 007 626 662

Address Type: Registered Office
Address: C/- BUTLER MCMURTIE
1ST LEVEL
94 BUNDALL ROAD
BUNDALL QLD 4217
Period from: 26/05/1994 to 13/06/1994
Doc# 007 626 539 ((AR 1993))

Address Type: Registered Office
Address: C/- KPMG PEAT MARWICK
12TH LEVEL TOWER ONE
2 CORPORATE COURT
BUNDALL QLD 4217
Period from: 17/04/1992 to 25/05/1994
Doc# 002 405 213

Address Type: Registered Office
Address: 43 REED STREET
ASHMORE QLD 4214
Period from: 03/04/1992 to 16/04/1992
Doc# 002 403 443

Address Type: Principal Place of Business
Address: SUITE 18 PARKRISE
3 ALISON STREET
SURFERS PARADISE QLD 4217
Period from: 30/06/1993 to 30/01/1997
Doc# 007 626 539 ((AR 1993))

Address Type: Principal Place of Business
Address: 43 REED STREET
ASHMORE QLD 4214
Period from: 03/04/1992 to 29/06/1993
Doc# 002 405 443

CURRENT COMPANY OFFICERS

Role: Director
Name: DRAKE, PETER CHARLES
Address: 13 ALBATROSS AVENUE
NOBBY BEACH QLD 4218
Doc# 1E2918595

Date of Birth: 23/08/1955
Place of Birth: WHANGARA NEW ZEALAND
Appointment Date: 03/04/1992
Cease Date:

Role: Secretary
Name: DRAKE, PETER CHARLES
Address: 13 ALBATROSS AVENUE
NOBBY BEACH QLD 4218
Date of Birth: 23/08/1955
Place of Birth: WHANGARA NEW ZEALAND
Appointment Date: 03/04/1992
Cease Date:
Doc# 1E2918595

Role: Administrator of a Company Under Administration
Name: PARK, JOHN RICHARD
Address: FTI CONSULTING
'CORPORATE CENTRE ONE' LEVEL 9
2 CORPORATE COURT
BUNDALL QLD 4217
Date of Birth:
Place of Birth:
Appointment Date: 19/03/2013
Cease Date:
Doc# 7E5097311

Role: Administrator of a Company Under Administration
Name: MULLER, GINETTE DAWN
Address: FTI CONSULTING
'CORPORATE CENTRE ONE' LEVEL 9
2 CORPORATE COURT
BUNDALL QLD 4217
Date of Birth:
Place of Birth:
Appointment Date: 19/03/2013
Cease Date:
Doc# 7E5097311

FORMER COMPANY OFFICERS

Role: Director
Name: DWYER, MICHAEL PATRICK
Address: 1A YACHT STREET
SOUTHPORT QLD 4215
Date of Birth: 01/05/1955
Place of Birth: WARWICK QLD
Appointment Date: 28/06/1995
Cease Date: 20/02/2002
Doc# 05569142F ((AR 1995))

Role: Director
Name: ZAMMIT, BIRGIT
Address: LEVEL 5 PARKRISE
3 ALISON STREET
SURFERS PARADISE QLD 4217
Date of Birth: 11/11/1958
Place of Birth: ADELAIDE SA
Appointment Date: 31/03/1993
Cease Date: 28/06/1995
Doc# 005 256 309

Role: Director
Name: JONES, CHRISTOPHER THOMAS
Address: UNIT 3
16 LATHER STREET
SOUTHPORT QLD 4215
Date of Birth: 20/11/1962
Place of Birth: LISMORE NSW
Doc# 002 405 214

Appointment Date: 03/04/1992
Cease Date: 31/03/1993

Role: Director
Name: DWYER, MICHAEL PATRICK
Address: 1A YACHT STREET
SOUTHPORT QLD 4215
Date of Birth: 01/05/1955
Place of Birth: WARWICK QLD
Appointment Date: 03/04/1992
Cease Date: 31/03/1993

Doc# 002 405 214

Role: Director
Name: CANNELL, BARRY REUBEN
Address: 43 REED STREET
ASHMORE QLD 4214
Date of Birth: 06/01/1940
Place of Birth: ESSEX UNITED KINGDOM
Appointment Date: 03/04/1992
Cease Date: 03/04/1992

Doc# 002 405 075

Role: Director
Name: CANNELL, CHRISTINE MARY
Address: 43 REED STREET
ASHMORE QLD 4214
Date of Birth: 27/11/1941
Place of Birth: MELTON UNITED KINGDOM
Appointment Date: 03/04/1992
Cease Date: 03/04/1992

Doc# 002 405 075

Role: Secretary
Name: CANNELL, CHRISTINE MARY
Address: 43 REED STREET
ASHMORE QLD 4214
Date of Birth: 27/11/1941
Place of Birth: MELTON UNITED KINGDOM
Appointment Date: 03/04/1992
Cease Date: 03/04/1992

Doc# 002 405 075

CURRENT SHARE CAPITAL

Class: ORD ORDINARY
Number of Issued "Shares": 3
Amount Paid: $3.00
Amount Due: $0.00

Doc# 007 626 539 ((AR 1993))

Note: For each class of shares issued by a proprietary company, ASIC records the details of the twenty members of the class (based on shareholdings). The details of any other members holding the same number of shares as the twentieth ranked member will also be recorded by ASIC on the database. Where available, historical records show that a member has ceased to be ranked amongst the twenty members. This may, but does not necessarily mean, that they have ceased to be a member of the company.

CURRENT(SHAREHOLDERS/MEMBER)

Class: ORD
Number of Shares Held: 1
Beneficially Owned: Y
Fully Paid: Y
Name: DRAKE, PETER CHARLES
Address: 13 ALBATROSS AVENUE
NOBBY BEACH QLD 4218
Joint Holding: N

Doc# 1E2918595

Class: ORD
Number of Shares Held: 2
Beneficially Owned: Y

Doc# 1E2918595

Fully Paid: Y
Name: DRAKE, PETER CHARLES
Address: 13 ALBATROSS AVENUE
NOBBY BEACH QLD 4218
Joint Holding: N

FORMER(SHAREHOLDERS/MEMBER)

Class: ORD
Number of Shares Held: 1
Beneficially Owned: Y
Fully Paid: Y
Name: DWYER, MICHAEL PATRICK
Address: 1A YACHT STREET
SOUTHPORT QLD 4215
Joint Holding: N

Doc# 05569142F ((AR 1995))

Class: ORD
Number of Shares Held: 1
Beneficially Owned: N
Fully Paid: Y
Name: ZAMMIT, BIRGIT
Address: LEVEL 5 PARKRISE
3 ALISON STREET
SURFERS PARADISE QLD 4217
Joint Holding: N

Doc# 007 626 539 ((AR 1993))

DOCUMENTS RELATING TO EXTERNAL ADMINISTRATION AND/OR APPOINTMENT OF CONTROLLER

Note: This extract may not list all documents relating to this status. State and Territory records should be searched.

Document Type: 5011B COPY OF MINUTES OF MEETING OF MEMBERS, CREDITORS, CONTRIBUTORIES OR COMMITTEE OF INSPECTION UNDER S.436E OR S.439A
Date Received: 15/04/2013

Doc# 7E5152996

Document Type: 505U NOTIFICATION OF APPT OF ADMINISTRATOR UNDER S.436A, 436B, 436C, 436E(4), 449B, 449C(1), 449C(4) OR 449(6)
Date Received: 19/03/2013

Doc# 7E5097311

SATISFIED CHARGES

Note: On January 30, 2012 the Personal Property Securities Register (PPS Register) has commenced. The details of current charges will only be available from the PPS Register and the details of satisfied charges (as at 30th January 2012) can be obtained from ASIC. Further information can be obtained from www.ppsr.gov.au.

ASIC Charge Number:
Status: Satisfied
Date/Time Registered: 04/12/1996 01/01/1970
Type: Both Fixed & Floating
Date Created: 02/08/1996
Chargee Name: CAPITAL OPPORTUNITIES PTY LTD
Document Type: 312 NOTIFICATION OF 312A DISCHARGE
Date Received: 24/06/1999

Doc# 015 314 905

ASIC Charge Number:
Status: Satisfied
Date/Time Registered: 20/08/1997 01/01/1970
Type: Both Fixed & Floating
Date Created: 06/08/1997
Chargee Name: AUSTRALIA AND NEW ZEALAND BANKING GROUP LIMITED
Document Type: 312 NOTIFICATION OF 312A DISCHARGE
Date Received: 05/01/2010

Doc# 026 196 161

ASIC Charge Number:
Status: Satisfied
Date/Time Registered: 23/04/1999 01/01/1970
Type: Fixed

Date Created: 15/03/1999
Chargee Name: AUSTRALIA AND NEW ZEALAND BANKING GROUP LIMITED
Document Type: 312 NOTIFICATION OF 312A DISCHARGE
Date Received: 17/06/2002
Doc# 017 788 582

ASIC Charge Number:
Status: Satisfied
Date/Time Registered: 24/06/1999 01/01/1970
Type: Fixed
Date Created: 18/06/1999
Chargee Name: DAIMLERCHRYSLER CAPITAL SERVICES (DEBIS) AUSTRALIA PTY LTD
Document Type: 312 NOTIFICATION OF 312A DISCHARGE
Date Received: 13/05/2010
Doc# 026 419 951

ASIC Charge Number:
Status: Satisfied
Date/Time Registered: 08/07/1999 01/01/1970
Type: Both Fixed & Floating
Date Created: 30/06/1999
Chargee Name: COMMONWEALTH BANK OF AUSTRALIA
Document Type: 312 NOTIFICATION OF 312A DISCHARGE
Date Received: 28/08/2006
Doc# 023 096 861

ASIC Charge Number:
Status: Satisfied
Date/Time Registered: 01/07/2002 01/01/1970
Type: Both Fixed & Floating
Date Created: 12/06/2002
Chargee Name: COMMONWEALTH BANK OF AUSTRALIA
Document Type: 312 NOTIFICATION OF 312A DISCHARGE
Date Received: 28/08/2006
Doc# 023 096 863

ASIC Charge Number:
Status: Satisfied
Date/Time Registered: 04/06/2003 01/01/1970
Type: Both Fixed & Floating
Date Created: 28/10/2002
Chargee Name: COMMONWEALTH BANK OF AUSTRALIA
Document Type: 312 NOTIFICATION OF 312A DISCHARGE
Date Received: 13/07/2010
Doc# 025 130 508

ASIC Charge Number:
Status: Satisfied
Date/Time Registered: 14/06/2005 01/01/1970
Type: Both Fixed & Floating
Date Created: 03/05/2005
Chargee Name: AUSTRALIA AND NEW ZEALAND BANKING GROUP LIMITED
Document Type: 312 NOTIFICATION OF 312A DISCHARGE
Date Received: 05/01/2010
Doc# 026 198 160

ASIC DOCUMENTS (except charges)

Notes:

- A date or address shown as UNKNOWN has not been updated since the ASIC to over the records in 1991.
- Data from Documents with no Date Processed are not included in the Extract.
- Documents with "*" pages have not yet been imaged and are not available via DOCIMAGE. Imaging takes approximately 2 weeks from date of lodgement.
- Documents already listed under charges are not repeated here.

Form Type	Date Received	Date Processed	Effective Date	Pages	Doc No
484	22/03/2013	22/03/2013	22/03/2013	2	7E5105027
Change to Company Details Change of Registered Address					

311	11/01/2012	11/01/2012	01/11/2011	3	7E4207405
	Notification of Assignment of Charge				
309	23/09/2011	23/09/2011	09/09/2011	5	7E3971531
	Notification of Details of a Charge				
312	13/07/2010	13/07/2010	13/07/2010	2	025 130 508
	Notification of Discharge				
312	13/05/2010	17/05/2010	13/05/2010	4	026 419 951
	Notification of Discharge				
312	07/04/2010	09/04/2010	07/04/2010	2	026 495 319
	Notification of Release of Property				
312	29/03/2010	31/03/2010	29/03/2010	2	026 246 715
	Notification of Release of Property				
312	29/03/2010	31/03/2010	29/03/2010	2	026 246 714
	Notification of Release of Property				
312	05/01/2010	06/01/2010	05/01/2010	2	026 198 160
	Notification of Discharge				
312	05/01/2010	06/01/2010	05/01/2010	2	026 198 161
	Notification of Discharge				
309	05/01/2010	06/01/2010	22/12/2009	25	026 198 162
	Notification of Details of a Charge				
311	15/05/2007	16/05/2007	04/05/2007	4	023 759 510
	Notification of Change to Details of Charge				
484	14/02/2007	14/02/2007	14/02/2007	2	1E2918595
	Change to Company Details Change Officeholder Name or Address Change Member Name or Address				
312	28/08/2006	28/08/2006	28/08/2006	2	023 096 863
	NOTIFICATION OF RELEASE OF PROPERTY				
350	08/07/2005	08/07/2005	08/07/2005	1	020 965 555
	CERTIFICATION OF COMPLIANCE WITH STAMP DUTIES LAW BY PROVISIONAL CHARGE Alters 020 957 875				
309	14/06/2005	14/06/2005	03/05/2005	31	020 957 875
	NOTIFICATION OF DETAILS OF A CHARGE Altered by 020 965 555				
312	03/10/2003	03/10/2003	03/10/2003	1	019 255 499
	NOTIFICATION OF RELEASE OF PROPERTY				
312	04/07/2003	17/10/2003	04/07/2003	2	019 011 364
	NOTIFICATION OF RELEASE OF PROPERTY				
312	04/06/2003	04/06/2003	04/06/2003	1	017 905 731
	NOTIFICATION OF RELEASE OF PROPERTY				
309	04/06/2003	04/06/2003	28/10/2002	20	017 905 729
	NOTIFICATION OF DETAILS OF A CHARGE				
902	20/03/2003	20/03/2003	20/03/2003	1	0E8703807
	SUPPLEMENTARY DOCUMENT Alters 0E8 567 142				
316	04/02/2003	20/03/2003	31/01/2003	3	0E8567142 ((AR 2002))
	ANNUAL RETURN - PROPRIETARY COMPANY Altered by 0E8 703 807				
309	23/08/2002	23/08/2002	13/06/2002	35	018 193 490
	NOTIFICATION OF DETAILS OF A CHARGE				
309	01/07/2002	01/07/2002	12/06/2002	20	017 919 705
	NOTIFICATION OF DETAILS OF A CHARGE				
370	14/03/2002	20/03/2002	14/03/2002	2	017 688 371
	NOTIFICATION BY OFFICEHOLDER OF RESIGNATION OR RETIREMENT Updates 055 691 42F				
316	31/01/2002	11/02/2002	30/01/2002	3	05569142L ((AR 2001))
	ANNUAL RETURN - PROPRIETARY COMPANY				
316	17/01/2001	27/02/2001	20/12/2000	3	05569142K ((AR 2000))
	ANNUAL RETURN - PROPRIETARY COMPANY				

316	28/01/2000	14/02/2000	27/01/2000	3	05569142J ((AR 1999))
	ANNUAL RETURN - PROPRIETARY COMPANY				
205	01/11/1999	01/11/1999	29/10/1999	1	014 228 127
	NOTIFICATION OF RESOLUTION CHANGING COMPANY NAME				
309	08/07/1999	08/07/1999	30/06/1999	21	015 339 426
	NOTIFICATION OF DETAILS OF A CHARGE				
309	24/06/1999	24/06/1999	18/06/1999	15	015 314 906
	NOTIFICATION OF DETAILS OF A CHARGE				
312	24/06/1999	25/06/1999	24/06/1999	1	015 314 904
	NOTIFICATION OF RELEASE OF PROPERTY				
309	23/04/1999	27/04/1999	15/03/1999	19	014 825 070
	NOTIFICATION OF DETAILS OF A CHARGE				
316	14/12/1998	14/12/1998	08/12/1998	3	05569142I ((AR 1998))
	ANNUAL RETURN - PROPRIETARY COMPANY				
316	30/01/1998	09/02/1998	29/01/1998	4	05569142H ((AR 1997))
	ANNUAL RETURN - PROPRIETARY COMPANY				
309	20/08/1997	20/08/1997	06/08/1997	19	012 781 959
	NOTIFICATION OF DETAILS OF A CHARGE				
316	31/01/1997	24/03/1997	31/01/1997	4	010 248 517 ((AR 1996))
	ANNUAL RETURN CHANGE OF REGISTERED OFFICE ADDRESS ANNUAL RETURN - PROPRIETARY COMPANY				
309	04/12/1996	05/12/1996	15/06/1996	37	011 173 086
	NOTIFICATION OF DETAILS OF A CHARGE				
316	31/01/1996	05/06/1996	30/01/1996	4	05569142F ((AR 1995))
	ANNUAL RETURN CHANGE OF REGISTERED OFFICE ADDRESS CHANGE TO OFFICEHOLDERS ANNUAL RETURN - PROPRIETARY COMPANY Updated by 017 688 371				
245	23/06/1995	23/06/1995	23/06/1995	1	009 157 496
	CERTIFICATE OF REGISTRATION ON CHANGE OF NAME				
205	23/06/1995	23/06/1995	20/06/1995	1	009 157 495
	NOTIFICATION OF RESOLUTION CHANGING COMPANY NAME				
410	20/06/1995	20/06/1995	20/06/1995	1	009 157 432
	APPLICATION FOR RESERVATION OF A NEW NAME UPON CHANGE OF NAME				
316	06/02/1995	09/02/1995	31/12/1994	4	05569142E ((AR 1994))
	ANNUAL RETURN				
203	07/06/1994	07/06/1994	01/06/1994	1	007 626 662
	NOTIFICATION OF CHANGE OF ADDRESS				
316	19/05/1994	19/05/1994	31/12/1993	4	007 626 539 ((AR 1993))
	ANNUAL RETURN CHANGE OF REGISTERED OFFICE ADDRESS ANNUAL RETURN				
304	30/03/1994	31/03/1994	31/03/1993	2	005 256 309
	NOTIFICATION OF CHANGE TO OFFICEHOLDERS OF AUSTRALIAN COMPANY				
909	17/11/1993	17/11/1993	15/10/1993	1	005 951 599
	NOTICE OF ADDRESS OF BRANCH REGISTER				
304	28/04/1992	28/04/1992	03/04/1992	1	002 406 045
	NOTIFICATION OF CHANGE TO OFFICEHOLDERS OF AUSTRALIAN COMPANY				
304	24/04/1992	15/05/1992	03/04/1992	1	002 405 966
	NOTIFICATION OF CHANGE TO OFFICEHOLDERS OF AUSTRALIAN COMPANY				
207	10/04/1992	10/04/1992	03/04/1992	2	002 405 224
	NOTIFICATION OF ALLOTMENT OF SHARES REGARDING SUBSEQUENT ALLOTMENT				
209	10/04/1992	10/04/1992	03/04/1992	1	002 405 219
	NOTICE OF REDEMPTION OF REDEEMABLE PREFERENCE SHARES				

304	10/04/1992	10/04/1992	03/04/1992	2	002 405 214
NOTIFICATION OF CHANGE TO OFFICEHOLDERS OF AUSTRALIAN COMPANY					
203	10/04/1992	10/04/1992	03/04/1992	1	002 405 213
NOTIFICATION OF CHANGE OF ADDRESS					
204	03/04/1992	03/04/1992	03/04/1992	1	002 405 098
CERTIFICATE OF REGISTRATION DIVISION 1 PT 2.2					
215	03/04/1992	03/04/1992	03/04/1992	1	002 405 075
NOTIFICATION OF INITIAL APPOINTMENT OF OFFICEHOLDERS					
201	03/04/1992	03/04/1992	03/04/1992	4	002 403 443
APPLICATION FOR REGISTRATION AS A PROPRIETARY COMPANY					
410	01/04/1992	01/04/1992	01/04/1992	1	002 404 833
APPLICATION FOR RESERVATION OF A NAME OF A NEW AUSTRALIAN COMPANY					

PRE-ASIC DOCUMENTS

No record

ANNUAL RETURNS

Year	Outstanding	Return Due Date	Extended Return Due Date	AGM Due Date	Extended AGM Due Date	AGM Held Date
1993	N	03/11/1993		03/10/1993		31/12/1993
1994	N	31/01/1995		31/12/1994		31/12/1994
1995	N	31/01/1996				
1996	N	31/01/1997				
1997	N	31/01/1998				
1998	N	31/01/1999				
1999	N	31/01/2000				
2000	N	31/01/2001				
2001	N	31/01/2002				
2002	N	31/01/2003				

FINANCIAL REPORTS

No record

CURRENT CONTACT ADDRESS FOR ASIC USE ONLY

Note: Section 146A of the Corporations Act 2001 states 'A contact address is the address to which communications and notices are sent from ASIC to the company.'

Address Type: Contact address for ASIC use only

Address: PO BOX 588
SURFERS PARADISE QLD 4217

Period from: 23/10/2003

Request Number 8296696.

Extracted from ASIC's Database on 24/04/13 at 15:45.

Name: LM INVESTMENT MANAGEMENT LIMITED
ACN : 077 208 461

Document ID	*No. of Pages*	*Date Lodged*
OL0310250	26	7/09/12

If this request is for financial accounts it may contain an XBRL version of the accounts in addition to the usual PDF version. To analyse the version of the accounts in XBRL format you will need to use XBRL reader software.
Please refer to www.asic.gov.au/SBR for more information.

The total number of pages including this cover page is 27.

If your request was made through an Information Broker and not all pages have been included please contact your Information Broker.

If your request was made direct to ASIC and you require technical assistance please contact us as follows:

DOCIMAGE Technical Enquiries: 03 5177 3001
Facsimile: 03 5177 3999
ASIC's website:

209A

Australian Financial Services Licence

LM INVESTMENT MANAGEMENT LIMITED

ABN: 68 077 208 461

Licence No: 220281

was licensed as an Australian Financial Services Licensee pursuant to section 913B of the Corporations Act 2001. The conditions of the licence are hereby varied from the date hereunder. The licensee shall continue to be licensed as an Australian Financial Services Licensee subject to the conditions and restrictions which are prescribed, and to the conditions contained in this licence and attached schedules.

Effective 7 September 2012

Authorisation

1. This licence authorises the licensee to carry on a financial services business to:
   (a) provide financial product advice for the following classes of financial products:
      (i) life products limited to:
         (A) life risk insurance products as well as any products issued by a Registered Life Insurance Company that are backed by one or more of its statutory funds; and
      (ii) superannuation;
   (b) deal in a financial product by:
      (i) issuing, applying for, acquiring, varying or disposing of a financial product in respect of the following classes of financial products:
         (A) interests in managed investment schemes limited to:
            (1) own managed investment scheme only; and
      (ii) applying for, acquiring, varying or disposing of a financial product on behalf of another person in respect of the following classes of products:
         (A) deposit and payment products including:
            (1) basic deposit products;
            (2) deposit products other than basic deposit products; and
            (3) non-cash payment products;
         (B) derivatives;
         (C) foreign exchange contracts;
         (D) life products limited to:
            (1) life risk insurance products as well as any products issued by a Registered Life Insurance Company that are backed by one or more of its statutory funds;
         (E) interests in managed investment schemes including:
            (1) investor directed portfolio services;
         (F) securities; and
         (G) superannuation;
   (c) operate the following kinds of registered managed investment schemes (including the holding of any incidental property) in its capacity as responsible entity:
      (i) "Lm Australian Structured Products Fund" scheme (ARSN: 149 875 669),
         (A) a scheme which only holds the following types of property:
            (1) derivatives; and
            (2) financial assets; and
      (ii) schemes which only hold the following types of property:
         (A) direct real property;
         (B) financial assets; and
         (C) mortgages; and
   (d) provide the following custodial or depository services:
      (i) operate custodial or depository services other than investor directed portfolio services;

   to retail and wholesale clients

ASIC

2098

Australian Financial Services Licence

LM INVESTMENT MANAGEMENT LIMITED

ABN: 68 077 208 461

Licence No: 220281

Effective 7 September 2012

Schedule of Conditions

Key Person Requirements

2. If any of the following officer(s) or key person(s) cease to be officers of the licensee or to perform duties on behalf of the licensee with respect to its financial services business:
   (a) Peter Charles DRAKE;
   (b) Eghard VAN DER HOVEN;
   (c) Simon Jeremy TICKNER;
   (d) Michael William SKEGGS; and
   (e) Wendy Gaye LIST;

   the licensee must notify ASIC in writing within 5 business days of the following matters:
   (f) the date the officer or key person ceased to be an officer of the licensee or to perform duties on behalf of the licensee with respect to its financial services business; and
   (g) the name, address, date of commencement, educational qualifications and experience of any replacement officer or key person the licensee has appointed to perform duties on behalf of the licensee with respect to its financial services business; and
   (h) if the licensee does not have a replacement officer or key person, detailed reasons as to why the licensee has not nominated a replacement; and
   (i) a detailed description of how the licensee will continue to comply with the Act and the conditions of this licence following the officer or key person(s) identified above, or any replacement of such person, ceasing to be an officer of the licensee or to perform duties on behalf of the licensee with respect to its financial services business.

Compliance Measures to Ensure Compliance with Law and Licence

3. The licensee must establish and maintain compliance measures that ensure, as far as is reasonably practicable, that the licensee complies with the provisions of the financial services laws.

Training Requirements for Representatives

4. The licensee must for any natural person who provides financial product advice to retail clients on behalf of the licensee (including the licensee if he or she is a natural person):
   (a) identify the tasks and functions that person performs on behalf of the licensee; and
   (b) determine the appropriate knowledge and skills requirements required to competently perform those tasks and functions; and
   (c) implement procedures for continuing training.

5. The licensee must ensure that any natural person who provides financial product advice to retail clients on behalf of the licensee (including the licensee if he or she is a natural person):
   (a) has completed training courses at an appropriate level that are or have been approved by ASIC in writing that are relevant to those functions and tasks; or

ASIC

Australian Financial Services Licence

LM INVESTMENT MANAGEMENT LIMITED

ABN: 68 077 208 461

Licence No: 220281

Effective 7 September 2012

Schedule of Conditions

(b) has been individually assessed as competent by an assessor that is or has been approved by ASIC in writing; or

(c) in respect of financial product advice on basic deposit products and facilities for making non-cash payments that are related to a basic deposit product, has completed training courses that are or have been assessed by the licensee as meeting the appropriate level that are relevant to those functions and tasks.

6. Condition 5 does not apply in relation to:

(a) a natural person who is a customer service representative and who provides financial product advice:

(i) derived from a script approved by a natural person who complies with paragraphs 5(a), (b) and (c) ("qualified person"); or

(ii) under the direct supervision of a qualified person present at the same location; or

(b) a natural person who is a para-planner or trainee adviser and who provides financial product advice under the direct supervision of a qualified person who is, in addition to the licensee, responsible for:

(i) ensuring that any financial product advice that is provided by the para-planner or trainee adviser for which a Statement of Advice must be given, is reflected in a Statement of Advice that has been reviewed by the qualified person before the Statement of Advice is given, to ensure that the Statement of Advice would comply with all of the requirements of the Act; and

(ii) managing and leading any verbal explanation of the financial product advice to the client,

where the licensee has established procedures to ensure that the natural person does not provide financial product advice to retail clients on behalf of the licensee, other than in the manner specified in this paragraph, and the licensee monitors whether or not those procedures are effective.

7. Condition 5 does not apply in relation to financial product advice:

(a) given to retail clients in advertising to which section 1018A of the Act applies, provided that:

(i) this licence authorises the provision of financial product advice; and

(ii) a responsible officer of the licensee approves such advertising before its publication or dissemination to retail clients; or

(b) for which there is an exemption under the Act from the obligation to hold a licence; or

(c) given to retail clients in respect of a margin lending facility before 1 July 2011.

Notification to Current or Former Representative's Clients

8. Where, under Division 8 of Part 7.6 of the Act:

(a) ASIC makes a banning order against a current or former representative of the licensee, or

(b) the Court makes an order disqualifying a current or former representative of the licensee;

the licensee must, if directed in writing by ASIC, take all reasonable steps to provide the following information in writing to each retail client to whom the representative had provided personal advice within the 3 years prior to the date of the banning order or disqualification order:

(c) the name of the representative; and

ASIC

Australian Financial Services Licence

LM INVESTMENT MANAGEMENT LIMITED

ABN: 68 077 208 461

Licence No: 220281

Effective 7 September 2012

Schedule of Conditions

(d) any authorised representative number allocated to the representative by ASIC; and

(e) the terms of the banning or disqualification order; and

(f) contact details of the licensee for dealing with enquiries and complaints regarding the banning or disqualification or the conduct of the representative as a representative of the licensee.

Financial Requirements for Market Participants and Clearing Participants

9. Where the licensee is a market participant in a licensed market, or a clearing participant in a licensed CS facility, conditions 10 to 20 (inclusive) do not apply to the licensee.

Base Level Financial Requirements

10. The licensee must:

(a) be able to pay all its debts as and when they become due and payable; and

(b) either:

(i) have total assets that exceed total liabilities as shown in the licensee's most recent balance sheet lodged with ASIC and have no reason to suspect that the licensee's total assets would currently not exceed its total liabilities; or

(ii) have adjusted assets that exceed adjusted liabilities calculated at the balance date shown in the licensee's most recent balance sheet lodged with ASIC and have no reason to suspect that the licensee's adjusted assets would currently not exceed its adjusted liabilities; and

(c) meet the cash needs requirement by complying with one of the following five options:

(i) Option 1 (reasonable estimate projection plus cash buffer)—refer to definition of "Option 1" under this licence; or

(ii) Option 2 (contingency based projection)—refer to definition of "Option 2" under this licence; or

(iii) Option 3 (financial commitment by an Australian ADI or comparable foreign institution)—a requirement that an Australian ADI or a foreign deposit-taking institution approved in writing by ASIC as an eligible provider gives the licensee an enforceable and unqualified commitment to pay on demand from time to time an unlimited amount to the licensee, or the amount for which the licensee is liable to its creditors at the time of the demand to the licensee's creditors or a trustee for the licensee's creditors, that the licensee reasonably expects will apply for at least three months, taking into account all commercial contingencies for which the licensee should reasonably plan; or

(iv) Option 4 (expectation of support from an Australian ADI or comparable foreign institution)—a requirement that the licensee:

(A) is a subsidiary of an Australian ADI or a corporation approved by ASIC in writing for the purpose of this condition; and

(B) reasonably expects that (based on access to cash from its related bodies corporate) it will have adequate resources (when needed) to meet its liabilities for at least the next three months (including any additional liabilities that the licensee might incur during that period), taking into account all adverse commercial contingencies for which the licensee should reasonably plan; and

ASIC

209

Australian Financial Services Licence

LM INVESTMENT MANAGEMENT LIMITED

ABN: 68 077 208 461

Licence No: 220281

Effective 7 September 2012

Schedule of Conditions

(C) ensures that a responsible officer of the licensee has documented that the officer has the reasonable expectation for at least the following three month period together with the reasons for forming the expectation, the contingencies for which the licensee considers it is reasonable to plan, the assumptions made concerning the contingencies and the basis for selecting those assumptions; or

(v) Option 5 (parent entity prepares cash flow projections on a consolidated basis)—a requirement that the licensee ensures that:

(A) the cash flows of the licensee and each of its related bodies corporate, other than any body regulated by APRA ("licensee group"), are managed on a consolidated basis; and

(B) there is a body corporate within the licensee group of which all members of the licensee group are subsidiaries that is not a body regulated by APRA ("parent entity"); and

(C) the parent entity complies with Option 1 or Option 2 as if it were the licensee, cash flows of any member of the licensee group were cash flows of the licensee and any cash held by a member of the licensee group, other than as trustee or as trustee of a relevant trust, were so held by the licensee, and

(D) a report by the parent entity's auditor that is a registered company auditor is given to ASIC with the licensee's annual audit report under condition 21 of this licence, in relation to each financial year of the licensee and for any other period that ASIC requests, by a date that ASIC requests, with respect to compliance by the parent entity with Option 1 or Option 2 as they would apply in accordance with subparagraph (C), reflecting the report that would be required from the auditor of a licensee, for that period purporting to comply with Option 1 or Option 2; and

(E) either of the following applies:

Alternative A—the parent entity has provided an enforceable and unqualified commitment to pay on demand from time to time an unlimited amount to the licensee or to meet the licensee's liabilities which the licensee reasonably expects will apply for at least the next three months taking into account all adverse commercial contingencies for which the licensee should reasonably plan; or

Alternative B—the licensee reasonably expects that (based on access to cash from members of the licensee group), it will have adequate resources to meet its liabilities (including any additional liabilities that the licensee might incur while the commitment applies) for at least the next three months taking into account all adverse commercial contingencies for which the licensee should reasonably plan and a responsible officer of the licensee has documented that the officer has the reasonable expectation in respect of at least the following three months together with the reasons for forming the expectation, the contingencies for which the licensee considers it is reasonable to plan, the assumptions made concerning the contingencies and the basis for selecting those assumptions; and

(F) the licensee has no reason to believe that the parent entity has not complied with the requirement at subparagraph (C) or has failed to comply in a material respect with its obligations under Chapter 2M of the Act or, if the parent entity is not a company, under any other laws (whether law in Australia or not) relating to financial reporting that apply to it.

ASIC

Australian Financial Services Licence

LM INVESTMENT MANAGEMENT LIMITED

ABN: 68 077 208 461

Licence No: 220281

Effective 7 September 2012

Schedule of Conditions

For 5 years after the end of the last financial year that includes a part of the period to which any document prepared for subparagraph (c)(iv)(C) or Alternative B in subparagraph (c)(v)(E) relates, the licensee must keep the document and give it to ASIC if ASIC requests.

Financial Requirements for Managed Investments, Custody Services and Margin Lending Facilities

11. The licensee must hold at least $5 million net tangible assets ("NTA"), unless for each registered scheme operated by the licensee at least one of the following is satisfied:
    (a) all the scheme property and other assets of the scheme(s) not held by members are held by a custodian appointed by the licensee, that has $5 million NTA or is an eligible custodian; or
    (b) all the scheme property and other assets of the scheme(s) not held by members are special custody assets or the Tier $500,000 class assets held by the licensee or a custodian appointed by the licensee (or a sub-custodian appointed by that custodian), where the person holding the scheme property or other assets is:
        (i) the licensee and the licensee has $500,000 NTA; or
        (ii) the custodian or sub-custodian and the custodian has $500,000 NTA or is an eligible custodian; or
    (c) the only scheme property and other assets of the scheme(s) that are not held under paragraph (a) or (b) of this condition are special custody assets, each of which is held by:
        (i) the licensee; or
        (ii) an eligible custodian; or
        (iii) a custodian that has the same level of NTA as the licensee is required to have under the remainder of this condition; or
        (iv) the members of the scheme;

    Where paragraph (a), (b) or (c) of this condition is satisfied, the licensee must hold NTA of 0.5% of the value of:
    (d) assets (including mortgages held by members of a mortgage scheme and managed as part of the scheme); plus
    (e) any other scheme property not counted in calculating the value of assets;

    of the registered scheme(s) operated by the licensee with a minimum NTA requirement of $50,000 and a maximum NTA requirement of $5 million.

12. The custodian need not have the required NTA under paragraph 11(c)(iii) of this licence if the only assets it holds for the scheme are those contained in paragraphs (a), (c) or (g) of the definition of "special custody assets" under this licence, or if the audited trust account is a regulated trust account, described in paragraph (d) of the definition of "special custody assets" under this licence.

13. The licensee must have at least $5 million NTA where the licensee provides a custodial or depository service that:
    (a) has custody of client assets other than incidentally to another financial service provided by the licensee or a related body corporate; or
    (b) holds IDPS property or other assets of an IDPS.

ASIC

Australian Financial Services Licence

LM INVESTMENT MANAGEMENT LIMITED

ABN: 68 077 208 461

Licence No: 220281

Effective 7 September 2012

Schedule of Conditions

Financial Requirements for Foreign Exchange Dealers

14. Where:

(a) the licensee carries on a business of entering, as principal, into foreign exchange contracts that are financial products in Australia; and

(b) a counterparty to a foreign exchange contract that the licensee enters into as principal in Australia covered by this licence is a person who is not:

(i) an authorised deposit-taking institution within the meaning of the Banking Act 1959; or

(ii) a person that is required under their AFS licence to have $10 million of tier one capital,

the licensee must either:

(c) have $10 million of tier one capital, as defined in the Australian Prudential Regulation Authority's ("APRA") Prudential Standards and Guidance Notes for Authorised Deposit-Taking Institutions as in force at the date of this licence; or

(d) have adjusted surplus liquid funds ("ASLF") of the sum of:

(i) $50,000; plus

(ii) 5% of adjusted liabilities between $1 million and $100 million; plus

(iii) 0.5% of adjusted liabilities for any amount of adjusted liabilities exceeding $100 million,

up to a maximum ASLF of $100 million.

Financial Requirements for Holding Client Money or Property

15. If at any time the licensee:

(a) is required to hold money in a separate account under Division 2 of Part 7.8 of the Act; or

(b) holds money or other property on trust for a client or is required to do so under Regulation 7.8.07(2) of the Corporations Regulations or otherwise; or

(c) has the power to dispose of a client's property under power of attorney or otherwise,

the licensee must ensure that the licensee has at least $50,000 in surplus liquid funds ("SLF") unless the total value of the money and property for all clients is less than $100,000 excluding:

(d) money that has satisfied a client's liability on an insurance contract where the licensee is acting under a binder or section 985B of the Act applies, or property acquired by investment of that money; or

(e) the value of property where the licensee merely holds a document of title, and the client has legal title to the property.

Financial Requirements for Licensee Transacting with Clients

16. If the licensee incurs actual or contingent liabilities of the relevant kind by entering into a transaction with a client(s) in the course of providing a financial service to the client(s), the licensee must have adjusted surplus liquid funds ("ASLF") of the sum of:

(a) $50,000; plus

ASIC

209H

Australian Financial Services Licence

LM INVESTMENT MANAGEMENT LIMITED

ABN: 68 077 208 461

Licence No: 220281

Effective 7 September 2012

Schedule of Conditions

(b) 5% of adjusted liabilities between $1 million and $100 million; plus

(c) 0.5% of adjusted liabilities for any amount of adjusted liabilities exceeding $100 million,

up to a maximum ASLF of $100 million.

This condition does not apply to the licensee if:

(d) the total of:

(i) the current liabilities that would be included in the calculation of the licensee's adjusted liabilities; and

(ii) the contingent liabilities that if crystallised would be a current liability and be included in the calculation of the licensee's adjusted liabilities,

is less than $100,000; or

(e) the licensee has no:

(i) liabilities to clients that would be included in calculating its adjusted liabilities; or

(ii) contingent liabilities to clients which if crystallised would be included in calculating its adjusted liabilities,

other than under debentures the licensee issued under Chapter 2L of the Act.

For the purpose of paragraphs (d) and (e), the licensee may disregard a liability or a contingent liability that:

(f) is a contingent liability that is neither a derivative nor a liability from underwriting securities or managed investment products; or

(g) the licensee reasonably estimates has a probability of less than 5% of becoming an actual liability; or

(h) is covered by money or property that the licensee holds in a separate account under Part 7.8 of the Act or on trust for clients; or

(i) is adequately secured as defined in paragraph (a) or (b) of the definition of "adequately secured" under this licence; or

(j) is a liability incurred by entering into a transaction on a licensed market that is to be settled using a clearing and settlement facility, the operation of which is authorised by an Australian CS facility licence; or

(k) is under a foreign exchange contract and the licensee is required to have $10 million of tier one capital under another condition of this licence because the licensee has entered a foreign exchange contract as principal; or

(l) is under a derivative where:

(i) the licensee does not make a market in derivatives; and

(ii) the licensee entered into the dealing for the purposes of managing a financial risk; and

(iii) either the licensee's dealings in derivatives are not a significant part of its business or of the business of it and its related bodies corporate taken together; and

(iv) the licensee did not enter into the dealing on the instructions of another person; or

(m) is under a foreign exchange contract where the licensee:

(i) does not make a market in foreign exchange contracts; and

(ii) entered into the contract for the purposes of enabling a payment in one of the currencies under the foreign exchange contract; and

(iii) did not enter into the foreign exchange contract on the instruction of another person; or

ASIC

Australian Financial Services Licence

LM INVESTMENT MANAGEMENT LIMITED

ABN: 68 077 208 461

Licence No: 220281

Effective 7 September 2012

Schedule of Conditions

(n) occurs in circumstances where a licensee agrees to provide credit to another person under a margin lending facility and the credit remains undrawn or a portion of the credit remains undrawn.

In this condition, a reference to a client includes a person who acquires or disposes of financial products in a transaction that the licensee entered into at a price the licensee stated in the course of making a market.

Reporting Triggers and Requirements for Financial Requirement Conditions of this Licence

17. The licensee must ensure the reporting requirements under conditions 18 and 19 of this licence are met where either paragraph (a) or paragraph (b) applies:
    (a) the trigger points described in paragraphs (i) and (ii) below occur:
        (i) the licensee has adjusted liabilities of more than $1 million and less than or equal to $100 million; and
        (ii) the licensee has an ASLF of less than 5.5% of adjusted liabilities; or
    (b) the trigger points described in paragraphs (i), (ii) and (iii) below occur:
        (i) the licensee has adjusted liabilities of more than $100 million; and
        (ii) the licensee does not have $100 million ASLF; and
        (iii) the licensee has an ASLF that is less than $500,000 above the minimum ASLF required under condition 16 of this licence.

18. Where the licensee's ASLF is below the trigger points, the licensee must not enter into any transactions with clients that could give rise to further liabilities, contingent liabilities or other financial obligations until the licensee's board or other governing body has certified in writing that, having conducted reasonable enquiry into its financial position, there is no reason to believe that the licensee will fail to comply with its obligations under section 912A of the Act.

19. Where the licensee's board or other governing body has made the certification required under condition 18, the licensee must ensure that the licensee's board or other governing body certifies in writing at least monthly that, having conducted reasonable enquiry into its financial position, there is no reason to believe that the licensee will fail to comply with its obligations under section 912A of the Act until the licensee's ASLF continuously exceeds the trigger point for a period exceeding one month.

20. The licensee must keep each certification issued by the licensee's board or other governing body under conditions 18 and 19 of this licence for at least 5 years from the date of such certification. The licensee must provide ASIC with a copy of each certification within 3 business days of the date of each certification.

Audit Opinion on Financial Requirements

21. The licensee must lodge with ASIC an opinion by a registered company auditor ("the audit opinion") addressed to the licensee and ASIC for the following periods:
    (a) for each financial year, at the same time the licensee is required to lodge a balance sheet under Part 7.8 of the Act; and
    (b) for any period of time that ASIC requests, by the date ASIC requests the audit opinion to be lodged;

ASIC

Australian Financial Services Licence

LM INVESTMENT MANAGEMENT LIMITED

ABN: 68 077 208 461

Licence No: 220281

Effective 7 September 2012

Schedule of Conditions

that states whether during:

(c) any part of the period for which the licensee:

(i) relied on being a market participant or a clearing participant, on a positive assurance basis, the licensee was a participant in the market conducted by:

(A) ASX; or

(B) SFE, that restricted its financial services business to participating in the market and incidental business supervised by SFE; and

(ii) relied on being a body regulated by APRA, on a positive assurance basis, the licensee was a body regulated by APRA; and

(d) any remaining part of the period:

(i) in the auditor's opinion, the licensee:

(A) complied with all the financial requirements under conditions 10 to 20 (inclusive) of this licence other than paragraph 10(c) of this licence, except for paragraph (e) of the definition of "Option 1" under this licence if the licensee purports to comply with "Option 1"; and

(B) except for any period stated in the report when the licensee purports to comply with subparagraph 10(c)(iii), (iv) or (v), had at all times a projection (covering at least the following 3 months) that purports to, and appears on its face to comply with, paragraph (a) of the definition of "Option 1" or paragraph (a) of the definition of "Option 2" under this licence (depending on which option the licensee purports to be complying with); and

(C) except for any period stated in the report when the licensee purports to comply with subparagraph 10(c)(iii), (iv) or (v), correctly calculated the projections on the basis of the assumptions the licensee adopted for the projections described in subparagraph (d)(i)(B) of this condition; and

(D) for any period when the licensee relied on subparagraph 10(c)(iii) of this licence, has obtained from an Australian ADI or a foreign deposit-taking institution approved in writing by ASIC as an eligible provider an enforceable and unqualified commitment to pay on demand from time to time an unlimited amount to the licensee, or the amount for which the licensee is liable to its creditors at the time of demand to the licensee's creditors or a trustee for the licensee's creditors; and

(E) for any period when the licensee relied on subparagraph 10(c)(iv), following an examination of the documents prepared for subparagraph 10(c)(iv)(C), the licensee complied with subparagraph 10(c)(iv)(A) and subparagraph 10(c)(iv)(C) for the period to which the report relates; and

(F) for any period when the licensee relied on subparagraph 10(c)(v), the licensee complied with subparagraph 10(c)(v)(A) and (B); and

(G) for any period when the licensee relied on Alternative A in subparagraph 10(c)(v)(E), the parent entity has provided an enforceable and unqualified commitment to pay on demand from time to time an unlimited amount to the licensee or to meet the licensee's liabilities.

(ii) except for any period stated in the report when the licensee purports to comply with subparagraph 10(c)(iii), (iv) or (v), following an examination of the documents the licensee relies on in complying with "Option 1" or "Option 2" as defined under this licence, the auditor has no reason to believe that

ASIC

Australian Financial Services Licence

LM INVESTMENT MANAGEMENT LIMITED

ABN: 68 077 208 461

Licence No: 220281

Effective 7 September 2012

Schedule of Conditions

(A) the licensee did not satisfy the requirements of paragraph 912A(1)(h) of the Act for managing the risk of having insufficient financial resources to comply with the conditions of this licence; or

(B) the licensee failed to comply with the cash needs requirement using either "Option 1" or "Option 2" as defined under this licence (as applicable) except for:

(1) paragraphs (a), (c) and (e) of the definition of "Option 1" as defined under this licence; or

(2) paragraphs (a) and (c) of the definition of "Option 2" as defined under this licence; or

(C) if the licensee relied on "Option 1" as defined under this licence, the assumptions the licensee adopted for its projection were unreasonable; or

(D) if the licensee relied on "Option 2" as defined under this licence, the basis for the selection of assumptions to meet the requirements for its projection adopted was unreasonable; and

(iii) for any period when the licensee relied on subparagraph 10(c)(iv), following an examination of the documents prepared for subparagraph 10(c)(iv)(C), the auditor has no reason to believe that:

(A) the licensee did not satisfy the requirements of paragraph 912A(1)(h) of the Act for managing the risk of having insufficient financial resources to comply with the conditions in this licence; and

(B) the basis for the selection of the assumptions adopted was unreasonable; and

(iv) for any period when the licensee relied on subparagraph 10(c)(v) under Alternative B, following an examination of the documents prepared for Alternative B, the auditor has no reason to believe that:

(A) the licensee did not satisfy the requirements of paragraph 912A(1)(h) of the Act for managing the risk of having insufficient financial resources to comply with the conditions in this licence; or

(B) the basis for the selection of the assumptions adopted was unreasonable.

Professional Indemnity Compensation Requirements

22. The licensee must maintain an insurance policy covering professional indemnity and fraud by officers that:

(a) is adequate having regard to the nature of the activities carried out by the licensee under the licence; and

(b) covers claims amounting in aggregate to whichever is the lesser of:

(i) $5 million; or

(ii) the sum of the value of all IDPS property of all IDPS for which it is the operator and all scheme property of all registered schemes for which it is the responsible entity.

External Disputes Resolution Requirements

23. Where the licensee provides financial services to retail clients, the licensee must be a member of one or more External Disputes Resolution Scheme(s) ("EDRS") which covers, or together cover, complaints made by retail clients in relation to the provision of all of the financial services authorised by this licence.

24. Where the licensee ceases to be a member of any EDRS, the licensee must notify ASIC in writing within 3 business days:

(a) the date the licensee ceases membership of the EDRS(s); and

ASIC

Australian Financial Services Licence

LM INVESTMENT MANAGEMENT LIMITED

ABN: 68 077 208 461

Licence No: 220281

Effective 7 September 2012

Schedule of Conditions

(b) the reasons the licensee's membership of the EDRS(s) has ceased (including circumstances where the EDRS is no longer operating, failure by the licensee to renew their membership of the EDRS or where the EDRS has terminated the licensee's membership of the EDRS); and

(c) details of the new EDRS(s) the licensee intends to or has joined (including the date the membership commences and the name of the EDRS); and

(d) details that provide confirmation that the licensee is covered by EDRS(s) covering complaints made by retail clients in relation to the provision of all of the financial services authorised by this licence.

Agreement with Holder of Financial Product on Trust

25. If the licensee:

(a) operates a registered scheme in the capacity of a responsible entity, or

(b) operates an IDPS as an IDPS operator; or

(c) provides a custodial or depository service;

and in the course of operating that scheme or providing that service the licensee enters into an arrangement:

(d) with another person ("holder") to hold scheme property, IDPS property or to hold financial products on trust for or on behalf of the licensee or another person; or

(e) between a responsible entity or IDPS operator in that capacity and another person ("master custodian") under which the master custodian is authorised to arrange for a third person ("subcustodian") directly or indirectly to hold scheme property or IDPS property; or

(f) with a subcustodian arranged by a master custodian;

the licensee must ensure that at all times:

(g) the arrangement is covered by a contract that is in writing; and

(h) the contract clearly specifies:

(i) the nature of the arrangement and the obligations of each party; and

(ii) the rights that the parties will have in relation to ongoing review and monitoring of the holder or any subcustodian or for an agreement made by the licensee with a master custodian ("master agreement"), the master custodian and the standards against which their performance will be assessed; and

(iii) how the holder, any subcustodian or for a master agreement, the master custodian will certify that it complies with, and will continue to comply with, the requirements of ASIC Regulatory Guide 133 (formerly referred to as Policy Statement 133) when read in conjunction with ASIC Regulatory Guides 148 and 167 (formerly referred to as Policy Statements 148 and 167) (as each of those Regulatory Guides is in force as at the date of this licence); and

(iv) how instructions will be given to the holder, subcustodian or for a master agreement, the master custodian; and

(v) how the client of the licensee will be compensated if the client suffers any loss due to a failure by the holder, any subcustodian, or for a master agreement, the master custodian, to comply with its duties or to take reasonable care based on the standards applying in the relevant markets for the assets held and

ASIC

Australian Financial Services Licence

LM INVESTMENT MANAGEMENT LIMITED

ABN: 68 077 208 461

Licence No: 220281

Effective 7 September 2012

Schedule of Conditions

the extent to which the holder, any subcustodian, or for a master agreement, the master custodian, must maintain a minimum level of professional indemnity insurance; and

(vi) that the holder, any subcustodian and for a master agreement, the master custodian is prohibited from taking a charge, mortgage, lien or other encumbrance over, or in relation to, the assets held under the arrangement unless it is for expenses and outlays made within the terms of the contract (but not including any unpaid fees of the holder, master custodian or subcustodian) or in accordance with the licensee's instructions; and

(vii) in the case of a responsible entity or IDPS operator who has a master agreement, what should be in the written contract with any subcustodian used in accordance with these conditions including the liability of the subcustodian to the master custodian and the licensee when acts or omissions of the subcustodian are in breach of the subcustodian's obligations; and

(viii) how records of the assets held will be kept and maintained by the holder, any subcustodian or for a master agreement, the master custodian; and

(ix) requirements for reporting by the holder, any subcustodian or for a master agreement, the master custodian, including notifications of any dealing in or transfers of the assets; and

(x) requirements for the holder to provide all reasonable access and assistance to any registered company auditor engaged to conduct an audit in relation to the licensee.

The contract is not required to contain the matters specified in paragraph (iii), (v) or (vi) or to be in writing to the extent that the licensee establishes by documentary evidence that it is not practicable for the licensee to:

(a) hold the relevant financial products (being property outside Australia) itself; or

(b) engage a custodian that is willing to include such matters in the contract to hold that property on reasonable commercial terms;

and provided that the licensee has disclosed to the client that these terms will not be included.

Property

26. The licensee must ensure that at all times:

(a) in relation to a registered scheme for which the licensee is the responsible entity, the holder of any scheme property complies with the requirements of ASIC Regulatory Guide 133 (formerly referred to as Policy Statement 133) (as in force as at the date of this licence) relating to the holding of scheme property and maintains proper records identifying the scheme property; and

(b) in relation to any custodial or depository service that the licensee provides other than as the operator of an IDPS, the holder of any property, complies with the requirements of ASIC Regulatory Guide 133 (formerly referred to as Policy Statement 133) except requirements expressed to apply to duties under s601FC(1)(i), when read with ASIC Regulatory Guides 148 and 167 (formerly referred to as Policy Statements 148 and 167) (as each of those Regulatory Guides is in force as at the date of this licence), and maintains proper records in relation to the financial products held.

ASIC

Australian Financial Services Licence

LM INVESTMENT MANAGEMENT LIMITED

ABN: 68 077 208 461

Licence No: 220281

Effective 7 September 2012

Schedule of Conditions

Prohibition to Operate Managed Discretionary Account Service

27. The licensee must not provide an MDA service to a retail client except when operating a registered scheme.

Retention of Financial Services Guides, Statements of Advice and Material Relating to Personal Advice

28. Where the licensee provides financial product advice to retail clients, the licensee must ensure that copies (whether in material, electronic or other form) of the following documents are retained for at least the period specified:

    (a) each Financial Services Guide ("FSG") (including any Supplementary FSG) given by or on behalf of the licensee, or by any authorised representative of the licensee while acting in that capacity - for a period commencing on the date of the FSG and continuing for at least 7 years from when the document was last provided to a person as a retail client; and

    (b) a record of the following matters relating to the provision of personal advice to a retail client (other than personal advice for which a Statement of Advice ("SOA") is not required or for which a record of the advice is kept in accordance with subsection 946B(3A)):

        (i) the client's relevant personal circumstances within the meaning of subparagraph 945A(1)(a)(i); and

        (ii) the inquiries made in relation to those personal circumstances within the meaning of subparagraph 945A(1)(a)(ii); and

        (iii) the consideration and investigation conducted in relation to the subject matter of the advice within the meaning of paragraph 945A(1)(b); and

        (iv) the advice, including reasons why advice was considered to be "appropriate" within the meaning of paragraphs 945A(1)(a) to (c),

        for a period of at least 7 years from the date that the personal advice was provided;

    (c) any SOA provided by or on behalf of the licensee, or by any authorised representative of the licensee while acting in that capacity - for a period of at least 7 years from the date the document was provided to the client.

29. The licensee must establish and maintain measures that ensure, as far as is reasonably practicable, that it and its representatives comply with their obligation to give clients an FSG as and when required under the Act. The licensee must keep records about how these measures are implemented and monitored.

Terms and Definitions

In this licence references to sections, Parts and Divisions are references to provisions of the Corporations Act 2001 ("the Act") unless otherwise specified. Headings contained in this licence are for ease of reference only and do not affect interpretation. Terms used in this licence have the same meaning as is given to them in the Act (including, if relevant, the meaning given in Chapter 7 of the Act) and the following terms have the following meanings.

actual or contingent liabilities of the relevant kind means:

(a) an actual or contingent monetary liability; or

ASIC

Australian Financial Services Licence

LM INVESTMENT MANAGEMENT LIMITED

ABN: 68 077 208 461

Licence No: 220281

Effective 7 September 2012

Schedule of Conditions

(b) an actual or contingent liability under a non-standard margin lending facility, in the circumstances determined under the terms of the facility, to transfer marketable securities to the client.

adequately secured means:

(a) secured by an enforceable charge over financial products (other than financial products issued by the licensee or its associate) if:

(i) the financial products are:

(A) regularly traded on:

(1) a financial market (as defined in subsection 767A(1) of the Act and disregarding subsection 767A(2) of the Act) operated by a market licensee or a licensee other than the licensee or its associate that in the reasonable opinion of the licensee produces sufficiently reliable prices to assess the value of the security provided by the charge;

(2) an ASIC-approved foreign market under ASIC Regulatory Guide 72 (formerly referred to as Policy Statement 72) as at the date of this licence; or

(3) a foreign market approved in writing for the purpose by ASIC; or

(B) interests in a registered scheme for which withdrawal prices are regularly quoted by the responsible entity and the licensee believes on reasonable grounds that withdrawal may be effected within 5 business days; and

(ii) the market value of these financial products equals not less than 120% of the amount owing or not less than 109% of the amount owing if the financial products are debt instruments; or

(b) secured by a registered first mortgage over real estate that has a fair market valuation at least equal to 120% of the amount owing; or

(c) owing from an eligible provider; or

(d) secured by an enforceable charge over amounts owing to another licensee which themselves are adequately secured.

adjusted assets means the value of total assets as they would appear on a balance sheet at the time of calculation made up for lodgement as part of a financial report under Chapter 2M of the Act if the licensee were a reporting entity:

(a) minus the value of excluded assets that would be included in the calculation; and

(b) minus the value of any receivable of the licensee that would be included in the calculation, up to the amount that the licensee has excluded from adjusted liabilities on the basis that there is an enforceable right of set-off with that receivable; and

(c) minus the value of any assets that would be included in the calculation that are encumbered as a security against liability to a person that provides a security bond to ASIC up to the amount of the bond; and

(d) minus the value of any assets that would be included in the calculation that may be required to be applied to satisfy a liability under a credit facility that is made without recourse to the licensee up to the amount of that liability excluded from adjusted liabilities; and

ASIC

Australian Financial Services Licence

LM INVESTMENT MANAGEMENT LIMITED

ABN: 68 077 208 461

Licence No: 220281

Effective 7 September 2012

Schedule of Conditions

(e) plus

(i) the amount of any eligible undertaking that is not an asset; or

(ii) if the eligible undertaking is for an unlimited amount, an unlimited amount;

provided that if the eligible undertaking is given by a person who is an eligible provider only because of paragraph (b) of the definition of "eligible provider" under this licence, the amount added may be no more than one quarter of the eligible provider's net assets (excluding intangible assets) as shown in the most recent audited financial statements lodged with ASIC; and

(f) for calculating ASLF, plus the value of any current assets of any trust (other than a registered scheme) of which the licensee is trustee as if they would appear on the balance sheet as assets of the licensee except to the extent the value exceeds the sum of:

(i) the current liabilities of the trust as if they would appear on the balance sheet as assets of the licencee; and

(ii) any adjustments to ASLF that are a result of current assets, liabilities and contingent liabilities of the trust for accounting purposes being included in calculating adjustments; and

(g) for calculating ASLF, plus the value of the applicable percentage as set out in paragraphs (c)(i) and (iii) of the definition of "standard adjustments" under this licence of the value of any current assets that would be acquired in return for paying a contingent liability as set out in paragraphs (c)(i) and (iii) of the definition of "standard adjustments" under this licence up to the value of the applicable percentage of the relevant contingent liability.

adjusted liabilities means the amount of total liabilities as they would appear on a balance sheet at the time of calculation made up for lodgement as part of a financial report under Chapter 2M of the Act if the licensee were a reporting entity:

(a) minus the amount of any liability under any subordinated debt approved by ASIC; and

(b) minus the amount of any liability that is the subject of an enforceable right of set-off, if the corresponding receivable is excluded from adjusted assets; and

(c) minus the amount of any liability under a credit facility that is made without recourse to the licensee; and

(d) for calculating ASLF, plus the amount of the total current liabilities of any trust (other than a registered scheme) of which the licensee is trustee as if they would appear on the balance sheet as liabilities of the trustee; and

(e) plus the value of any assets that are encumbered as a security against another person's liability where the licensee is not also liable, but only up to the amount of that other person's liability secured or the value of the assets encumbered after deducting any adjustments under this licence, whichever is lower.

adjusted surplus liquid funds or ASLF means surplus liquid funds minus either:

(a) the standard adjustments (refer to the definition of "standard adjustments" under this licence); or

(b) such other adjustments as ASIC may from time to time consent to in writing.

clearing participant means a clearing participant in the licensed clearing and settlement facility ("CS Facility") as defined in the operating rules of Australian Clearing House Pty Limited ("ACH"), as at the date of this licence, that complies with those operating rules relating to financial requirements, taking into account any waiver by ACH.

ASIC

Australian Financial Services Licence

LM INVESTMENT MANAGEMENT LIMITED

ABN: 68 077 208 461

Licence No: 220281

Effective 7 September 2012

Schedule of Conditions

customer service representative means call centre staff or front desk staff who deal with initial queries from customers.

derivative means "derivatives" as defined in section 761D of the Act (including regulation 7.1.04 of the Corporations Regulations) and:

(a) includes "managed investment warrants" as defined in this licence; and

(b) excludes "derivatives" that are "foreign exchange contracts" as defined in this licence.

eligible custodian means:

(a) an Australian ADI; or

(b) a market participant or a clearing participant; or

(c) a subcustodian appointed by a person of the kind referred to in (a) or (b) of this definition.

eligible provider means:

(a) an Australian ADI; or

(b) an entity (other than a registered scheme of which the licensee or the licensee's associate is the responsible entity):

(i) whose ordinary shares are listed on a licensed market or an ASIC-approved foreign exchange under ASIC Regulatory Guide 72 (formerly referred to as Policy Statement 72) as at the date of this licence; and

(ii) that had net assets (excluding intangible assets) of more than $50 million, as shown in the most recently audited financial statements of the provider lodged with ASIC; and

(iii) that the licensee has no reason to believe no longer has net assets of at least that amount; or

(c) an Australian government (i.e. the Commonwealth or a State or Territory government) or a government of a country that is a member of the Organisation for Economic Co-operation and Development ("OECD country government"), or an agency or instrumentality of an Australian or OECD country government; or

(d) a foreign deposit-taking institution that is regulated by an ASIC - approved regulator; or

(e) a foreign deposit-taking institution approved in writing by ASIC for this purpose; or

(f) an Australian CS facility licensee; or

(g) an entity approved by ASIC in writing for this purpose.

eligible undertaking means the amount of a financial commitment that is:

(a) payable on written demand by the licensee (disregarding any part previously paid or any amount that would be repayable as a current liability or, for calculating NTA, as a liability by the licensee if money were paid), provided by an eligible provider in the form of an undertaking to pay the amount of the financial commitment to the licensee, and that:

(i) is an enforceable and unqualified obligation; and

ASIC

Australian Financial Services Licence

LM INVESTMENT MANAGEMENT LIMITED

ABN: 68 077 208 461

Licence No: 220281

Effective 7 September 2012

Schedule of Conditions

(ii) remains operative (even if, for example, the licensee ceases to hold an AFS licence) until ASIC consents in writing to the cancellation of the undertaking; or

(b) approved in writing by ASIC as an eligible undertaking.

excluded assets means:

(a) intangible assets (i.e. non-monetary assets without physical substance); and

(b) except when allowed under paragraphs (e) or (f) of this definition, assets owing or receivables ("receivables") from or assets invested in, any person who:

(i) is an associate of the licensee; or

(ii) was an associate of the licensee at the time the liability was incurred or the investment was made; or

(iii) became liable to the licensee because of, or in connection with, the acquisition of interests in a managed investment scheme the licensee operates; and

(c) except when allowed under paragraph (g) of this definition, assets:

(i) held as a beneficial interest or an interest in a managed investment scheme; or

(ii) invested in any superannuation product, in respect of which the licensee or its associate may exercise any form of power or control; and

(d) except when allowed under paragraphs (e) or (f) of this definition, receivables from the trustee of any trust in respect of which the licensee or its associate may exercise any form of power or control; and

(e) despite paragraphs (b) and (d) of this definition, a receivable is not excluded to the extent that:

(i) it is adequately secured; or

(ii) the following apply:

(A) it is receivable as a result of a transaction entered into by the licensee in the ordinary course of its business on its standard commercial terms applicable to persons that are not associated with the licensee on an arm's length basis; and

(B) no part of the consideration in relation to the transaction is, in substance, directly or indirectly invested in the licensee; and

(C) the total value of such assets (before any discount is applied) is not more than 20% of the assets less liabilities of the licensee; and

(D) for the purposes of calculating ASLF, the amount is further discounted by 10% of the value after any adjustment required by paragraph (a) or (b) of the definition of "adjusted surplus liquid funds" in this licence; or

(iii) the following apply:

(A) it is receivable from an insurance company that is a body regulated by APRA and results from a transaction entered into by the licensee in the ordinary course of its business on its standard commercial terms applicable to persons that are not associated with the licensee on an arm's length basis; and

(B) there is no reason to believe that any amount invested in the licensee would not have been invested if the transactions that caused the receivable had not taken place or were not at the time of the investment expected to take place; and

ASIC

Australian Financial Services Licence

LM INVESTMENT MANAGEMENT LIMITED

ABN: 68 077 208 461

Licence No: 220281

Effective 7 September 2012

Schedule of Conditions

(C) there is no reason to believe that the recoverability of the receivable will materially depend on the value of an investment by any person in the licensee; and

(D) the total value of the receivables under this subparagraph (iii) before any adjustment required by paragraph (a) or (b) of the definition of "adjusted surplus liquid funds" in this licence is applied is not more than 60% of the adjusted liabilities of the licensee disregarding this subparagraph (iii); or

(iv) ASIC consents in writing to the licensee treating the amount owing as not being an excluded asset; and

(f) despite paragraphs (b) and (d) of this definition, the licensee can include a receivable amount to the extent that it is owing by way of fees from, or under rights of reimbursement for expenditure by the licensee out of property of, a superannuation entity as defined in the Superannuation Industry (Supervision) Act 1993, an IDPS or a registered scheme ("scheme") to the extent that the receivable:

(i) exceeds amounts invested by the scheme in, or lent (other than by way of a deposit with an Australian ADI in the ordinary course of its banking business) directly or indirectly by the scheme to, the licensee, a body corporate the licensee controls, a body corporate that controls the licensee or a body corporate that the licensee's controller controls; and

(ii) if receivable by way of fees, represents no more fees than are owing for the last 3 months; and

(iii) if receivable under rights of reimbursement for expenditure by the licensee, has not been receivable for more than 3 months; and

(g) despite paragraph (c) of this definition, the licensee does not have to exclude a managed investment product unless any part of the amount invested is, in substance, directly or indirectly, invested in the licensee.

financial asset means cash, cheques, orders for payment of money, bills of exchange, promissory notes, securities, deposit products and interests in managed investment schemes (including where the managed investment scheme invests in direct real property or mortgages) but does not include a derivative.

foreign exchange contracts means "foreign exchange contracts" as defined in section 761A of the Act (including regulation 7.1.04 of the Corporations Regulations) and includes "derivatives", as defined in section 761D of the Act, that are foreign exchange contracts.

IDPS means an investor directed portfolio service in relation to which the licensee has relief under Class Order 02/294 as at the date of this licence and as amended by any disallowable legislative instrument, or relief under any disallowable legislative instrument that replaces Class Order 02/294.

IDPS property means property acquired or held through an IDPS other than property held by a client.

incidental property means:

(a) assets of any kind which are necessary for, or incidental to the effective operation of the scheme, the total value of which, and the total liability that may arise from the holding of which, does not exceed 10% of the value of the assets net of liabilities other than liabilities to members as members of the scheme; and

ASIC

Australian Financial Services Licence

LM INVESTMENT MANAGEMENT LIMITED

ABN: 68 077 208 461

Licence No: 220281

Effective 7 September 2012

Schedule of Conditions

(b) cash, deposits or current accounts with an Australian ADI or units in a cash management trust that are held for no more than 3 months pending investment in assets to which the scheme relates, or expenditure or distribution to members; and

(c) derivatives, where:

(i) the value or amount of the derivative will ultimately be determined, derived or varied by reference to something else for the purposes of section 761D(1)(c) of the Act which is related to or may significantly and directly affect the receipts or costs of the fund; and

(ii) the derivative is acquired or disposed of by the licensee as a hedge which has the primary purpose of avoiding or limiting the financial consequences of fluctuations in, or in the value of, receipts or costs of the fund.

managed investment warrant means a financial product:

(a) that is a financial product of the kind referred to in subparagraph 764A(1)(b)(ii) or 764A(1)(ba)(ii); and

(b) would be a derivative to which section 761D applies apart from the effect of paragraph 761D(3)(c); and

(c) that is transferable.

market participant means:

(a) a participant as defined in the operating rules of ASX Limited ("ASX"), as at the date of this licence (other than a Principal Trader, unless the Principal Trader is registered as a Market Maker), who complies with the ASX's operating rules that relate to financial requirements, taking into account any waiver by ASX; or

(b) a participant in the licensed market operated by Sydney Futures Exchange Limited ("SFE") that:

(i) restricts its financial services business to participating in the licensed market and incidental business supervised by SFE; and

(ii) complies with the SFE's operating rules, as at the date of this licence, that relate to financial requirements, taking into account any waiver by SFE.

MDA service means a service with the following features:

(a) a person ("the client") makes client contributions; and

(b) the client agrees with another person that the client's portfolio assets will:

(i) be managed by that other person at their discretion, subject to any limitation that may be agreed, for purposes that include investment; and

(ii) not be pooled with property that is not the client's portfolio assets to enable an investment to be made or made on more favourable terms; and

(iii) be held by the client unless a beneficial interest but not a legal interest in them will be held by the client; and

(c) the client and the person intend that the person will use client contributions of the client to generate a financial return or other benefit from the person's investment expertise.

ASIC

Australian Financial Services Licence

LM INVESTMENT MANAGEMENT LIMITED

ABN: 68 077 208 461

Licence No: 220281

Effective 7 September 2012

Schedule of Conditions

net tangible assets or NTA means adjusted assets minus adjusted liabilities.

old law securities options contracts means "options contracts" as defined under section 9 of the Act immediately prior to 11 March 2002 which were "securities" as defined under section 92(1) of the Act immediately prior to 11 March 2002.

Option 1 means the reasonable estimate projection plus cash buffer basis where the licensee is required to:

(a) prepare a projection of the licensee's cash flows over at least the next 3 months based on the licensee's reasonable estimate of what is likely to happen over this term; and

(b) document the licensee's calculations and assumptions, and describe in writing why the assumptions relied upon are the appropriate assumptions; and

(c) update the projection of the licensee's cash flows when those cash flows cease to cover the next 3 months or if the licensee has reason to suspect that an updated projection would show that the licensee was not meeting paragraph (d) of this definition; and

(d) demonstrate, based on the projection of the licensee's cash flows, that the licensee will have access when needed to enough financial resources to meet its liabilities over the projected term of at least 3 months, including any additional liabilities the licensee projects will be incurred during that term; and

(e) hold (other than as trustee) or be the trustee of a relevant trust that holds, in cash an amount equal to 20% of the greater of:

  (i) the cash outflow for the projected period of at least 3 months (if the projection covers a period longer than 3 months, the cash outflow may be adjusted to produce a 3-month average); or

  (ii) the licensee's actual cash outflow for the most recent financial year for which the licensee has prepared a profit and loss statement, adjusted to produce a 3-month average.

For the purposes of this definition references to the licensee's cash flow include the licensee's own cash flow and any cash flow of a relevant trust but do not include cash flows of any other trust.

For the purposes of paragraph (e) of this definition, "cash" means:

(A) current assets valued at the amount of cash for which they can be expected to be exchanged within 5 business days, or

(B) a commitment to provide cash from an eligible provider that can be drawn down within 5 business days and has a maturity of at least a month;

but does not include any cash in a relevant trust if the licensee has reason to believe that the cash will not be available to meet all of the projected cash flows of the licensee.

Option 2 means the cash needs requirement on the contingency-based projection basis where the licensee is required to:

(a) prepare a projection of the licensee's cash flows over at least the next 3 months based on the licensee's estimate of what would happen if the licensee's ability to meet its liabilities over the projected term (including any liabilities

ASIC

209V

Australian Financial Services Licence

LM INVESTMENT MANAGEMENT LIMITED

ABN: 68 077 208 461

Licence No: 220281

Effective 7 September 2012

Schedule of Conditions

the licensee might incur during the term of the projection) was adversely affected by commercial contingencies taking into account all contingencies that are sufficiently likely for a reasonable licensee to plan how they might manage them; and

(b) document the licensee's calculations and assumptions, and describe in writing why the assumptions relied upon are the appropriate assumptions; and

(c) update the projection of the licensee's cash flows when those cash flows cease to cover the next 3 months or if the licensee has reason to suspect that an updated projection would show that the licensee was not meeting paragraph (d) of this definition; and

(d) demonstrate, based on the projection of the licensee's cash flow, that the licensee will have access when needed to enough financial resources to meet its liabilities over the projected term of at least 3 months, including any additional liabilities the licensee might incur during that term.

For the purposes of this definition references to the licensee's cash flow include any cash flow of a relevant trust.

regulated trust account means:

(a) a trust account maintained by an authorised trustee corporation under the law of a State or Territory; or

(b) a solicitor's trust account; or

(c) a real estate agent's trust account; or

(d) a trust account maintained by an entity other than the licensee and that provides protections similar to the accounts described in paragraphs (a) to (c) of this definition, and is approved by ASIC for the purpose in writing.

relevant trust means, for the purposes of the definitions of "Option 1" and "Option 2" of this licence, a trust:

(a) where substantially all of the financial services business carried on by the licensee is carried on as trustee of a trust; and

(b) that it is not a registered scheme or a superannuation entity as defined in subsection 10(1) of the Superannuation Industry (Supervision) Act 1993.

special custody assets means:

(a) for serviced strata schemes, cash held in a regulated trust account for the purposes of:

(i) refurbishment or improvement of real property associated with the scheme; or

(ii) alleviating seasonal fluctuations in payments of income from the scheme in accordance with provisions in the constitution;

provided that no more is held than the licensee reasonably considers necessary for the relevant purpose; and

(b) currency and chattels (other than documents) that it would not be reasonably practicable for a person other than the responsible entity to hold; and

(c) funds received from members of the scheme within the previous 6 months held in a regulated trust account; and

ASIC

Australian Financial Services Licence

LM INVESTMENT MANAGEMENT LIMITED

ABN: 68 077 208 461

Licence No: 220281

Effective 7 September 2012

Schedule of Conditions

(d) cash held for up to 3 months in an account with an Australian ADI styled as a trust account that is audited at least once every 6 months by a registered company auditor where the auditor's report states that in the auditor's opinion the account has been operated in accordance with the trust:

(i) pending payment to members; or

(ii) to meet expected expenses (not including investments) over a 3 month period; or

(iii) pending application in acquiring a mortgage and paying any fees and costs incidental to the acquisition; and

(e) contractual, lease or licence rights that are not assignable except with the consent of the member or that it would not be reasonably practicable to assign (other than to a new responsible entity) and any documents evidencing those contractual, lease or licence rights; and

(f) assets of trivial value; and

(g) levies of a time sharing scheme which are held in an account with an Australian ADI styled as a trust account that is audited at least twice annually by a registered company auditor where the report from the auditor is provided to the responsible entity's board or compliance committee and states that in the auditor's opinion the account has been operated in accordance with the trust; and

(h) mortgages or documents of title held under a mortgage where:

(i) particular members have a specific beneficial or legal interest in the mortgage; and

(ii) the mortgage was acquired after disclosure in writing to the relevant members (at the time of the acquisition) of all information that would have been required to be in a Product Disclosure Statement (or in relation to mortgages acquired before Division 2 of Part 7.9 applies to interests in the registered scheme a disclosure document under Chapter 6D of the Act) if an offer of interests in the registered scheme conferring rights in connection with that mortgage had been made immediately prior to the morigage; and

(iii) either of the following applies:

(A) the mortgage was acquired on the specific direction of the relevant members (at the time of acquisition of the interest); or

(B) members are able to withdraw from that morigage for a period of 14 days commencing on the date of disclosure under sub-paragraph (h)(ii) of this definition; and

(iv) the scheme does not involve the mortgage being sold prior to its discharge; and

(i) land or other real property relating to a time-sharing scheme.

standard adjustments means:

(a) discounts as follows:

(i) 8% for the values that reflect obligations to pay the licensee a certain sum maturing beyond 12 months unless the interest rate applicable is reset to reflect market interest rates at least annually; and

(ii) 16% for the values that reflect any assets other than:

(A) an obligation to pay the licensee a certain sum; or

(B) a derivative; or

(C) an interest in property held in trust by another licensee under Division 3 of Part 7.8 of the Act or the rights to money held by another licensee in an account under section 981B of the Act; and

ASIC

209X

Australian Financial Services Licence

LM INVESTMENT MANAGEMENT LIMITED

ABN: 68 077 208 461

Licence No: 220281

Effective 7 September 2012

Schedule of Conditions

(b) 8% of the values that reflect others' obligations to pay the licensee a certain sum except to the extent that the asset is adequately secured or is a right against another licensee in respect of money or property held by that other licensee in an account under section 981B or held in trust under Division 3 of Part 7.8 of the Act; and

(c) the following amounts for contingent liabilities and contingent liabilities of any trust (other than a registered scheme) of which the licensee is trustee:

(i) 5% of any contingent liabilities that can be quantified under an underwriting or sub-underwriting of financial products except:

(A) during the 5 business days after the commitment is assumed; and

(B) during any period it is unlawful to accept applications for the financial products to which the underwriting relates (such as under subsection 727(3) or section 1016B) and the period ending 5 business days after the first day on which it becomes lawful to accept applications; and

(C) to the extent that the underwriter holds funds from persons seeking to acquire the financial products subject to the underwriting; and

(ii) 5% of the potential liability of any contingent liabilities that can be quantified under a derivative other than to the extent there is an offsetting position in any of the following or a combination of the following:

(A) the "something else" for the purposes of paragraph 761D(1)(c) of the Act; and

(B) another derivative relating to that something else; and

(C) a thing that is so similar to the something else as to make the probability of net loss from the liability under the derivative exceeding any increase in the value of the thing less than 5% in the reasonable and documented opinion of the licensee,

except to the extent that the licensee is of the reasonable opinion that the risk that they will become liabilities (or become liabilities to a greater extent than taken into account for the purposes of applying the adjustment) because of a change in the price or value of the something else is trivial; and

(iii) 20% of the potential liability of any contingent liabilities that can be quantified under a guarantee or indemnity;

(d) the relevant percentage as set out in subparagraphs (c)(ii) and (c)(iii) of the amounts that in the licensee's reasonable opinion is the maximum amount that the licensee may be liable for in relation to a contingent liability referred to in paragraph (c) where the maximum liability cannot be quantified; and

(e) where the licensee has agreed to sell an asset that it does not hold, the amount of the adjustment that would apply if it held that asset is to be applied against adjusted assets.

For the purposes of this definition, the risk that a contingent liability will become a liability may be treated as trivial if the probability that this will occur is reasonably estimated by the licensee as less than 5%.

For the purposes of paragraphs (a) and (b) of this definition, discounts apply against the value of current assets:

(f) used in calculating "adjusted assets" in this licence; and

(g) of any trust (other than a registered scheme) of which the licensee is a trustee (see subparagraph (f)(ii) of the definition of "adjusted assets" in this licence); and

(h) that are deducted under paragraph (c) of the definition of "adjusted assets" in this licence as assets to which recourse may be had for a liability of the licensee where the licensee's liability is limited to those assets but the

ASIC

Australian Financial Services Licence

LM INVESTMENT MANAGEMENT LIMITED

ABN: 68 077 208 461

Licence No: 220281

Effective 7 September 2012

Schedule of Conditions

total discounts applied to those assets shall not exceed any excess of the value of the licensee's assets to which recourse may be taken over the amount of the liability; and

(i) that is the applicable percentage of the current assets that would be acquired in return for paying a contingent liability referred to in subparagraph (c)(i) or (iii) of this definition including rights against a sub-underwriter (see paragraph (g) of the definition of "adjusted assets" in this licence).

The licensee does not have to apply the discounts to the value of amounts payable from a client in the ordinary course of its financial services business for financial products that the client has agreed to buy, if the money is required to be—and in the reasonable estimation of the licensee probably will be—paid no more than 5 business days after the client became liable.

surplus liquid funds or SLF means adjusted assets minus adjusted liabilities:

(a) plus any non-current liabilities that were used in calculating adjusted liabilities and the value of any assets that are encumbered (where the licensee is not liable and the assets do not secure another person's current liability) that were deducted when calculating the licensee's adjusted liabilities; and

(b) minus any non-current assets that were used in calculating adjusted assets; and

(c) if the licensee is an eligible provider under paragraph (b) of the definition of "eligible provider" under this licence—plus one quarter of the value of the licensee's non-current assets minus any intangible assets and the amount of its non-current liabilities.

Tier $500,000 class assets means:

(a) real property (including mortgages or leases over or licences in relation to real property) that is intended to be kept for the whole duration of the scheme or, the relevant mortgage; and

(b) physical assets including currency which as a matter of reasonable practice can be held by a custodian (such as valuables or precious metals); and

(c) funds received from members within the previous:

(i) 6 months if held for the purposes of the initial investment by the responsible entity as part of the scheme; or

(ii) 13 months if held pending payment of expenses of the scheme;

held in a regulated trust account; and

(d) special custody assets.

trigger point means either of the trigger points described in condition 17 of this licence.

value of assets means, for the purpose of condition 11 of this licence, the value of assets and other scheme property and/or IDPS property determined as follows:

(a) in the case of assets that would be recognised in preparing a balance sheet for members under Chapter 2M of the Act - their value as if at that time such a balance sheet was being prepared; and

ASIC

Australian Financial Services Licence

LM INVESTMENT MANAGEMENT LIMITED

ABN: 68 077 208 461

Licence No: 220281

Effective 7 September 2012

Schedule of Conditions

(b) in the case of any other scheme property and/or IDPS property - its market value. For the purpose of this calculation mortgages held by members of a registered scheme and managed as part of the scheme must be treated as assets of the scheme.

ASIC

Duplicate

SUPREME COURT OF QUEENSLAND

Registry: Brisbane
No: 2859 of 2013

IN THE MATTER OF LM INVESTMENT MANAGEMENT LIMITED (ADMINISTRATORS APPOINTED) ABN 68 077 208 461 AND LM ADMINISTRATION PTY LTD (ADMINISTRATORS APPOINTED) ACN 055 691 426

Applicants **JOHN RICHARD PARK AND GINETTE MULLER IN THEIR CAPACITY AS JOINT AND SEVERAL ADMINISTRATORS OF LM INVESTMENT MANAGEMENT LIMITED (ADMINISTRATORS APPOINTED) AND LM ADMINISTRATION PTY LTD (ADMINISTRATORS APPOINTED)**

ORDER

Before: Chief Justice

Date: 12 April 2013

Initiating Document: Originating Application filed 26 March 2013

THE ORDER OF THE COURT IS THAT:

1 Pursuant to section 439A(6) of the *Corporations Act 2001*(Cth) ("**the Act**"), the convening period for the meetings of creditors of LM Investments Management Limited (admins apptd) (**LMI**) and LM Administration Pty Ltd (admins apptd) (**LMA**) be extended up to and including Thursday 25 July 2013.

ORDER
Filed on behalf of the Applicants

King & Wood Mallesons
Level 33, Waterfront Place, 1 Eagle Street,
Brisbane Qld 4000
T +61 7 3244 8000
F +61 7 3244 8999
DX 311 Brisbane
King & Wood Mallesons' reference
ESC/CAM:0455064221

11387683_2

2 Pursuant to section 447A(1) of the Act, the meetings of creditors of each of LMI and LMA required by section 439A of the Act may be held together or separately and at any time during, or within five business days after the end of the convening period as extended by the Court, notwithstanding the provisions of section 439A(2) of the Act.

Service

3 The Applicants inform those creditors (including persons claiming to be creditors) of LMI and LMA for whom the Applicants have a current postal address (in Australia), facsimile number or email address ("**Creditors**") and the Australian Securities and Investments Commission ("**ASIC**") of these orders and any further application (for a further extension of the convening period) of LMIM and LMA by means of a circular forwarded by post, facsimile or email (as the case may be) within seven days after the filing of the application or sealed copies of the orders being made available by the Court.

4 With respect to all creditors of LMI and LMA for whom the Applicants do not have a current postal address (in Australia), facsimile number or email address, the Applicants inform those creditors of the orders made pursuant to this application and any further application (for a further extension of the convening period) of LMI and LMA, by making the applications (and any supporting affidavit material) or orders available on www.lminvestmentadministration.com within seven days after the filing of the application or sealed copies of the orders being made available by the Court.

5 The following persons have liberty to apply on giving all other interested parties not less than three business days' notice:

(a) any person who can demonstrate a sufficient interest to modify or discharge any orders made; and

(b) the Applicants, for any purpose connected with the administrations of LMI or LMA.

6 The costs of and incidental to this application be costs and expenses in the administrations of LMI and LMA and be paid out of the assets of, LMI and LMA.

Registrar:

AUSTRALIAN SECURITIES & INVESTMENTS COMMISSION
014793387

LM INVESTMENT MANAGEMENT LIMITED
ACN 077 208 461

AND

THE MEMBERS AS THEY ARE CONSTITUTED
FROM TIME TO TIME OF THE
LM MORTGAGE INCOME FUND

CONSTITUTION

Constitution/~~Compliance Plan~~
for scheme registered on 29/5/98.
A.R.S.N. 089 343 288.
Australian Securities and Investments Commission

Lodged By:

PRIMROSE COUPER CRONIN RUDKIN
Solicitors
35-39 Scarborough Street
SOUTHPORT QLD 4215

PH: (07) 5532 2211
FAX: (07) 5591 2202

TABLE OF CONTENTS

1. DICTIONARY AND INTERPRETATION 1
1.1 Dictionary of Terms 1
1.2 Interpretation 5
1.3 Accounting Standards 6

2. ESTABLISHMENT OF TRUST 7
2.1 Appointment of Trustee 7
2.2 Declaration of Trust 7
2.3 Appointment of Custodian 7
2.4 Name of Trust 7
2.5 Initial Issue 7

3. UNITS AND MEMBERS 7
3.1 Units 7
3.2 Classes 7
3.3 Fractions 7
3.4 Equal value 7
3.5 Interest 8
3.6 Consolidation and re-division 8
3.7 Rights attaching to Units 8
3.8 Conditions 8

4. BINDING ON ALL PARTIES 8

5. ISSUE OF UNITS 8
5.1 Offer and minimum subscription 8
5.2 Form of Application 9
5.3 Acceptance or rejection 9
5.4 Uncleared funds 9
5.5 Issue of Units 9
5.6 Number of Units issued 9
5.7 Unit Holding Statement 9

6. ISSUE PRICE 9

7. REDEMPTION OF UNITS - WHILE THE SCHEME IS LIQUID 10
7.1 Redemption request - while the Scheme is Liquid 10
7.2 Application for redemption of Units 10
7.3 Redemption 10
7.4 Cancellation 10

8. REDEMPTION PRICE 11

9. TRANSFER OF UNITS 11
9.1 Transferability of Units 11
9.2 Registration of Transfers 11
9.3 Where registration may be refused 11
9.4 Where registration must be refused 11
9.5 Notice of non-registration 12
9.6 Suspension of transfers 12

10. TRANSMISSION OF UNITS 12
10.1 Entitlement to Units on death 12
10.2 Registration of persons entitled 12

	10.3 Distributions and other rights	13
11.	DISTRIBUTABLE INCOME	13
	11.1 Income of the Scheme Fund	13
	11.2 Expenses and provisions of the Scheme Fund	13
	11.3 Distributable Income	13
12.	DISTRIBUTIONS	14
	12.1 Distribution Period	14
	12.2 Distributions	14
	12.3 Present entitlement	14
	12.4 Capital distributions	14
	12.5 Grossed up Tax amounts	14
	12.6 Reinvestment of Distributable Income	14
13.	NATURE OF RE POWERS	15
14.	COMPLAINTS PROCEDURES	16
15.	TERM OF TRUST	17
16.	WINDING UP THE SCHEME	18
17.	VALUE OF THE SCHEME FUND	20
	17.1 Valuation of the Scheme Fund	20
	17.2 Valuation if required	20
	17.3 Determination of Net Fund Value	20
18.	FEES, TAXES, COSTS AND EXPENSES	20
	18.1 Taxes:	20
	18.2 Payment of Debts:	21
	18.3 Fees:	21
	18.5 Costs and Expenses	21
19.	INDEMNITY AND LIABILITY	24
20.	POWERS OF ATTORNEY	24
21.	TITLE TO SCHEME FUND	25
	21.1 Custodian to hold as agent of RE	25
22.	THE REGISTER	25
	22.1 Keeping registers	25
	22.2 Information in registers	25
	22.3 Changes	25
23.	NOTICES	26
24.	LIABILITY OF MEMBERS	26
25.	RETIREMENT AND APPOINTMENT OF RE	27
26.	CHANGING THE CONSTITUTION	27
27.	STATEMENTS, ACCOUNTS AND AUDIT	27
	27.1 Appointment of auditors	27
	27.2 Retirement of auditors	28
	27.3 Remuneration of Auditor	28

27.4 Accounts and reports 28
27.5 Audit 28

28. MEETINGS OF MEMBERS 28
28.1 Convening Meetings 28
28.2 Calling and holding meetings 28

29. OTHER ACTIVITIES AND OBLIGATIONS OF THE RE 29
29.1 Other activities 29
29.2 Other Obligations 29

30. GOVERNING LAW 29

31. ASIC INSTRUMENT 29

DEED made this 24th day of August 1999

BETWEEN: LM INVESTMENT MANAGEMENT LIMITED ACN 077 208 461 a company duly incorporated in Queensland having its registered office at Level 4, RSL Centre, 44A Cavill Avenue, Surfers Paradise in the State of Queensland (the Responsible Entity hereinafter referred to as the "RE")

NO DUTY PAYABLE
Commissioner of Stamp Duties
Queensland

AND: All those persons who from time to time apply for Units and are accepted as Unitholders of the Scheme ("the Members")

WHEREAS:

A. The RE holds a responsible entity's licence from the ASIC.

B. The RE wishes to establish a pooled mortgage unit trust called the LM Mortgage Income Fund.

C. The RE intends to apply to the ASIC to have the LM Mortgage Income Fund registered as a managed investment scheme ("the Scheme").

D. Upon registration of the Scheme the RE will issue a Prospectus to invite investors to participate in the Scheme.

E. By applying to invest in this Scheme through a Prospectus a person will become a Member and be bound by this Constitution.

F. This Constitution is made with the intent that the benefits and obligations hereof will enure not only to the RE but also to the extent provided herein to every person who is or becomes a Member.

IT IS AGREED:

1. **DICTIONARY AND INTERPRETATION**

1.1 **Dictionary of Terms**

In this Constitution:

"Accounting Standards" means the accounting standards and practices determined under clause 1.3;

"Adviser" means the financial adviser who has offered Unit/s in this Scheme to a Member who has made a complaint about the Scheme;

"Applicant" anyone who submits an application for Unit/s in the Scheme in accordance with the Prospectus;

"Application Form" an application in writing for Unit/s in the Scheme attached to the Prospectus.

"Application Money" the amount received from an Applicant when lodging the application in respect of the Unit/s applied for in accordance with the Prospectus;

"ASIC" the Australian Securities and Investments Commission;

jms/1552bam

"ASIC Instrument" means:

(a) an exemption or modification granted by ASIC in accordance with Part 5C.11 of the Law; or

(b) any other instrument issued by ASIC under a power conferred on ASIC which relates to the RE or the Scheme.

"Auditor" means the auditor of the Scheme appointed by the RE under clause 27.1 and shall be qualified to act as a registered scheme auditor pursuant to s331AA of the Law;

"Borrower" any person who applies to the Scheme to borrow Scheme Funds and who is approved by the RE;

"Business Day" any day on which trading banks are open for business on the Gold Coast, Queensland;

"Class" means a class of Units, being Units which have the same rights.

"CO" the Compliance Officer of the RE;

"Commencement Date" means the date of registration of the Scheme;

"Compliance Committee" the committee formed pursuant to Part 5C.5 of the Law.

"Compliance Plan" means the Compliance Plan for the Scheme lodged at the ASIC on Scheme registration;

"Constitution" this document including any Schedule, Annexure or Amendments to it and which also means the Unit Trust Deed;

"Custodian" Permanent Trustee Australia Limited ACN 008 412 913;

"Custody Agreement" an agreement dated the 4th day of February, 1999 entered into between the Custodian and the RE;

"Development Loan" a loan to fund the construction of a building on mortgaged property which is to be drawn down before completion of the building;

"Distributable Income" means as detailed in Clause 11.1;

"Dollars", **"A$"** and **"$"** mean the lawful currency of the Commonwealth of Australia;

"Financial Year" means:

(a) the period from the Commencement Date to midnight on the next 30 June;

(b) each subsequent period of 12 months ending at midnight on each 30 June preceding the Vesting Date; and

(c) the period beginning at midnight on the 30 June immediately preceding the Vesting Date and ending on the Vesting Date;

"**FSCRS**" means the Financial Services Complaints Resolution Scheme;

"**Issue Price**" means the price at which a Unit is issued calculated in accordance with clause 6.

"**Law**" means the Corporations Law;

"**Lender**" means the RE on behalf of the Members lending Scheme Funds through the Scheme;

"**Lending Rules**" means the rules detailed in clauses 13.2 and 13.3;

"**Liabilities**" means at any time the aggregate of the following at that time as calculated by the RE:

(a) Each liability of the RE in respect of the Scheme or, where appropriate, a proper provision in accordance with the applicable Accounting Standards in respect of that liability.

(b) Each other amount payable out of the Scheme Fund or, where appropriate, a proper provision in accordance with the applicable Accounting Standards in respect of that liability.

(c) Other appropriate provisions in accordance with the applicable Accounting Standards.

"**Liquid Scheme**" means a registered scheme is liquid if liquid assets account for at least 80% of the value of scheme property.

"**LMM**" means Law Mortgage Management Pty Ltd ACN 055 691 426;

"**LVR**" means loan to valuation ratio and is the ratio of the amount of a loan to the valuation of the Borrower's property offered as security for a loan in the Scheme;

"**Member**" in relation to a Unit, means the person registered as the holder of that Unit (including joint holders).

"**Minimum Investment**" $10,000.00 is the minimum amount a Member may invest in the Scheme. This minimum amount may be increased in multiples of $5,000.00.

"**Mortgagee**" in all mortgages held by the Scheme the Mortgagee will be the Custodian as agent for the RE;

"**Net Fund Value**" at any time, means the value of the Scheme Fund less the Liabilities at that time.

"**Net Accounting Income**" means as detailed in Clause 11.3;

"**Net Accounting Loss**" means as detailed in Clause 11.3;

"**Power**" means any right, power, authority, discretion or remedy conferred on the RE by this Constitution or any applicable law;

"Promoter" for the purpose of the Law the promoter of this Scheme is the RE;

"Prospectus" means a Prospectus or any Supplementary Prospectus as defined in section 9 of the Law and registered for the Scheme;

"Redemption Price" means the Price at which a Unit is redeemed calculated in accordance with Clause 8;

"Register" means the register of Members maintained by the RE under clause 22;

"Responsible Entity" means the company named in the ASIC's records of the Scheme's registration as the responsible entity of the Scheme and the RE of the Scheme Fund and referred to in this document as the RE and who is also the Trustee of the Scheme;

"Scheme" means a managed investment scheme to be known as the "LM Mortgage Income Fund" that is to be registered under s601EB of the Law and also means the Trust;

"Scheme Fund" means assets of the Scheme including but not limited to:

(a) contributions of money or money's worth to the Scheme; and

(b) money that forms part of the Scheme Fund under the provisions of the Law or the ASIC Law; and

(c) money borrowed or raised by the RE for the purposes of the Scheme; and

(d) property acquired, directly or indirectly, with, or with the proceeds of, contributions or money referred to in paragraph (a), (b) or (c); and

(e) the income and property derived, directly or indirectly from contributions, money or property referred to in paragraph (a), (b), (c) or (d);

and also means the Trust Fund;

"Security Property" means any property offered by a Borrower as security for an approved Mortgage in the Scheme;

"Subscription Account" an account opened and maintained by the RE into which is deposited all Application Moneys;

"Tax Act" means the Income Tax Assessment Act 1936 (Cth) and the Income Tax Assessment Act 1997 (Cth);

"Transaction Costs" means:-

(a) when calculating the issue price of a Unit, the RE's estimate of the total Expenses related to issuing the Units of the Scheme limited to a

maximum of 3% of the value of the Units applied for in any one transaction;

(b) when calculating the redemption price of a Unit, the RE's estimate of the total Expenses related to redeeming Units of the Scheme limited to a maximum of 3% of the value of the Units being redeemed in any one transaction;

(in each case excluding the actual cost of the Units of the Scheme); or

(c) in either case, to the extent permitted by the Law if applicable a lesser amount (including zero) determined by the RE.

"Trustee" means LM Investment Management Limited ACN 077 208 461 and any substitute or additional trustee appointed under this deed, until that person is removed or retires as trustee and means the Responsible Entity;

"Unit" means an undivided interest in the Scheme Fund created and issued under this Constitution; and

"Unit Holding" means the number of Units in the Scheme held by a Member as evidenced in the Register of Unit Holders;

"Unit Holding Statement" means a statement issued by the RE to a Member pursuant to clause 5.7;

"Valuation Date" means the date which is the last day of each quarter or any date during each quarter at the RE's discretion or the date on which the RE determines there has been a material change in the value of the Scheme Fund;

"Valuation Policy" means the RE's Valuation Policy as detailed in the Compliance Plan;

"Vesting Date" means the date of termination of the Scheme under clause 15.

1.2 **Interpretation**

In this Constitution, unless the context otherwise requires:

(a) headings and underlining are for convenience only and do not affect the interpretation of this Constitution;

(b) words importing the singular include the plural and vice versa;

(c) words importing a gender include any gender;

(d) other parts of speech and grammatical forms of a word or phrase defined in this Constitution have a corresponding meaning;

(e) an expression importing a natural person includes any company, partnership, joint venture, association, corporation or other body corporate and any Governmental Agency;

(f) a reference to any thing includes a part of that thing;

(g) a reference to a part, clause, party, annexure, exhibit or schedule is a reference to a part and clause of, and a party, annexure exhibit and schedule to, this Constitution;

(h) a reference to any statute, regulation, proclamation, ordinance or by-law includes all statutes, regulations, proclamations, ordinances or by-laws amending, consolidating or replacing it, and a reference to a statute includes all regulations, proclamations, ordinances and by-laws issued under that statute;

(i) a reference to a document includes all amendments or supplements to, or replacements or novations of, that document;

(j) where the day on or by which any thing is to be done is not a Business Day, that thing must be done on or by the preceding Business Day except that any amount payable on demand where the demand is made on a day which is not a Business Day must be paid on the next succeeding Business Day;

(k) a reference to an agreement includes an undertaking, deed, agreement or legally enforceable arrangement or understanding whether or not in writing;

(l) a reference to a document includes any agreement in writing, or any statement, notice, deed, instrument or other document of any kind;

(m) a reference to a body (including, without limitation, an institute, association or authority), whether statutory or not:

(i) which ceases to exist; or

(ii) whose powers or functions are transferred to another body;

is a reference to the body which replaces it or which substantially succeeds to its powers or functions;

(n) a reference to any date means any time up to 5.00 pm (Queensland time) on that date; and

(o) a reference to dealing with a Unit includes any subscription, redemption, sale, assignment, encumbrance, or other disposition whether by act or omission and whether affecting the legal or equitable interest in the Unit.

1.3 **Accounting Standards**

In respect of any accounting practice relevant to this Constitution, the following accounting standards apply as if the Scheme were a company:

(a) the accounting standards required under the *Corporations Law*.

(b) If no accounting standard applies under clause 1.3(a), the accounting practice determined by the RE.

2. ESTABLISHMENT OF TRUST

2.1 Appointment of Trustee

The RE agrees to act as Trustee of the Scheme.

s601FC(2) **2.2 Declaration of Trust**

The RE declares that it holds the Scheme Fund on trust for the Members.

s601FB(2) **2.3 Appointment of Custodian**

(a) The RE has appointed the Custodian as agent to hold the Scheme Fund on behalf of the RE.

(b) The Custodian shall hold the Scheme Fund as agent of the RE for the term of the Scheme on terms and conditions as detailed in the Custody Agreement.

2.4 Name of Trust

The name of the trust is the LM Mortgage Income Fund or any other name that the RE may determine from time to time.

2.5 Initial Issue

The Scheme commences at such time after the Commencement Date when LMM or its nominee pays $100.00 to the RE to establish the Scheme Fund. The RE must issue to LMM or its nominee 100 Units in return for that payment.

3. UNITS AND MEMBERS

3.1 Units

The beneficial interest in the Scheme Fund will be divided into Units. Unless the terms of issue of a Unit or a Class otherwise provide, all Units will carry all rights, and be subject to all the obligations of Members under this Constitution.

3.2 Classes

Different Classes may be issued. If the RE determines in relation to particular Units, the terms of issue of those Units may eliminate, reduce or enhance any of the rights or obligations which would otherwise be carried by such Units.

3.3 Fractions

Fractions of a Unit may not be issued. When any calculations under this Constitution would result in the issue of a fraction of a Unit, the number of Units to be issued must be rounded down to the nearest whole Unit.

3.4 Equal value

At any time, all the Units in a Class are of equal value.

3.5 **Interest**

A Unit confers an interest in the Scheme Fund as a whole. No Unit confers any interest in any particular Asset of the Scheme Fund.

3.6 **Consolidation and re-division**

(a) Subject to clause 3.6(b) the RE may at any time divide the Scheme Fund into any number of Units other than the number into which the Scheme Fund is for the time being divided.

(b) A division of a kind referred to in clause 3.6(a) must not change the ratio of Units in a Class registered in the name of any Member to the Units on issue in the Class.

3.7 **Rights attaching to Units**

(a) A Member holds a Unit subject to the rights and obligations attaching to that Unit.

(b) Each Member agrees not to:

(i) interfere with any rights or powers of the RE under this Constitution;

(ii) purport to exercise a right in respect of the Scheme Fund or claim any interest in an asset of the Scheme Fund (for example, by lodging a caveat affecting an asset of the Scheme Fund); or

(iii) require an asset of the Scheme Fund to be transferred to the Member.

3.8 **Conditions**

The RE may impose such conditions on the issue of Units as it determines including that the Member may not give effect to any mortgage, charge, lien, or other encumbrances other than as expressly permitted by the RE.

4. BINDING ON ALL PARTIES

s601GB 4.1 This Constitution is binding on the RE and on all Members of the Scheme as they are constituted from time to time.

4.2 By executing the Application Form attached to the Prospectus the Members as are constituted from time to time agree to be bound by the terms and conditions of this Constitution.

5. ISSUE OF UNITS

s601GA(a) 5.1 **Offer and minimum subscription**

(a) The RE may at any time offer Units for subscription or sale.

(b) The Minimum Investment must be lodged with an Application for Units.

(c) The RE may invite persons to make offers to subscribe for or buy Units.

5.2 **Form of Application**

Each Application for Units must be:

(a) made by Application Form attached to a Prospectus; and

(b) be accompanied by Application Moneys as required by any relevant Prospectus;

5.3 **Acceptance or rejection**

The RE may, without giving any reason:

(a) accept an Application;

(b) reject an Application; or

(c) reject part of the Application.

5.4 **Uncleared funds**

Units issued against Application Money in the form of a cheque or other payment order (other than in cleared funds) are void if the cheque or payment order is not subsequently cleared.

5.5 **Issue of Units**

Units are taken to be issued when:

(a) the Application Money for the Issue Price is received by the RE; and

(b) the RE accepts the Application and the Units are entered in the Register,

or at such other time as the RE determines.

5.6 **Number of Units Issued**

Subject to Minimum Investment, the number of Units issued at any time in respect of an Application for Units will be calculated as follows:

(a) by dividing the Application Moneys paid by the applicable Issue Price at that time;

(b) by rounding down to the nearest Unit.

5.7 **Unit Holding Statement**

The evidence of a Members holding in the Scheme will be the latest extract from the Register as provided from time to time to a Member by the RE in a Unit Holding Statement.

6. **ISSUE PRICE**

The issue price of a Unit shall be calculated as follows:

$$\left(\frac{\text{Net Fund Value}}{\text{Number of Units on Issue}}\right) + \text{Transaction fee (if any)}$$

calculated on the last Valuation Date prior to the date of issue.

7. REDEMPTION OF UNITS - WHILE THE SCHEME IS LIQUID

7.1 **Redemption request - while the Scheme is Liquid**

While the Scheme is Liquid as defined in S601KA(4) of the Law, any Member may request that some or all of their Units be redeemed.

7.2 **Application for redemption of Units**

A Member may apply in writing to the RE to redeem any Units held by the Member. The application must:

(a) specify the number and class of Units to be redeemed;

(b) be in a form approved by the RE.

7.3 **Redemption**

(a) Within 180 days of receiving the application under clause 7.2 or such shorter withdrawal period as the RE may determine in its absolute discretion, the RE must redeem the units out of the scheme fund for the unit price.

(b) The RE may suspend the redemption offer as detailed in Clause 7.3(a) above for such periods as it determines where:

(i) the Scheme's cash reserves fall and remain below 5% for ten (10) consecutive business days; or

(ii) if in any period of (90) days, the RE receives net redemption requests equal to 10% or more of the Scheme's issued Units and, during the period of (10) consecutive days falling within the 90 day period, the Scheme's cash reserves are less than 10% of the total assets; or

(iii) it is not satisfied that sufficient cash reserves are available to pay the unit price on the appropriate date and to pay all actual and contingent liabilities of the Scheme; or

(iv) any other event or circumstance arise which the RE considers in its absolute discretion may be detrimental to the interests of the Members of the scheme.

(c) The RE is not required to process redemption requests where:

(i) the person seeking to redeem the units cannot provide satisfactory evidence of the Members title or authority to deal with the units; or

(ii) the redemption would cause Members Unit Holding to fall below the Minimum Investment.

7.4 **Cancellation**

(a) The RE must cancel the number of Units which have been redeemed under clause 7.3 and must not reissue them. Upon cancellation, the RE must immediately:

(i) remove the name of the Member from the Register in respect of the redeemed Units; and

(ii) provide the Member with a new Unit Holding Statement for any unredeemed Units.

(b) A Unit is cancelled when the Member holding the Unit is paid the Unit Price by the RE.

8. **REDEMPTION PRICE**

The Redemption Price of each Unit pursuant to clause 7 shall be calculated as follows:

(Net Fund Value)
(Number of Units issued) - Transaction Fee (if any)

calculated on the last Valuation Date prior to the date of redemption.

9. **TRANSFER OF UNITS**

9.1 **Transferability of Units**

(a) Subject to this Constitution, a Unit may be transferred by instrument in writing, in any form authorised by Law or in any other form that the RE approves.

(b) A Transferor of Units remains the holder of the Units transferred until the transfer is registered.

9.2 **Registration of Transfers**

(a) The following documents must be lodged for registration at the registered office of the RE or the location of this Register:

(1) the instrument of transfer; and

(i) any other information that the RE may require to establish the transferor's right to transfer the Units.

(b) On compliance with clause 9.2(a), the RE will, subject to the powers of the RE to refuse registration, register the transferee as a Member.

9.3 **Where registration may be refused**

Where permitted to do so by Law or this Constitution, the RE may refuse to register any transfer of Units.

9.4 **Where registration must be refused**

If:

(a) the RE has notice that the transferor of Units has entered into any borrowing or other form of financial accommodation to provide all or part of the funds to subscribe for or acquire a Unit and has not received confirmation from the financier that the financier consents to the transfer of those Units; or

(b) the transferor has given a power of attorney in favour of the RE and the Custodian in the form set out in an application form accompanying a prospectus and the transferee has not executed and provided to the RE a similar form of power of attorney (with such adaptations as are necessary) in favour of the RE and the Custodian, or

the RE must refuse to register same and must continue to treat the seller or transferor as the case may be as the registered holder for all purposes and the purported sale, purchase, disposal or transfer shall be of no effect.

(c) If the transferee is not a Member the RE must not consent to the registration until the RE is satisfied that the transferee has read or had the opportunity to read this Constitution and has agreed to be bound by its provisions.

9.5 **Notice of non-registration**

If the RE declines to register any transfer of Units, the RE must within 5 Business Days after the transfer was lodged with the RE give to the person who lodged the transfer written notice of, and the reasons for, the decision to decline registration.

9.6 **Suspension of transfers**

The registration of transfers of Units may be suspended at any time and for any period as the RE from time to time decide. However, the aggregate of those periods must not exceed 30 days in any calendar year.

10. **TRANSMISSION OF UNITS**

10.1 **Entitlement to Units on death**

(a) If a Member dies:

(i) the survivor or survivors, where the Member was a joint holder; and

(ii) the legal personal representatives of the deceased, where the Member was a sole holder,

will be the only persons recognised by the RE as having any title to the Member's interest in the Units.

(b) The RE may require evidence of a Member's death as it thinks fit.

(c) This clause does not release the estate of the deceased joint Member from any liability in respect of a Unit that had been jointly held by the Member with other persons.

10.2 **Registration of persons entitled**

(a) Subject to the Bankruptcy Act 1966 and to the production of any information that is properly required by the RE, a person becoming

entitled to a Unit in consequence of the death or bankruptcy (or other legal disability) of a Member may elect to:

(i) be registered personally as a Member; or

(ii) have another person registered as the Member.

(b) All the limitations, restrictions and provisions of this Constitution relating to:

(i) the right to transfer;

(ii) the registration of the transfer of;

for Units apply to any relevant transfer as if the death or bankruptcy or legal disability of the Unit Member had not occurred and the notice or transfer were a transfer signed by that Member.

10.3 **Distributions and other rights**

(a) If a Member dies or suffers a legal disability, the Member's legal personal representative or the trustee of the Member's estate (as the case may be) is, on the production of all information as is properly required by the RE, entitled to the same distributions, entitlements and other advantages and to the same rights (whether in relation to meetings of the Scheme or to voting or otherwise) as the Member would have been entitled to if the Member had not died or suffered a legal disability.

(b) Where two or more persons are jointly entitled to any Unit as a result of the death of a Member, they will, for the purposes of this Constitution, be taken to be joint holders of the Unit.

11. **DISTRIBUTABLE INCOME**

11.1 **Income of the Scheme Fund**

The income of the Scheme Fund for each Financial Year will be determined in accordance with applicable Accounting Standards.

11.2 **Expenses and provisions of the Scheme Fund**

For each Financial Year:

(a) the Expenses of the Scheme Fund will be determined in accordance with the applicable Accounting Standards; and

(b) provisions or other transfers to or from reserves may be made in relation to such items as the RE considers appropriate in accordance with the applicable Accounting Standards including, but not limited to, provisions for income equalisation and capital losses.

11.3 **Distributable Income**

The Distributable Income of the Scheme Fund is Income of the Scheme Fund less Expenses and provisions of the Scheme Fund.

12. **DISTRIBUTIONS**

12.1 **Distribution Period**

The Distribution Period is one calendar month or as otherwise determined by the RE in its absolute discretion.

12.2 **Distributions**

The RE must distribute the Distributable Income relating to each Distribution Period within 21 days of the end of each Distribution Period.

12.3 **Present entitlement**

Unless otherwise agreed by the RE and subject to the rights, restrictions and obligations attaching to any particular Unit or Class, the Members on the Register will be presently entitled to the distributable income of the Scheme Fund on the last day of each Distribution Period.

12.4 **Capital distributions**

The RE may distribute capital of the Scheme Fund to the Members. Subject to the rights, obligations and restrictions attaching to any particular Unit or Class, a Member is entitled to that proportion of the capital to be distributed as is equal to the number of Units held by that Member on a date determined by the RE divided by the number of Units on the Register on that date. A distribution may be in Cash or by way of bonus Units.

12.5 **Grossed up Tax amounts**

Subject to any rights, obligations and restrictions attaching to any particular Unit or Class, the grossed up amount under the Tax Act in relation to Tax credits or franking rebates is taken to be distributed to Unit Members in proportion to the Distributable Income for a Distribution Period as the case may be, which is referable to a dividend or other income to which they are presently entitled.

12.6 **Reinvestment of Distributable Income**

(a) The RE may invite Members to reinvest any or all of their distributable income entitlement by way of application for additional Units in the Scheme.

(b) The terms of any such offer of reinvestment will be determined by the RE in its discretion and may be withdrawn or varied by the RE at any time.

(c) The RE may determine that unless the Member specifically directs otherwise they will be deemed to have accepted the reinvestment offer.

(d) The Units issued as a result of an offer to reinvest will be deemed to have been issued on the first day of the next Distribution Period immediately following the Distribution Period in respect of which the distributable income being reinvested was payable.

13. NATURE OF RE POWERS

s601GA(1)(b) 13.1 The RE has all the powers:

(a) of a natural person to invest and borrow on security of the Scheme Fund;

(b) in respect of the Scheme and the Scheme Fund that it is possible under the Law to confer on a RE and on a Trustee;

(c) as though it were the absolute owner of the Scheme Fund and acting in its personal capacity; or

(d) necessary for fulfilling its obligations under this Constitution and under the Law.

s601GA(3) 13.2 The RE must only invest Members' funds in:

(a) mortgage investments provided that:

(i) all mortgages are secured over land and the amount which may be advanced to a Borrower does not exceed an LVR to 66 2/3% of the value of the land or an LVR of 95% of the value of the land secured by mortgage insurance to a level approved by the RE.

(ii) the type of real estate offered for security is acceptable to the RE;

(iii) the value of the property offered as security has been established in accordance with the Valuations Policy of the RE;

(b) other mortgage backed schemes in accordance with this clause and the RE's compliance standards;

(c) a range of interest bearing investments backed by Australian banks, building societies, State or Federal governments, or foreign banks as approved by the RE.

s601GA(3) 13.3 Whenever a Loan of Scheme Funds involves a Development Loan, the RE shall ensure it has included amongst its officers or employees persons with relevant project management experience who are competent to manage loans of this kind.

s601GA(2) 13.4 To the extent allowed by law:

(a) any restriction or prohibition imposed upon the RE in relation to the investment from time to time of the Scheme Fund or any part thereof is hereby excluded from the obligations imposed.

(b) without derogating from the generality of the foregoing this exclusion specifically applies to any "Prudent Person Rule" or the like which may be implied by any future enactment of legislation.

s601GA(3) 13.5 To the extent allowed by law:

(a) the RE may borrow or raise money with or without security over the Scheme Fund or any part of it on any terms, including any rate of interest and any fees and expenses as the RE thinks fit;

(b) the RE may deal with any property to exercise all the powers of a Mortgagee pursuant to the mortgage terms and conditions.

s601GA(3) 13.6 The RE must direct the Custodian to deal with the Scheme Property in accordance with this Constitution.

14. COMPLAINTS PROCEDURES

s601GA(1)(c) 14.1 Complaints may be made in writing or by telephone to the Member's Adviser or the registered office of the RE. Complainants are referred to their Adviser initially with details of the complaint.

14.2 The Adviser has the authority to deal directly with the Member in the first instance in resolving the complaint. The Adviser is obliged by the RE to ascertain and record exactly details of the complainant and the nature of the complaint.

14.3 The Adviser has three days in which to acknowledge the complaint and satisfactorily resolve the complaint. The RE must provide reasonable assistance to the Adviser in dealing with the complaint.

14.4 Where the Member feels their complaint has not been satisfactorily resolved they must be directed by the Adviser to the CO who then takes full responsibility in resolving the complaint. The CO may contact the Adviser for further background information and attempt to mediate a satisfactory resolution of the complaint. The CO has thirty days in which to satisfactorily resolve the complaint from the time that he/she formally takes responsibility for the complaint.

14.5 Where the RE believes it has either resolved the complaint, or it has not resolved the complaint but believes it can do nothing more to satisfy the complainant, and the Member feels their complaint has still not been satisfactorily resolved, the complainant must be referred to the FSCRS for

mediation. The FSCRS adopts a three stage approach in resolving complaints as follows:-

(a) stage 1: initial opportunity for Member to resolve complaints;

(b) stage 2: complaints review, investigation and conciliation;

(c) stage 3: independent determination of complaints by adjudicator.

The full terms of reference for the FSCRS are held by the CO.

14.6 In acknowledging or resolving complaints, the Adviser or RE must make a written response including:-

(a) the name, title and contact details of the Adviser or CO actually handling the complaint;

(b) a summary of the Adviser's or RE's understanding of the complaint;

(c) details of the Adviser's or RE's offer for resolution of the complaint and relevant time frame;

(d) where the complaint is not fully dealt with in the letter an estimate of time required for the RE to resolve the complaint.

14.7 The CO must record full details of each complaint and resolution thereof in the Complaints Register including:-

(a) the person responsible for resolving the complaint;

(b) the name of the Member making the complaint;

(c) the nature of the complaint;

(d) the product service or department in respect of which the complaint was made;

(e) the actual time required to resolve the complaint;

(f) the actual resolution of the complaint;

(g) recommendations for changes to products disclosures systems or processes to ensure similar complaints do not arise in the future.

14.8 The Complaints Register should be reviewed by the CO as part of an ongoing review process to determine whether recommendations for change arising from resolved complaints have been effectively incorporated in the compliance program.

14.9 If a complaint cannot be resolved to the satisfaction of the Member then the complainant Member may:-

(a) refer the matter to arbitration or the courts; or

(b) take whatever other action is open to the complainant Member under the general law.

14.10 The RE must disclose the details of its complaints procedure to all investors.

15. **TERM OF TRUST**

The Trust begins on the Commencement Date and is to be wound up on the earlier to occur of:

(a) the date which is eighty years from the Commencement Date; and

(b) any earlier date which the RE, in its absolute discretion may appoint as the Vesting Date.

16. **WINDING UP THE SCHEME**

s601GA(1)(d) 16.1 The Scheme shall only be wound up in accordance with the Law and this Constitution.

16.2 The RE must wind up the Scheme in the following circumstances:-

s601NE(1)(a) (a) if the term of the Scheme as detailed in this Constitution has expired;

s601NE(1)(b) (b) the Members pass an Extraordinary Resolution directing the RE to wind up the Scheme;

s601NE(1)(c) (c) the Court makes an order directing the RE to wind up the Scheme pursuant to the Law and in particular pursuant to section 601FQ(5) and section 601ND;

s601NE(1)(d) (d) the Members pass an Extraordinary Resolution to remove the RE but do not at the same time pass an Extraordinary Resolution choosing a company to be the new RE that consents to becoming the Scheme's RE;

s601NC(1) 16.3 (a) If the RE considers that the purpose of the Scheme:

(i) has been accomplished; or

(ii) cannot be accomplished,

it may take steps to wind up the Scheme.

(b) If the RE wishes to wind up the Scheme pursuant to 16.3(a), the RE must give to the Members of the Scheme and to the ASIC a notice in writing;

(i) explaining the proposal to wind up the Scheme, including explaining how the Scheme's purpose has been accomplished or why that purpose cannot be accomplished; and

(ii) informing the Members of their rights to take action under Division 1 of Part 2G.4 of the Law for the calling of a Members' meeting to consider the proposed winding up of the Scheme and to vote on an Extraordinary Resolution Members propose about the winding up of the Scheme; and

(iii) informing the Members that the RE is permitted to wind up the Scheme unless a meeting is called to consider the proposed winding up of the Scheme within 28 days of the RE giving the notice to the Members;

(c) if no meeting is called within that 28 days to consider the proposed winding up, the RE may wind up the Scheme.

s601NE(2) 16.4 (a) The RE may wind up the Scheme in accordance with this Constitution and any orders under S601NF(2) of the Law if the RE is permitted by S601NC(3) of the Law to wind up the Scheme.

s601NF(3) (b) An order to wind up the Scheme pursuant to s601ND(1) or s601NF(1) or (2) of the Law may be made on the application of:
(i) the RE; or
(ii) a director of the RE: or
(iii) a Member of the Scheme; or
(iv) the ASIC.

s601NE(3) 16.5 The RE shall not accept any further applications for Units in the Scheme or make any further loans from the Scheme Fund at a time after the RE has become obliged to ensure the Scheme is wound up or after the Scheme has started to be wound up.

16.6 The RE shall manage the Scheme until such time as all winding up procedures have been completed.

16.7 Subject to the provisions of this clause 16 upon winding up of the Scheme the RE must:

(a) realise the assets of the Scheme Fund;

(b) pay all liabilities of the RE in its capacity as Trustee of the Scheme including, but not limited to, liabilities owed to any Member who is a creditor of the Scheme;

(c) subject to any special rights or restrictions attached to any Unit, distribute the net proceeds of realisation among the Members in the same proportion specified in Clause 12.4;

(d) The Members must pay the costs and expenses of a distribution of assets under clause 16.7(c) in the same proportion specified in Clause 12.4.

(e) The RE may postpone the realisation of the Scheme Fund for as long as it thinks fit and is not liable for any loss or damage attributable to the postponement.

(f) The RE may retain for as long as it thinks fit any part of the Scheme Fund which in its opinion may be required to meet any actual or contingent liability of the Scheme.

(g) The RE must distribute among the Members in accordance with clause 16.7 anything retained under clause 16.7(f) which is subsequently not required.

s601NG 16.8 If on completion of the winding up of a registered Scheme, the RE or such other person who may be winding up the Scheme has in their possession or under their control any unclaimed or undistributed money or other property that was part of the Scheme Property the RE or person winding up the Scheme must, as soon as practicable, pay the money or transfer the property to the ASIC to be dealt with pursuant to Part 9.7 of the Law.

s601EE 16.9 If at any time the Scheme is operated while it is unregistered the following may apply to the Court to have the Scheme wound up:

(a) The ASIC
(b) The RE
(c) A Member of the Scheme

16.10 The RE shall arrange for an Auditor to audit the final accounts of the Scheme after the Scheme is wound up.

17. VALUE OF THE SCHEME FUND

17.1 Valuation of the Scheme Fund

The RE may cause the Scheme Fund to be valued at any time in accordance with the Valuation Policy of the RE.

17.2 Valuation if required

The RE must cause the Scheme Fund or any asset of the Scheme Fund to be valued if required by ASIC or under the Law and the valuation must be undertaken in accordance with those requirements.

17.3 Determination of Net Fund Value

The RE may determine the Net Fund Value at any time in its discretion, including more than one on each day.

18. FEES, TAXES, COSTS AND EXPENSES

s601GA(2) **18.1 Taxes:**

The RE may use the Scheme Fund to pay any Tax or other obligation, liability or expense required by any applicable law in relation to:

(a) this Constitution;
(b) any amount incurred or payable by the RE;
(c) a gift or settlement effected by this Constitution;
(d) the exercise by the RE of any Power; or

(e) money or investments held by or on behalf of the RE under this Constitution.

s601GA(2) 18.2 **Payment of Debts:**

The RE may set aside any money from the Scheme Fund which, in the RE's opinion, is sufficient to meet any present or future obligation of the Scheme Fund.

s601GA(2) 18.3 **Fees:**

The RE is entitled to be paid fees from the Scheme Fund in the amounts as detailed in the Prospectus or in any Supplementary Prospectus and in relation to the performance of its duties as detailed in this Constitution, the Compliance Plan and the Law.

s601GA(2) 18.4 The RE shall be entitled to fees for the following duties:

(a) In relation to the subscription and redemption of units
(b) In relation to the transfer or transmission of Units
(c) Establishment/loan application fees
(d) In relation to the structuring or packaging of loan proposals
(e) In relation to Loan management
(f) In relation to the rollover of a loan facility
(g) In relation to due diligence enquiries generally
(h) In relation to the sale of real estate or assets of the Scheme Fund
(i) In relation to the promotion and management of the Scheme. This fee is payable monthly
(j) In relation to the appointment of the Custodian pursuant to the Custody Agreement
(k) In relation to the winding-up of the Scheme
(l) In relation to the performance of its duties and obligations pursuant to the Law and this Constitution.

s601GA(2) 18.5 **Costs and Expenses**

The RE shall be indemnified out of Scheme Property for liabilities or expenses incurred in relation to the performance of its duties; including:

(a) Auditor's fees;
(b) Legal fees and outgoings in relation to settlement, rollover, default or recovery of loans
(c) Barrister/QC - Legal Counsel Fees
(d) Search fees including property searches, company, bankruptcy, CRAA searches and any other searches which may be necessary

to enable location, identification and/or investigation of borrowers/guarantors/mortgagors.

(e) Valuation fees

(f) Independent expert's or consultant's fees including but not limited to marketing agents, property specialists, surveyors, quantity surveyors, town planners, engineers

(g) Property report/property consultants fees

(h) Process Servers fees

(i) Private Investigator fees

(j) Fees in relation to the marketing and packaging of security properties for sale

(k) Real estate agent's sales commissions

(l) Costs of maintenance of mortgage securities

(m) Outstanding accounts relating to mortgage securities such as council rates

(n) Locksmith for changing locks of mortgage securities as appropriate

(o) Insurance (property and contents)

(p) Removalists for removal of borrower's property as appropriate

(q) Security guards to attend mortgage securities as appropriate

(r) Building and/or property inspection report fees - i.e. building, town planning experts and the like

(s) all ASIC charges

(t) all costs of supplying Members with copies of this Constitution and any other documents required by the Law to be provided to Members

(u) all costs and expenses incurred in producing Prospectuses and Supplementary Prospectuses or any other disclosure document required by the Law

(v) reasonable costs incurred in protecting or preserving all assets offered as security

s601FB(2) (w) all liability, loss, cost, expense or damage arising from the proper performance of its duties in connection with the Scheme performed by the RE or by any agent appointed pursuant to s601FB(1) of the Law

(x) any liability, loss, cost, expense or damage arising from the lawful exercise by the RE and the Custodian of their rights under the Power of Attorney contained in clause 20

(y) Fees and expenses of any agent or delegate appointed by the RE.

(z) Bank and government duties and charges on the operation of bank accounts.

(aa) Costs, charges and expenses incurred in connection with borrowing money on behalf of the Scheme under the Constitution.

(bb) Insurances directly or indirectly protecting the Scheme Fund.

(cc) Fees and charges of any regulatory or statutory authority.

(dd) Taxes in respect of the Scheme but not Taxes of the RE [save and except any goods and services or similar tax ("GST")] which are payable by the RE on its own account.

(ee) Costs of printing and postage of cheques, advices, reports, notices and other documents produced during the management of the Scheme.

(ff) Expenses incurred in connection with maintaining accounting records and registers of the Scheme and of the Scheme Auditors.

(gg) Costs and disbursements incurred in the preparation and lodgement of returns under the Law, Tax Act or any other laws for the Scheme.

(hh) Costs of convening and holding meetings of Members.

(ii) Costs and disbursements incurred by or on behalf of the RE in connection with its retirement and the appointment of a substitute.

(jj) Costs and disbursements incurred by the RE in the initiation, conduct and settlement of any court proceedings.

(kk) Costs of any insurance premiums insuring against the costs of legal proceedings (whether successful or not) including legal proceedings against Compliance Committee Members not arising out of a wilful breach of a duty referred to in S601JD of the Law.

(ll) Costs of advertising the availability of funds for lending.

(mm) Brokerage and underwriting fees.

(nn) If and when the RE becomes responsible to pay any GST in respect of any services provided to the Scheme or any payments in respect of GST to be made by the Members or the RE in respect of the Scheme or under the terms of this Constitution then the RE shall be entitled to be indemnified in respect of such GST from the Scheme Fund.

s601GA(2) 18.6 In the event that the RE has not performed its duties, the lack of entitlement to payment of fees pursuant to 18.3 is only in respect of that part of the

payment which relates to the specific lack of proper performance on any given matter. Nothing in this clause shall be interpreted to mean that the RE is not entitled to be paid fees and expenses for work properly performed.

s601GA(2) 18.7 In the event of any dispute regarding the payment of fees and expenses, the RE shall be paid such fees and expenses until the dispute is fully determined. Any overpayment of the RE shall be repaid forthwith upon the identification of the overpayment.

18.8 The RE is entitled to recover fees and expenses from the Scheme provided they have been incurred in accordance with this Constitution.

18.9 All fees payable to the RE are net of any goods and services tax.

19. INDEMNITY AND LIABILITY

s601GA(2) 19.1 The following clauses apply to the extent permitted by law:

(a) The RE is not liable for any loss or damage to any person (including any Member) arising out of any matter unless, in respect of that matter, it acted both:

(i) otherwise than in accordance with this Constitution and its duties; and

(ii) without a belief held in good faith that it was acting in accordance with this Constitution or its duties.

In any case the liability of the RE in relation to the Scheme is limited to the Scheme Property, from which the RE is entitled to be, and is in fact, indemnified.

(b) In particular, the RE is not liable for any loss or damage to any person arising out of any matter where, in respect of that matter:

(i) it relied in good faith on the services of, or information or advice from, or purporting to be from, any person appointed by the RE;

(ii) it acted as required by Law; or

(iii) it relied in good faith upon any signature, marking or documents.

(c) In addition to any indemnity under any Law, the RE has a right of indemnity out of the Scheme Property on a full indemnity basis, in respect of a matter unless, in respect of that matter, the RE has acted negligently, fraudulently or in breach of trust.

(d) The RE is not liable to account to any Member for any payments made by the RE in good faith to any duly authorised authority of the Commonwealth of Australia or any State or Territory of Australia for taxes or other statutory charges.

20. POWERS OF ATTORNEY

20.1 Each Member by execution of the Application Form or the transfer by which he/she/it acquires Units in the Scheme appoints the RE and the Custodian and any director officer attorney or substitute nominated by either the RE or the Custodian severally for this purpose as its attorney and agent with the right:

(a) at any time to:

(i) sign any document in relation to any subscription and redemption agreement;

(ii) sign any document in relation to the transfer or transmission of Units;

(iii) sign any variation of this Constitution;

(iv) sign any document required by ASIC to be executed by a Member in respect of the Scheme.

(b) at the request in writing of either the RE or the Custodian the Member must execute separate Powers of Attorney in a form reasonably required by the RE or the Custodian appointing the RE and/or the Custodian as its attorney for the purpose of this clause.

(c) any attorney may exercise its rights notwithstanding that the exercise of the right constitutes a conflict of interest or duty;

20.2 each Member indemnifies and shall keep indemnified any attorney against any liability, loss, cost, expense or damage arising from the lawful exercise of any right by the attorney under the Power of Attorney.

21. TITLE TO SCHEME FUND

21.1 Custodian to hold as agent of RE

The Scheme Fund will be held in the name of the Custodian as agent for the RE on the terms and conditions as detailed in the Custody Agreement.

22. THE REGISTER

22.1 Keeping registers

The RE must establish and keep a register of Members, and if applicable, the other registers required by the Law.

22.2 Information in registers

To the extent applicable, the registers must be kept in accordance with, and contain the information required by the Law. Otherwise, the RE may decide what information is included in the registers. If the Law applies, the RE has the powers conferred under the Law in relation to the register.

22.3 Changes

Every Member must promptly notify the RE of any change of name or address and the RE must alter the relevant register accordingly.

23. **NOTICES**

23.1 A notice or other communication connected with this Constitution has no legal effect unless it is in writing.

23.2 In addition to any other method of service provided by law, the Notice must be:

(i) sent by post, postage prepaid, to the address for the Member in the RE's register of interests;

(ii) sent by facsimile to the facsimile number of the Member; or

(iii) otherwise delivered at the address of the addressee of the Member as is subsequently notified.

23.3 A Notice must be treated as given and received:

(i) if sent by post, on the 2nd Business Day (at the address to which it is posted) after posting;

(ii) if sent by facsimile before 5.00 p.m. on a Business Day at the place of receipt, on the day it is sent and otherwise on the next Business Day at the place of delivery.

23.4 Despite clause 23.3(ii) a facsimile is not treated as given or received unless at the conclusion of the transmission the sender's facsimile machine issues a transmission report which indicates that the relevant number of pages comprised in the Notice have been sent.

23.5 A Notice sent or delivered in a manner provided by clause 23.2 must be treated as validly given to and received by the party to which it is addressed even if:

(a) the addressee has been liquidated or deregistered or is absent from the place at which the Notice is delivered or to which it is sent; or

(b) the notice is returned unclaimed.

23.6 Any Notice by a party may be given and may be signed by the solicitor for the party.

23.7 Any Notice to a party may be given to the solicitor for the party by any of the means listed in clause 23.2 to the solicitor's business address or facsimile number as the case may be.

24. **LIABILITY OF MEMBERS**

(a) The liability of each Member, whether actual, contingent or prospective, is limited to the unpaid issue Price of his/her/its Units except if the RE and the relevant Member agree otherwise in writing that the liability of a Member may be further limited or waived.

(b) A creditor or other person claiming against the RE as trustee of the Scheme has no recourse against a Member and no Member is personally liable to indemnify the RE, any creditor of the RE or any person claiming against the RE in respect of any actual, contingent, prospective or other liability of the RE in relation to the Scheme Fund.

25. **RETIREMENT AND APPOINTMENT OF RE**

s601FL 25.1 The RE may retire as RE as permitted by s601FM of the Law.

s601FM 25.2 The RE must retire when required by s601FM of the Law.

s601FR 25.3 If the RE changes the former RE must comply with s601FR of the Law.

s601FS 25.4 The rights, obligations and liabilities of a former RE are as detailed in s601FS of the Law.

25.5 A Member may not be appointed as RE.

25.6 The RE must not subscribe for, transfer or hold any interest in a Unit.

26. **CHANGING THE CONSTITUTION**

s601GC(1) 26.1 This Constitution may be modified or repealed or replaced with a new Constitution:

(a) by Special Resolution of the Members of the Scheme;

or

(b) by the RE if the RE reasonably considers the change will not adversely affect Members' rights.

26.2 In the event the RE wishes to change the Constitution the RE must:

s601GC(2) (a) lodge with the ASIC a copy of the modification or the new Constitution;

(b) the modification, or repeal and replacement, cannot take effect until the copy has been lodged;

s601GC(3) (c) the RE must lodge with the ASIC a consolidated copy of the Scheme's Constitution if the ASIC directs it to do so;

s601GC(4) 26.3 The RE must send a copy of the Scheme's Constitution to a Member of the Scheme within seven (7) days if the Member:

(a) asks the RE in writing for the copy; and

(b) pays any fee (up to the prescribed amount) required by the RE.

27. **STATEMENTS, ACCOUNTS AND AUDIT**

27.1 **Appointment of auditors**

(a) The RE must appoint an Auditor to regularly audit the accounts in relation to the Scheme and perform the other duties required of the Scheme's auditors under this Constitution and the Law.

(b) The RE must appoint an Auditor of the compliance plan (as defined in section 601HG of the Law).

27.2 **Retirement of auditors**

The Scheme Auditor and the Compliance Plan Auditor may each retire or be removed in accordance with the Law.

27.3 **Remuneration of Auditor**

The remuneration of the Scheme Auditor and Compliance Plan Auditor will each be fixed by the RE.

27.4 **Accounts and reports**

(a) The accounts of the Scheme must be kept and prepared by the RE in accordance with applicable Accounting Standards and the Law.

(b) The RE must report to Members concerning the affairs of the Scheme and their holdings as required by the Law. Subject to the Law, the person preparing a report may determine the form, content and timing of it.

27.5 **Audit**

The RE will cause:

(a) the Scheme Auditor to audit and report on the accounts;

(b) the Compliance Plan Auditor to audit and report on the compliance plan,

each in the manner required by the Law.

28. **MEETINGS OF MEMBERS**

28.1 **Convening Meetings**

The RE may at any time convene a meeting of Members and must convene a meeting of Members when required to do so by the Law.

28.2 **Calling and holding meetings**

s252G(4) A notice of meeting sent by post is taken to be given the day after it is delivered.

s252R(2) 28.3 If, at any time, there is only 1 Member of the Scheme, the quorum for a meeting is 1 in all other cases the quorum for a meeting is 2.

s252R(3) 28.4 If an individual is attending a meeting as a Member and as a body corporate representative, the RE may in determining whether a quorum is present, count the individual more than once.

s242W(2) 28.5 A proxy is not entitled to vote on a show of hands.

s252W(3) 28.6 A proxy is entitled to speak and vote for a Member (to the extent allowed by the appointment) even if the Member is present (but only so long as the Member does not speak or vote, as the case may be).

s252Y(2) 28.7 An appointment of proxy:

(a) is valid even if it does not specify the Member's address; and

(b) may be a standing one.

s252Z(5) 28.8 The RE may determine, in relation to a particular meeting or generally, that proxy documents may be received up to any shorter period before the meeting.

s259K(2) 28.9 A poll cannot be demanded on any resolution concerning:

(a) the election of the chair of a meeting; or

(b) the adjournment of a meeting.

29. OTHER ACTIVITIES AND OBLIGATIONS OF THE RE

29.1 Other activities

Subject to the Law, nothing in this Constitution restricts the RE (or its associates) from:

(a) dealing with itself (as manager, trustee or responsible entity of another trust or scheme or in another capacity);

(b) being interested in any contract or transaction with itself (as manager, trustee or responsible entity of another trust or managed investment scheme or in another capacity) or with any Member or retaining for its own benefit profits or benefits derived from any such contract or transaction; or

(c) acting in the same or similar capacity in relation to any other trust or managed investment scheme.

29.2 Other Obligations

All obligations of the RE which might otherwise be implied by Law are expressly excluded to the extent permitted by Law.

30. GOVERNING LAW

This Deed is governed by the Laws of the State of Queensland. The RE and the Members submit to the non-exclusive jurisdiction of courts exercising jurisdiction there.

31. ASIC INSTRUMENT

If relief from the provisions of the Law granted by an ASIC Instrument requires that this Constitution contain certain provisions, then those provisions are taken to be incorporated into this Constitution at all times at which they are required to be included and prevail over any other provisions of this Constitution to the extent of any inconsistency. However, if the relief is granted by Class Order (rather than specifically in relation to the Scheme) then the ASIC Instrument (and the provisions

it requires) will only be taken to be incorporated if the RE declares in writing that this is the case.

EXECUTED AS A DEED:

GIVEN under the Common Seal of LM INVESTMENT MANAGEMENT LIMITED ACN 077 208 461 by authority of a resolution of the Board of Directors under the hands of a Director and the Secretary who certify that they are the proper officers to affix this seal and in the presence of:

..... Director

..... Secretary

LM INVESTMENT MANAGEMENT LIMITED A.C.N. 077 208 461 THE COMMON SEAL OF

A Justice of the Peace/Solicitor

AUSTRALIAN SECURITIES & INVESTMENTS COMMISSION
017925494

LM INVESTMENT MANAGEMENT LIMITED
ACN 077 208 461

AND

THE MEMBERS AS THEY ARE CONSTITUTED
FROM TIME TO TIME OF THE
LM MORTGAGE INCOME FUND

ARSN 089 343 288

RECEIVED
23 JUL 2002
BRISBANE BUSINESS CENTRE

DEED OF MODIFICATION OF CONSTITUTION

MODIFICATION TO
Constitution/~~Compliance Plan~~
for scheme registered on 27/7/99
A.R.S.N. 089 343 288
Australian Securities and Investments Commission

ASIC - RECEIVED
22 JUL 2002
GOLD COAST SERVICE CENTRE

Lodged By:

LM Investment Management Ltd
Level 4 RSL Centre
44A Cavill Avenue
SURFERS PARADISE QLD 4217

PH: (07) 5584 4500
FAX: (07) 5592 2505

THIS DEED is made by LM INVESTMENT MANAGEMENT LIMITED ACN 077 208 461 ("the RE") on the 9th day of July 2002.

RECITALS

A. On the 24th day of August, 1999 the RE executed a Deed (the "Constitution") establishing the LM MORTGAGE INCOME FUNDARSN 089 343 288.

B. Clause 26.1 of the Constitution provides, among other things, that the Constitution may be modified by the RE if the RE reasonably considers the change will not adversely affect Member's rights.

C. By Deeds of Modification dated the 15 March, 2000 and 13 June 2001 the RE exercised that power and modified the Constitution.

D. The RE has decided to again exercise its power set out in Clause 26.1 of the Constitution as set out in this Deed.

E. The RE considers that the change provided for in this Deed does not adversely affect Member's rights.

OPERATIVE PROVISIONS

1. A term used in this Deed and defined in the Constitution has the same meaning when used in this Deed.

2. The RE modifies the Constitution by amending Clause 13.2(a)(i) by deleting the percentage amount of 66 2/3% where it appears and inserting 75% in its place so that the clause will now read as follows:-

   "13.2(a)(i) all mortgages are secured over land and the amount which may be advanced to a Borrower does not exceed an LVR to 75% of the value of the land or an LVR of 95% of the value of the land secured by mortgage insurance to a level approved by the RE; "

3. This Deed takes effect from its date of execution.

EXECUTED AS A DEED:

LM INVESTMENT MANAGEMENT LIMITED ACN 077 208 461

EXECUTED by LM INVESTMENT MANAGEMENT LIMITED ACN 077 208 461 in accordance with Section 127 of the Corporations Law

)
)Director
)
)
)
Director

DATED this 19th day

of July 2002

LM INVESTMENT MANAGEMENT LIMITED
ACN 077 208 461

the RE

DEED OF MODIFICATION OF CONSTITUTION

LM Investment Management Ltd
Level 4 RSL Centre
44A Cavill Avenue
Surfers Paradise Qld 4217
Tel: (07) 5584 4500

ASIC registered agent number

lodging party or agent name: LM Investment Management Ltd

office, level, building name or PO Box no.: PO Box 485

street number and name: Surfers Paradise

suburb / city: Surfers Paradise state/territory: Qld postcode: 4217

telephone: (07) 55844500

facsimile: (07) 55922505

DX number: suburb / city

5101 AUSTRALIAN SECURITIES & INVESTMENTS COMMISSION
D20945596

ASS REG-A CASH REG-P PROC

Australian Securities & Investments Commission

form **5101**

Notification of
change to registered scheme's constitution

Corporations Act 2001
601GC

name of registered scheme: LM Mortgage Income Fund

ARSN: 089 343 288

name of responsible entity: LM Investment Management Ltd

ACN: 68 077 208 461

Details of change

☐ **Modification** of constitution authorised by special resolution of member.
date of resolution (d/m/y): / /

☐ **Replacement** of constitution authorised by special resolution of members
date of resolution (d/m/y): / /

☐ **Modification** of constitution authorised by responsible entity
date authorised (d/m/y): / /

☑ **Replacement** of constitution authorised by responsible entity
date of replacement (d/m/y): 6/6/05

** A copy of the modification / new constitution is attached to this form.

NB: The modification, or repeal and replacement, of the constitution does not take effect until the copy has been lodged.

Signature

I certify that the information on this form is true and complete

print name: CAROLYN HODGE capacity: Secretary

sign here: [signature] date: 1.6.05

Small Business (less than 20 employees), please provide an estimate of the time taken to complete this form

Include
- The time actually spent reading the instructions, working on the question and obtaining the information
- The time spent by all employees in collecting and providing this information

hrs mins

LM INVESTMENT MANAGEMENT LIMITED
ABN 68 077 208 461
Australian Financial Services Licensee 220281

AND

THE MEMBERS AS THEY ARE CONSTITUTED
FROM TIME TO TIME OF THE
LM MORTGAGE INCOME FUND
ARSN 089 343 288

REPLACEMENT CONSTITUTION

Constitution/Compliance Plan
for scheme registered on 20/6/05
A.R.S.N. 089 343 288
Australian Securities and Investments Commission

906225v4/S1

DEED made this 6 day of June 2005

BETWEEN: LM INVESTMENT MANAGEMENT LIMITED ACN 077 208 461 a company duly incorporated in Queensland having its registered office at Level 4, RSL Centre, 9 Beach Road, Surfers Paradise in the State of Queensland (the Responsible Entity hereinafter referred to as the "RE")

AND: All those persons who from time to time apply for Units and are accepted as Unitholders of the Scheme ("the Members")

WHEREAS:

A. The RE holds a responsible entity's licence from the ASIC.

B. The RE established a pooled mortgage unit trust called the LM Mortgage Income Fund on 28 September 1999.

C. By applying to invest in this Scheme through a PDS a person will become a Member and be bound by this Constitution.

D. Clause 26.1(b) and section 601GC(1)(b) allows the RE to modify or repeal and replace the Constitution where the RE reasonably considers the change will not adversely affect Members' rights. The RE is satisfied the amendments contemplated by this replacement Constitution will not adversely affect Members' rights.

E. Accordingly with effect from the date of this deed poll, the existing constitution of the Scheme is repealed and replaced with this Constitution.

F. This Constitution is made with the intent that the benefits and obligations hereof will enure not only to the RE but also to the extent provided herein to every person who is or becomes a Member.

IT IS AGREED:

1. DICTIONARY AND INTERPRETATION

1.1 Dictionary of Terms

In this Constitution:

"**Accounting Standards**" means the accounting standards and practices determined under clause 1.3;

"**Adviser**" means the financial adviser who has offered Unit/s in this Scheme to a Member;

"**Applicant**" anyone who submits an application for Unit/s in the Scheme in accordance with the PDS;

"**Application**" means a request from a Member to the RE to issue Units in a managed investment scheme pursuant to an Arrangement;

"**Application Form**" an application in writing for Unit/s in the Scheme attached to the PDS.

"**Application Money**" the amount received from an Applicant when lodging the application in respect of the Unit/s applied for in accordance with the PDS;

"**Arrangement**" means a written arrangement between the RE and a Member that sets out the circumstances in which Applications for Units in registered schemes operated by the RE, may be accepted;

"**ASIC**" the Australian Securities and Investments Commission;

"**ASIC Instrument**" means:

(a) an exemption or modification granted by ASIC in accordance with Part 5C.11 of the Law; or

(b) any other instrument issued by ASIC under a power conferred on ASIC which relates to the RE or the Scheme.

"**Auditor**" means the auditor of the Scheme appointed by the RE under clause 27.1 and shall be qualified to act as a registered scheme auditor pursuant to the Law;

"**Authorised Investments**" means

(a) monies deposited (whether secured or unsecured) with a Bank, or any corporation related to a Bank or other corporation or monies deposited with any trustee company, fund, bills of exchange, certificates of deposit and negotiable certificates of deposit issued by a Bank or similar instrument accepted and endorsed by a Bank;

(b) any investments the time being authorised by the laws of the Commonwealth of Australia or any State or Territory thereof for the investment of trust funds;

(c) monies deposited with an authorised short term money market dealer as such expression is used in section 65 of the Law;

(d) any investment in or acquisition of cash, stocks, bonds, notes or other securities or derivatives issued by the Government of Australia, any other country, any company, corporation, body corporate, association, firm, mutual fund or unit trust;

(e) any investment in or acquisition of options, entitlements or rights to any of the securities or derivatives referred to in clause (d) of this provision;

(f) real property or interests in real property whether by acquisition

of units in unit trusts or otherwise;

(g) interests in any registered managed investment scheme (as defined in the Law) including but not limited to any scheme of which the RE acts as RE;

(h) making loans to any person or company with or without interest, whether secured or unsecured, and for any period whatsoever; and

(i) the acquisition of foreign currencies, hedging contracts, commodity contracts of any kind which are quoted on a financial market (as defined in the Law).

"Bank" has the meaning given to an ADI in section 5 of the Banking Act 1959 (Cth) and also includes an ADI constituted by or under a law of the State or Territory and a foreign ADI as that term is defined in section 5 of the Banking Act 1959 (Cth).

"Borrower" any person who applies to the Scheme to borrow Scheme Property and who is approved by the RE;

"Business Day" any day on which trading Banks are generally open for business on the Gold Coast, Queensland;

"Class" means a class of Units, being Units which have the same rights.

CO" the Compliance Officer of the RE;

"Commencement Date" means the date of registration of the Scheme;

"Compliance Committee" the Compliance Committee of the RE.

"Compliance Plan" means the Compliance Plan for the Scheme lodged at the ASIC on Scheme registration;

"Constitution" this document including any Schedule, Annexure or Amendments to it and which also means the Unit Trust Deed;

"Custodian" Permanent Trustee Australia Limited ACN 008 412 913;

"Custody Agreement" an agreement dated the 4th day of February, 1999 and any further amendments entered into between the Custodian and the RE;

"Development Loan" a loan to fund the construction of a building on mortgaged property which is to be drawn down before completion of the building;

"Differential Fee Arrangement" means an arrangement pursuant to Class Order [CO 03/217] which provides an exemption from S601FC(1)(d) of the Law in relation to differential fee arrangements

offered to investors investing in the Fund as a Wholesale Investor, within the meaning of Wholesale Client in Section 761G of the Corporations Act;

"**Distributable Income**" means, in relation to the Scheme, any amount determined by the RE from time to time to be distributed to Members, including without limitation any one or more of the following:

(a) the net income of the Scheme;

(b) other income of the Scheme (after adjusting for any Liabilities); and

(c) any amount of capital of the Scheme;

"**Distribution Period**" is the period nominated in clause 12.1;

"**Dollars**", "**A$**" and "**$**" mean the lawful currency of the Commonwealth of Australia;

"**Financial Year**" means the period of 12 months ending on the 30th day of June in each year during the continuance of this Constitution and includes the period commencing on the date the trust was established and expiring on the next succeeding 30th day of June and any period between the 30th day of June last occurring before the termination of the trust and the termination of the trust;

"FICS" means the Financial Industry Complaints Service Limited;

"**Income**" means all amounts which are, or would be recognised as, income by the application of the Accounting Standards;

"**Issue Price**" means the price at which a Unit is issued calculated in accordance with clause 6.

"**Investment Term**" means the fixed investment term selected by the member when they invest in the Scheme.

"**Law**" means the Corporations Act 2001 and the Corporations Regulations.

"**Lender**" means the RE on behalf of the Members lending Scheme Property through the Scheme;

"**Lending Rules**" means the rules detailed in clauses 13.2 and 13.3;

"**Liabilities**" means at any time the aggregate of the following at that time as calculated by the RE in accordance with the Accounting Standards:

(a) Each liability, excluding Unit Holder Liability, of the RE in respect of the Scheme or, where appropriate, a proper provision in accordance with the applicable Accounting Standards in respect of that liability.

(b) Each other amount payable out of the Scheme, excluding Unit Holder Liability or, where appropriate, a proper provision in accordance with the applicable Accounting Standards in respect of that liability.

(c) Other appropriate provisions in accordance with the applicable Accounting Standards.

"**Liquid Scheme**" means a registered scheme that has liquid assets which account for at least 80% of the value of scheme property.

"**LMM**" means Law Mortgage Management Pty Ltd ACN 055 691 426;

"**LVR**" means loan to valuation ratio and is the ratio of the amount of a loan to the valuation of the property offered as security for a loan in the Scheme;

"**Member**" in relation to a Unit, means the person registered as the holder of that Unit (including joint holders).

"**Minimum Investment**" means the amount of $10,000 being the minimum amount the RE will accept as an investment in the Scheme increased in multiples of $500 each unless the RE, in its sole discretion, agrees to accept a lesser amount as an investment or agrees to accept an amount that is not a multiple of $500.

"**Mortgagee**" in all mortgages held by the Scheme the Mortgagee will be the Custodian as agent for the RE;

"**Mortgage Lending Valuation Policy**" means the RE's mortgage lending valuation policy as detailed in the Compliance Plan;

"**Net Fund Value**" at any time, means the value of the Scheme Property less the Liabilities at that time.

"**Net Accounting Income**" means as detailed in Clause 11.3;

"**Net Accounting Loss**" means as detailed in Clause 11.3;

"**Power**" means any right, power, authority, discretion or remedy conferred on the RE by this Constitution or any applicable law;

"**Promoter**" for the purpose of the Law the promoter of this Scheme is the RE;

"**PDS**" means a Product Disclosure Statement or any Supplementary Product Disclosure Statement for the Scheme;

"**Redemption Price**" means the price at which a Unit is redeemed calculated in accordance with Clause 8;

"**Register**" means the register of Members maintained by the RE under clause 22;

"**Responsible Entity**" or "RE" means the company named in the ASIC's records as the responsible entity of the Scheme and referred to in this document as the RE and who is also the Trustee of the Scheme;

"**Scheme**" means a managed investment scheme to be known as the "LM Mortgage Income Fund" that is to be registered under s601EB of the Law and also means the Trust;

"**Scheme Property**" means assets of the Scheme including but not limited to:

(a) contributions of money or money's worth to the Scheme; and

(b) money that forms part of the Scheme assets under the provisions of the Law or the ASIC Law; and

(c) money borrowed or raised by the RE for the purposes of the Scheme; and

(d) property acquired, directly or indirectly, with, or with the proceeds of, contributions or money referred to in paragraph (a), (b) or (c); and

(e) the income and property derived, directly or indirectly from contributions, money or property referred to in paragraph (a), (b), (c) or (d);

"**Scheme Valuation Policy**" means the scheme valuation policy as detailed in the Compliance Plan;

"**Security Property**" means any property offered by a Borrower as security for a Mortgage in the Scheme;

"**Subscription Account**" an account opened and maintained by the RE into which is deposited all Application Moneys;

"**Tax Act**" means the Income Tax Assessment Act 1936 (Cth) and the Income Tax Assessment Act 1997 (Cth);

"**Trustee**" means the RE;

"**Unit**" means an undivided interest in the Scheme Property created and issued under this Constitution;

"**Unit Holder Liability**" means the liability of the Scheme to the Members for their undivided interest in the Scheme Property;

"**Unit Holding**" means the number of Units in the Scheme held by a Member as evidenced in the Register of Unit holders;

"**Unit Holding Statement**" means a statement issued by the RE to a Member pursuant to clause 5.7;

"**Valuation Date**" means the date which is the last day of each month or

any date during each month at the RE's discretion or the date on which the RE determines there has been a material change in the value of the Scheme Property.

1.2 **Interpretation**

In this Constitution, unless the context otherwise requires:

(a) headings and underlining are for convenience only and do not affect the interpretation of this Constitution;

(b) words importing the singular include the plural and vice versa;

(c) words importing a gender include any gender;

(d) other parts of speech and grammatical forms of a word or phrase defined in this Constitution have a corresponding meaning;

(e) an expression importing a natural person includes any company, partnership, joint venture, association, corporation or other body corporate and any Governmental Agency;

(f) a reference to any thing includes a part of that thing;

(g) a reference to a part, clause, party, annexure, exhibit or schedule is a reference to a part and clause of, and a party, annexure exhibit and schedule to, this Constitution;

(h) a reference to any statute, regulation, proclamation, ordinance or by-law includes all statutes, regulations, proclamations, ordinances or by-laws amending, consolidating or replacing it, and a reference to a statute includes all regulations, proclamations, ordinances and by-laws issued under that statute;

(i) a reference to a document includes all amendments or supplements to, or replacements or novations of, that document;

(j) where the day on or by which any thing is to be done is not a Business Day, that thing must be done on or by the preceding Business Day except that any amount payable on demand where the demand is made on a day which is not a Business Day must be paid on the next succeeding Business Day;

(k) a reference to an agreement includes an undertaking, deed, agreement or legally enforceable arrangement or understanding whether or not in writing;

(l) a reference to a document includes any agreement in writing, or any statement, notice, deed, instrument or other document of any kind;

(m) a reference to a body (including, without limitation, an institute,

association or authority), whether statutory or not:

(i) which ceases to exist; or

(ii) whose powers or functions are transferred to another body;

is a reference to the body which replaces it or which substantially succeeds to its powers or functions;

(n) a reference to any date means any time up to 5.00 pm (Queensland time) on that date; and

(o) a reference to dealing with a Unit includes any subscription, redemption, sale, assignment, encumbrance, or other disposition whether by act or omission and whether affecting the legal or equitable interest in the Unit.

1.3 **Accounting Standards**

In respect of any accounting practice relevant to this Constitution, the following accounting standards apply as if the Scheme were a company in accordance with:

(a) the accounting standards required under the Law; and

(b) if no accounting standard applies under clause 1.3(a), the accounting practice determined by the RE.

2. ESTABLISHMENT OF TRUST

2.1 **Trustee**

The RE continues to act as trustee of the Scheme.

s601FC(2) 2.2 **Role of Trustee**

The RE recognises that it continues to hold the Scheme Property on trust for the Members.

s601FB(2) 2.3 **Appointment of Custodian**

(a) The RE has appointed the Custodian as agent to hold the Scheme Property on behalf of the RE.

(b) The Custodian holds the Scheme Property as agent of the RE for the term of the Scheme on terms and conditions as detailed in the Custody Agreement.

2.4 **Name of Trust**

The name of the trust and Scheme is the LM Mortgage Income Fund or any other name that the RE may determine from time to time.

2.5 **Initial Issue**

The Scheme commenced at such time after the Commencement Date when LMM or its nominee paid $100.00 to the RE to establish the Scheme Property. The RE issued to LMM or its nominee 100 Units in

return for that payment.

3. UNITS AND MEMBERS

3.1 Units

The beneficial interest in Scheme Property is divided into Units. Unless the terms of issue of a Unit or a Class otherwise provide, all Units will carry all rights, and be subject to all the obligations of Members under this Constitution.

3.2 Classes

Different Classes may be issued. If the RE determines in relation to particular Units, the terms of issue of those Units may eliminate, reduce or enhance any of the rights or obligations which would otherwise be carried by such Units.

3.3 Fractions

Fractions of a Unit may not be issued. When any calculations under this Constitution would result in the issue of a fraction of a Unit, the number of Units to be issued must be rounded down to the nearest whole Unit.

3.4 Equal value

At any time, all the Units in a Class are of equal value unless the units are issued under a Differential Fee Arrangement.

3.5 Interest

A Unit confers an interest in the Scheme Property as a whole. No Unit confers any interest in any particular asset of the Scheme Property.

3.6 Consolidation and re-division

(a) Subject to clause 3.6(b) the RE may at any time divide the Scheme Property into any number of Units other than the number into which the Scheme Property is for the time being divided.

(b) A division of a kind referred to in clause 3.6(a) must not change the ratio of Units in a Class registered in the name of any Member to the Units on issue in the Class.

3.7 Rights attaching to Units

(a) A Member holds a Unit subject to the rights and obligations attaching to that Unit and (if applicable) pursuant to any Differential Fee Arrangement.

(b) Each Member agrees not to:

(i) interfere with any rights or powers of the RE under this Constitution;

(ii) purport to exercise a right in respect of the Scheme Property

or claim any interest in an asset of the Scheme Property (for example, by lodging a caveat affecting an asset of the Scheme Property); or

(iii) require an asset of the Scheme Property to be transferred to the Member.

3.8 **Conditions**

The RE may impose such conditions on the issue of Units as it determines including that the Member may not give effect to any mortgage, charge, lien, or other encumbrances other than as expressly permitted by the RE.

4. **BINDING ON ALL PARTIES**

s601GB 4.1 This Constitution is binding on the RE and on all Members of the Scheme as they are constituted from time to time.

4.2 By executing the Application Form attached to the PDS the Members as are constituted from time to time agree to be bound by the terms and conditions of this Constitution.

5. **ISSUE OF UNITS**

s601GA(a) 5.1 **Offer and minimum subscription**

(a) The RE may at any time offer Units for subscription or sale.

(b) The Minimum Investment must be lodged with an Application for Units.

(c) The RE may invite persons to make offers to subscribe for or buy Units.

5.2 **Form of Application**

Each Application for Units must be:

(a) made by Application Form attached to a PDS; and

(b) be accompanied by Application Moneys as required by any relevant PDS;

5.3 **Acceptance or rejection**

The RE may, without giving any reason:

(a) accept an Application;

(b) reject an Application; or

(c) reject part of the Application.

5.4 **Uncleared funds**

Units issued against Application Money in the form of a cheque or other payment order (other than in cleared funds) are void if the cheque or payment order is not subsequently cleared.

5.5 **Issue of Units**

Units are taken to be issued when:

(a) the Application Money for the Issue Price is received by the RE; and

(b) the RE accepts the Application and the Units are entered in the Register,

or at such other time as the RE determines.

5.6 **Number of Units issued**

Subject to Minimum Investment, the number of Units issued at any time in respect of an Application for Units will be calculated as follows:

(a) by dividing the Application Moneys paid by the applicable Issue Price at that time;

(b) by rounding down to the nearest Unit.

5.7 **Unit Holding Statement**

The evidence of a Member's holding in the Scheme will be the latest extract from the Register as provided from time to time to a Member by the RE in a Unit Holding Statement.

5.8 Additional Applications for investment in the Scheme by existing Members, not made on an Application Form may be accepted:

(a) from a Member;

(b) as a result of an Application;

(c) in accordance with an Arrangement for as long as and on condition that it complies with the requirements of the RE and ASIC's policy including any relief granted to the RE from time to time; *and*

(d) are in multiples of $5,000 each unless the RE, in its sole discretion, agrees to accept a lesser amount as an investment or agrees to accept an amount that is not a multiple of $5,000.

6. **ISSUE PRICE**

The issue price of a Unit shall be calculated as follows:

$$\left(\frac{\text{Net Fund Value}}{\text{number of Units on issue}}\right)$$

calculated on the last Valuation Date prior to the date of issue.

7. REDEMPTION OF UNITS – WHILE THE SCHEME IS LIQUID

7.1 **Redemption request – while the Scheme is liquid**

While the Scheme is liquid as defined in S601KA (4) of the Law, any Member may request not less than 30 days before the end of their investment Term that some or all of their Units be redeemed at the end of their Investment Term.

7.2 **Application for redemption of Units**

A Member may apply in writing to the RE to redeem any Units held by the Member. The application must:

(a) specify the number and class of Units to be redeemed;

(b) be in a form approved by the RE.

7.3 **Redemption**

(a) Within 365 days of the end of the members investment Term and provided the RE has received an application under clause 7.2 or such shorter withdrawal period as the RE may determine in its absolute discretion, the RE must redeem the Units out of the Scheme Property for the Redemption Price. However, the RE must redeem the units within 180 days (or such shorter period as the RE may determine in its absolute discretion) where it determines that none of the circumstances referred to in Clause 7.3(b)(i) to (iv) below exist at the time of redemption. This Clause 7.3(a) does not limit the independent operation of Clause 7.3(b).

(b) The RE may suspend the redemption offer as detailed in clause 7.3(a) above for such periods as it determines where:

(i) the Scheme's cash reserves fall and remain below 5% for ten (10) consecutive Business Days; or

(ii) if in any period of (90) days, the RE receives valid net redemption requests equal to 10% or more of the Scheme's issued Units and, during the period of (10) consecutive days falling within the 90 day period, the Scheme's cash reserves are less than 10% of the total assets; or

(iii) it is not satisfied that sufficient cash reserves are available to pay the Redemption Price on the appropriate date and to pay all actual and contingent liabilities of the Scheme; or

(iv) any other event or circumstance arise which the RE considers in its absolute discretion may be detrimental to the interests of the Members of the Scheme.

(c) The RE is not required to process redemption requests where:

(i) the person seeking to redeem the Units cannot provide satisfactory evidence of the Members title or authority to deal with the Units; or

(ii) the redemption would cause Members Unit Holding to fall below the Minimum Investment.

7.9 Cancellation

(a) The RE must cancel the number of Units which have been redeemed under clause 7.3 and must not reissue them. Upon cancellation, the RE must immediately:

(i) remove the name of the Member from the Register in respect of the redeemed Units; and

(ii) provide the Member with a new Unit Holding Statement for any unredeemed Units.

(b) A Unit is cancelled when the Member holding the Unit is paid the Redemption Price by the RE.

8. REDEMPTION PRICE

The Redemption Price of each Unit pursuant to clause 7 shall be calculated as follows:

$$\left(\frac{\text{Net Fund Value}}{\text{(number of Units issued)}}\right)$$

calculated on the last Valuation Date prior to the date of redemption.

9. TRANSFER OF UNITS

9.1 Transferability of Units

(a) Subject to this Constitution, a Unit may be transferred by instrument in writing, in any form authorised by the Law or in any other form that the RE approves.

(b) A transferor of Units remains the holder of the Units transferred until the transfer is recorded on the Register.

9.2 Registration of Transfers

(a) The following documents must be lodged for registration on the Register at the registered office of the RE or the location of this Register:

(i) the instrument of transfer; and

(ii) any other information that the RE may require to establish the transferor's right to transfer the Units.

(b) On compliance with clause 9.2(a), the RE will, subject to the

powers of the RE to refuse registration, record on the Register the transferee as a Member.

9.3 **Where registration may be refused**

Where permitted to do so by Law or this Constitution, the RE may refuse to register any transfer of Units.

9.4 **Where registration must be refused**

(a) Registration must be refused if:

(i) the RE has notice that the transferor of Units has entered into any borrowing or other form of financial accommodation to provide all or part of the funds to subscribe for or acquire a Unit and has not received confirmation from the financier that the financier consents to the transfer of those Units; or

(ii) the transferor has given a power of attorney in favour of the RE and the Custodian in the form set out in an application form accompanying a PDS and the transferee has not executed and provided to the RE a similar form of power of attorney (with such adaptations as are necessary) in favour of the RE and the Custodian;

(b) In the case of (i) or (ii) above, the RE must refuse to register same and must continue to treat the seller or transferor as the case may be as the registered holder for all purposes and the purported sale, purchase, disposal or transfer shall be of no effect.

(c) If the transferee is not a Member the RE must not consent to the registration until the RE is satisfied that the transferee has agreed to be bound by the Constitution.

9.5 **Notice of non-registration**

If the RE declines to register any transfer of Units, the RE must within 5 Business Days after the transfer was lodged with the RE give to the person who lodged the transfer written notice of, and the reasons for, the decision to decline registration of the transfer.

9.6 **Suspension of transfers**

The registration of transfers of Units may be suspended at any time and for any period as the RE from time to time decide. However, the aggregate of those periods must not exceed 30 days in any calendar year.

10. TRANSMISSION OF UNITS

10.1 Entitlement to Units on death

(a) If a Member dies:

(i) the survivor or survivors, where the Member was a joint holder; and

(ii) the legal personal representatives of the deceased, where the Member was a sole holder,

will be the only persons recognised by the RE as having any title to the Member's interest in the Units.

(b) The RE may require evidence of a Member's death as it thinks fit.

(c) This clause does not release the estate of the deceased joint Member from any liability in respect of a Unit that had been jointly held by the Member with other persons.

10.2 Registration of persons entitled

(a) Subject to the Bankruptcy Act 1966 and to the production of any information that is properly required by the RE, a person becoming entitled to a Unit in consequence of the death or bankruptcy (or other legal disability) of a Member may elect to:

(i) be registered personally as a Member; or

(ii) have another person registered as the Member.

(b) All the limitations, restrictions and provisions of this Constitution relating to:

(i) the right to transfer; and

(ii) the registration of a transfer;

for Units apply to any relevant transfer as if the death or bankruptcy or legal disability of the Unit Member had not occurred and the notice or transfer were a transfer signed by that Member.

10.3 Distributions and other rights

(a) If a Member dies or suffers a legal disability, the Member's legal personal representative or the trustee of the Member's estate (as the case may be) is, on the production of all information as is properly required by the RE, entitled to the same distributions, entitlements and other advantages and to the same rights (whether in relation to meetings of the Scheme or to voting or otherwise) as the Member would have been entitled to if the Member had not died or suffered a legal disability.

(b) Where two or more persons are jointly entitled to any Unit as a result of the death of a Member, they will, for the purposes of this Constitution, be taken to be joint holders of the Unit.

11. DISTRIBUTABLE INCOME

11.1 **Income of the Scheme**

The Income of the Scheme for each Financial Year will be determined in accordance with applicable Accounting Standards.

11.2 **Expenses and provisions of the Scheme**

For each Financial Year:

(a) the expenses of the Scheme will be determined in accordance with the applicable Accounting Standards; and

(b) provisions or other transfers to or from reserves may be made in relation to such items as the RE considers appropriate in accordance with the applicable Accounting Standards including, but not limited to, provisions for income equalisation and capital losses.

11.3 **Distributable Income**

The Distributable Income of the Scheme for a month, a Financial Year or any other period will be such amount as the Re determines.

12. DISTRIBUTIONS

12.10. **Distribution Period**

The Distribution Period is one calendar month or as otherwise determined by the RE in its absolute discretion.

12.2 **Distributions**

The RE must distribute the Distributable Income relating to each Distribution Period within 21 days of the end of each Distribution Period.

12.3 **Present entitlement**

Unless otherwise agreed by the RE and subject to the rights, restrictions and obligations attaching to any particular Unit or Class, the Members on the Register will be presently entitled to the Distributable Income of the Scheme on the last day of each Distribution Period.

12.4 **Capital distributions**

The RE may distribute capital of the Scheme to the Members. Subject to the rights, obligations and restrictions attaching to any particular Unit or Class, a Member is entitled to that proportion of the capital to be distributed as is equal to the number of Units held by that Member on a date determined by the RE divided by the number of Units on the

Register on that date. A distribution may be in cash or by way of bonus Units.

12.5 **Grossed up Tax amounts**

Subject to any rights, obligations and restrictions attaching to any particular Unit or Class, the grossed up amount under the Tax Act in relation to Tax credits or franking rebates is taken to be distributed to Unit Members in proportion to the Distributable Income for a Distribution Period as the case may be, which is referable to a dividend or other income to which they are presently entitled.

12.6 **Reinvestment of Distributable Income**

(a) The RE may invite Members to reinvest any or all of their distributable income entitlement by way of application for additional Units in the Scheme.

(b) The terms of any such offer of reinvestment will be determined by the RE in its discretion and may be withdrawn or varied by the RE at any time.

(c) The RE may determine that unless the Member specifically directs otherwise they will be deemed to have accepted the reinvestment offer.

(d) The Units issued as a result of an offer to reinvest will be deemed to have been issued on the first day of the next Distribution Period immediately following the Distribution Period in respect of which the distributable income being reinvested was payable.

13. **NATURE OF RE POWERS**

s601GA(1)(b) 13.1 The RE has all the powers:

(a) of a natural person to invest and borrow on security of the Scheme Property;

(b) in respect of the Scheme and the Scheme Property that it is possible under the Law to confer on a RE and on a Trustee;

(c) as though it were the absolute owner of the Scheme Property and acting in its personal capacity; or

(d) necessary for fulfilling its obligations under this Constitution and under the Law.

s601GA(3) 13.2 The RE must only invest Members' funds in:

(a) subject to clause 13.2A, mortgage investments provided that:

(i) all mortgages are secured over property and the amount which may be advanced to a Borrower does not exceed an

LVR of 75% of the value of the security property on initial settlement or an LVR of 95% of the value of the security property on initial settlement where the loan is secured by mortgage insurance to a level approved by the RE.

(ii) the type of real estate offered for security is acceptable to the RE;

(iii) the value of the property offered as security has been established in accordance with the Mortgage Lending Valuation Policy of the RE ;

(b) other mortgage backed schemes in accordance with this clause and the RE's compliance standards;

(c) a range of interest bearing investments backed by Australian Banks, building societies, State or Federal governments, or foreign banks as approved by the RE.

(d) Authorised investments.

13.3 Notwithstanding the provisions of 13.2(a), the RE may approve the LVR greater than that stated in clause 13.2(a) after a loan has settled and where the RE considers it is in the best interests of the Members of the Scheme.

s601GA(3) 13.4 Whenever a loan of Scheme funds involves a Development Loan, the RE shall ensure it has included amongst its officers or employees persons with relevant project management experience who are competent to manage loans of this kind.

s601GA(3) 13.5 To the extent allowed by law:

(a) any restriction or prohibition imposed upon the RE in relation to the investment from time to time of the Scheme Property or any part thereof is hereby excluded from the obligations imposed.

(b) without derogating from the generality of the foregoing this exclusion specifically applies to any "Prudent Person Rule" or the like which may be implied by any future enactment of legislation.

s601GA(3) 13.6 To the extent allowed by law:

(a) the RE may borrow or raise money with or without security over the Scheme Property or any part of it on any terms, including any rate of interest and any fees and expenses as the RE thinks fit;

(b) the RE may deal with any property to exercise all the powers of a mortgagee pursuant to the mortgage terms and conditions.

s601GA(3) 13.7 The RE must direct the Custodian to deal with the Scheme Property in accordance with this Constitution.

14. COMPLAINTS PROCEDURES

s601GA(1)(c) 14.1 Complaints may be made in writing or by telephone to the registered office of the RE. The CO will take responsibility for all complaints and record each in the Complaint Register.

14.2 The CO may (if applicable and with the consent of the Member) contact the Adviser for further background information and attempt to mediate a satisfactory resolution of the complaint. From the time the CO takes responsibility for the complaint he/she must attempt to resolve the complaint within a satisfactory time period as determined by the nature of the complaint.

14.3 Where the RE believes it has either resolved the complaint, or it has not resolved the complaint but believes it can do nothing more to satisfy the complainant, and the Member feels their complaint has still not been satisfactorily resolved, the complainant must be referred to the FICS for mediation. The FICS adopts a three stage approach in resolving complaints as follows:-

(a) stage 1: initial opportunity for Member to resolve complaints;

(b) stage 2: complaints review, investigation and conciliation;

(c) stage 3: independent determination of complaints by adjudicator.

The full terms of reference for the FICS are held by the CO.

14.4 In acknowledging or resolving complaints, the RE must make or cause to be made, a written response including:-

(a) the name, title and contact details of the CO actually handling the complaint;

(b) a summary of the RE's understanding of the complaint;

(c) details of the RE's offer for resolution of the complaint and relevant time frame;

(d) where the complaint is not fully dealt with in the letter an estimate of time required for the RE to resolve the complaint.

14.5 The CO must record full details of each complaint and resolution thereof in the Complaints Register including:-

(a) the person responsible for resolving the complaint;

(b) the name of the Member making the complaint;

(c) the nature of the complaint;

(d) the product service or department in respect of which the complaint was made;

(e) the actual time required to resolve the complaint;

(f) the actual resolution of the complaint;

(g) recommendations for changes to products disclosures systems or processes to ensure similar complaints do not arise in the future.

14.6 The Complaints Register should be reviewed by the CO as part of an ongoing review process to determine whether recommendations for change arising from resolved complaints have been effectively incorporated in the compliance program.

14.7 If a complaint cannot be resolved to the satisfaction of the Member by the RE or the FICS then the complainant Member may:-

(a) refer the matter to arbitration or the courts; or

(b) take whatever other action is open to the complainant Member under the general law.

14.8 The RE must disclose the details of its complaints procedure to all investors.

15. TERM OF TRUST

The Scheme begins on the Commencement Date and is to be wound up on the earlier to occur of:

(a) the date which is eighty years from the Commencement Date; and

(b) any earlier date which the RE, in its absolute discretion may appoint as the Vesting Date.

16. WINDING UP THE SCHEME

s601GA(1)(d) 16.1 The Scheme shall only be wound up in accordance with the Law and this Constitution.

16.2 The RE must wind up the Scheme in the following circumstances:-

s601NE(1)(a) (a) if the term of the Scheme as detailed in this Constitution has expired;

s601NE(1)(b) (b) the Members pass an extraordinary resolution directing the RE to wind up the Scheme;

s601NE(1)(c) (c) the Court makes an order directing the RE to wind up the Scheme pursuant to the Law and in particular pursuant to section

601FQ(5) and section 601ND;

s601NE(1)(d) (d) the Members pass an extraordinary resolution to remove the RE but do not at the same time pass an extraordinary resolution choosing a company to be the new RE that consents to becoming the Scheme's RE;

s601NC(1) 16.3 (a) If the RE considers that the purpose of the Scheme:

(i) has been accomplished; or

(ii) cannot be accomplished,

it may take steps to wind up the Scheme.

(b) If the RE wishes to wind up the Scheme pursuant to clause 16.3(a), the RE must give to the Members of the Scheme and to the ASIC a notice in writing;

(i) explaining the proposal to wind up the Scheme, including explaining how the Scheme's purpose has been accomplished or why that purpose cannot be accomplished; and

(ii) informing the Members of their rights to take action under Division 1 of Part 2G.4 of the Law for the calling of a Members' meeting to consider the proposed winding up of the Scheme and to vote on a special resolution Members propose about the winding up of the Scheme; and

(iii) informing the Members that the RE is permitted to wind up the Scheme unless a meeting is called to consider the proposed winding up of the Scheme within 28 days of the RE giving the notice to the Members;

(c) if no meeting is called within that 28 days to consider the proposed winding up, the RE may wind up the Scheme.

s601NE(2) 16.4 (a) The RE may wind up the Scheme in accordance with this Constitution and any orders under S601NF(2) of the Law if the RE is permitted by S601NC(3) of the Law to wind up the Scheme.

s601NF(3) (b) An order to wind up the Scheme pursuant to s601ND (1) or s601NF (1) or (2) of the Law may be made on the application of:

(i) the RE; or

(ii) a director of the RE; or

(iii) a Member of the Scheme; or

(iv) the ASIC.

s601NE(3) 16.5 The RE shall not accept any further Applications for Units in the Scheme or make any further loans from the Scheme Property at a time after the

RE has become obliged to ensure the Scheme is wound up or after the Scheme has started to be wound up.

16.6 The RE shall manage the Scheme until such time as all winding up procedures have been completed.

16.7 Subject to the provisions of this clause 16 upon winding up of the Scheme the RE must:

(a) realise the assets of the Scheme Property;

(b) pay all liabilities of the RE in its capacity as Trustee of the Scheme including, but not limited to, liabilities owed to any Member who is a creditor of the Scheme except where such liability is a Unit Holder Liability;

(c) subject to any special rights or restrictions attached to any Unit, distribute the net proceeds of realisation among the Members in the same proportion specified in Clause 12.4;

(d) The Members must pay the costs and expenses of a distribution of assets under clause 16.7(c) in the same proportion specified in clause 12.4.

(e) The RE may postpone the realisation of the Scheme Property for as long as it thinks fit and is not liable for any loss or damage attributable to the postponement.

(f) The RE may retain for as long as it thinks fit any part of the Scheme Property which in its opinion may be required to meet any actual or contingent liability of the Scheme.

(g) The RE must distribute among the Members in accordance with clause 16.7 anything retained under clause 16.7(f) which is subsequently not required.

s601NG 16.8 If on completion of the winding up of a registered Scheme, the RE or such other person who may be winding up the Scheme has in their possession or under their control any unclaimed or undistributed money or other property that was part of the Scheme Property the RE or person winding up the Scheme must, as soon as practicable, pay the money or transfer the property to the ASIC to be dealt with pursuant to Part 9.7 of the Law.

s601EE 16.9 If at any time the Scheme is operated while it is unregistered the following may apply to the Court to have the Scheme wound up:

(a) The ASIC
(b) The RE
(c) A Member of the Scheme

16.10 The RE shall arrange for an Auditor to audit the final accounts of the Scheme after the Scheme is wound up.

17. VALUE OF THE SCHEME FUND

17.1 **Valuation of the Scheme Property**

The RE may cause the Scheme Property to be valued at any time in accordance with the Scheme Valuation Policy of the RE.

17.2 **Valuation if required**

The RE must cause the Scheme Property or any asset of the Scheme Property to be valued if required by ASIC or under the Law and the valuation must be undertaken in accordance with those requirements.

17.3 **Determination of Net Fund Value**

The RE may determine the Net Fund Value at any time in its discretion, including more than once on each day.

18. FEES, TAXES, COSTS AND EXPENSES

s601GA(2) 18.1 **Taxes:**

The RE may use the Scheme Property to pay any Tax or other obligation, liability or expense required by any applicable law in relation to:

(a) this Constitution;

(b) any amount incurred or payable by the RE;

(c) a gift or settlement effected by this Constitution;

(d) the exercise by the RE of any Power; or

(e) money or investments held by or on behalf of the RE under this Constitution.

s601GA(2) 18.2 **Payment of Debts:**

The RE may set aside any money from the Scheme Property which, in the RE's opinion, is sufficient to meet any present or future obligation of the Scheme.

s601GA(2) 18.3 **Fees:**

The RE is entitled to be paid fees from the Scheme Property in the amounts as detailed in the PDS or in any Supplementary PDS and in relation to the performance of its duties as detailed in this Constitution, the Compliance Plan and the Law.

s601GA(2) 18.4 The RE shall be entitled to fees in relation to the following duties:

(a) the subscription and redemption of units;

(b) the transfer or transmission of Units;

(c) the establishment/loan application fees;

(d) the structuring or packaging of loan proposals;

(e) loan management;

(f) the rollover of a loan facility;

(g) due diligence enquiries generally;

(h) the sale of real estate or assets of the Scheme Property;

(i) the promotion and management of the Scheme. This fee is payable monthly;

(j) the appointment of the Custodian pursuant to the Custody Agreement;

(k) the winding-up of the Scheme;

(l) the performance of its duties and obligations pursuant to the Law and this Constitution.

s601GA(2) 18.5 **Costs and Expenses**

The RE shall be indemnified out of Scheme Property for liabilities or expenses incurred in relation to the performance of its duties; including:

(a) Auditor's fees;

(b) legal fees and outgoings in relation to settlement, rollover, default or recovery of loans

(c) barrister/QC - legal counsel fees;

(d) search fees including property searches, company, bankruptcy, CRAA searches and any other searches which may be necessary to enable location, identification and/or investigation of borrowers/guarantors/mortgagors;

(e) valuation fees;

(f) independent expert's or consultant's fees including but not limited to marketing agents, property specialists, surveyors, quantity surveyors, town planners, engineers;

(g) property report/property consultant fees;

(h) process servers' fees;

(i) private investigator fees;

(j) fees in relation to the marketing and packaging of security properties for sale;

(k) real estate agent's sales commissions;

(l) costs of maintenance of mortgage securities;

(m) outstanding accounts relating to mortgage securities such as council rates;

(n) locksmith for changing locks of mortgage securities as appropriate;

(o) insurance (property and contents);

(p) removalists for removal of borrower's property as appropriate;

(q) security guards to attend mortgage securities as appropriate;

(r) building and/or property inspection report fees – i.e. building, town planning experts and the like;

(s) all ASIC charges;

(t) all costs of supplying Members with copies of this Constitution and any other documents required by the Law to be provided to Members;

(u) all costs and expenses incurred in producing PDSs and Supplementary PDSs or any other disclosure document required by the Law;

(v) reasonable costs incurred in protecting or preserving all assets offered as security;

s601FB(2) (w) all liability, loss, cost, expense or damage arising from the proper performance of its duties in connection with the Scheme performed by the RE or by any agent appointed pursuant to s601FB(2) of the Law;

(x) any liability, loss, cost, expense or damage arising from the lawful exercise by the RE and the Custodian of their rights under the Power of Attorney contained in clause 20;

(y) fees and expenses of any agent or delegate appointed by the RE;

(z) bank and government duties and charges on the operation of bank accounts;

(aa) costs, charges and expenses incurred in connection with borrowing money on behalf of the Scheme under the Constitution;

(bb) insurances directly or indirectly protecting the Scheme Property;

(cc) fees and charges of any regulatory or statutory authority;

(dd) taxes in respect of the Scheme but not Taxes of the RE [save and except any goods and services or similar tax ("GST")] which are payable by the RE on its own account;

(ee) costs of printing and postage of cheques, advices, reports, notices and other documents produced during the management of the Scheme;

(ff) expenses incurred in connection with maintaining accounting records and registers of the Scheme and of the Scheme Auditor;

(gg) costs and disbursements incurred in the preparation and lodgement of returns under the Law, Tax Act or any other laws for the Scheme;

(hh) costs of convening and holding meetings of Members;

(ii) costs and disbursements incurred by or on behalf of the RE in connection with its retirement and the appointment of a substitute;

(jj) costs and disbursements incurred by the RE in the initiation, conduct and settlement of any court proceedings;

(kk) costs of any insurance premiums insuring against the costs of legal proceedings (whether successful or not) including legal proceedings against Compliance Committee Members not arising out of a wilful breach of a duty referred to in S601JD of the Law;

(ll) costs of advertising the availability of funds for lending;

(mm) brokerage and underwriting fees;

(nn) if and when the RE becomes responsible to pay any GST in respect of any services provided to the Scheme or any payments in respect of GST to be made by the Members or the RE in respect of the Scheme or under the terms of this Constitution then the RE shall be entitled to be indemnified in respect of such GST from the Scheme Property;

s601GA(2) 18.6 In the event that the RE has not performed its duties, the lack of entitlement to payment of fees pursuant to 18.3 is only in respect of that part of the payment which relates to the specific lack of proper performance on any given matter. Nothing in this clause shall be interpreted to mean that the RE is not entitled to be paid fees and expenses for work properly performed.

s601GA(2) 18.7 In the event of any dispute regarding the payment of fees and expenses, the RE shall be paid such fees and expenses until the dispute is fully determined. Any overpayment of the RE shall be repaid forthwith upon the identification of the overpayment.

18.8 The RE is entitled to recover fees and expenses from the Scheme provided they have been incurred in accordance with this Constitution.

18.9 All fees payable to the RE are net of any goods and services tax.

19. INDEMNITY AND LIABILITY

s601GA(2) 19.1 The following clauses apply to the extent permitted by law:

(a) The RE is not liable for any loss or damage to any person

(including any Member) arising out of any matter unless, in respect of that matter, it acted both:

(i) otherwise than in accordance with this Constitution and its duties; and

(ii) without a belief held in good faith that it was acting in accordance with this Constitution or its duties.

In any case the liability of the RE in relation to the Scheme is limited to the Scheme Property, from which the RE is entitled to be, and is in fact, indemnified.

(b) In particular, the RE is not liable for any loss or damage to any person arising out of any matter where, in respect of that matter:

(i) it relied in good faith on the services of, or information or advice from, or purporting to be from, any person appointed by the RE;

(ii) it acted as required by Law; or

(iii) it relied in good faith upon any signature, marking or documents.

(c) In addition to any indemnity under any Law, the RE has a right of indemnity out of the Scheme Property on a full indemnity basis, in respect of a matter unless, in respect of that matter, the RE has acted negligently, fraudulently or in breach of trust.

(d) The RE is not liable to account to any Member for any payments made by the RE in good faith to any duly authorised authority of the Commonwealth of Australia or any State or Territory of Australia for taxes or other statutory charges.

20. POWERS OF ATTORNEY

20.1 Each Member by execution of the Application Form or the transfer by which he/she/it acquires Units in the Scheme appoints the RE and the Custodian and any director officer attorney or substitute nominated by either the RE or the Custodian severally for this purpose as its attorney and agent with the right:

(a) at any time to:

(i) sign any document in relation to any subscription and redemption agreement;

(ii) sign any document in relation to the transfer or transmission of Units;

(iii) sign any variation of this Constitution;

(iv) sign any document required by ASIC to be executed by a Member in respect of the Scheme.

(b) at the request in writing of either the RE or the Custodian the Member must execute separate Powers of Attorney in a form reasonably required by the RE or the Custodian appointing the RE and/or the Custodian as its attorney for the purpose of this clause.

(c) any attorney may exercise its rights notwithstanding that the exercise of the right constitutes a conflict of interest or duty;

20.2 each Member indemnifies and shall keep indemnified any attorney against any liability, loss, cost, expense or damage arising from the lawful exercise of any right by the attorney under the Power of Attorney.

21. TITLE TO SCHEME FUND

21.1 **Custodian to hold as agent of RE**

The Scheme Property will be held in the name of the Custodian as agent for the RE on the terms and conditions as detailed in the Custody Agreement.

22. THE REGISTER

22.1 **Keeping registers**

The RE must establish and keep a register of Members, and if applicable, the other registers required by the Law.

22.2 **Information in registers**

To the extent applicable, the Register must be kept in accordance with, and contain the information required by the Law. Otherwise, the RE may decide what information is included in the Register. If the Law applies, the RE has the powers conferred under the Law in relation to the Register.

22.3 **Changes**

Every Member must promptly notify the RE of any change of name or address and the RE must alter the Register accordingly.

23. NOTICES

23.1 A notice or other communication connected with this Constitution has no legal effect unless it is in writing.

23.2 In addition to any other method of service provided by law, the notice must be:

(a) sent by post, postage prepaid, to the address for the Member in the RE's register of interests;

(b) sent by facsimile to the facsimile number of the Member; or

(c) otherwise delivered including via email, at the address of the addressee of the Member as is subsequently notified.

23.3 A notice must be treated as given and received:

(a) if sent by post, on the 2nd Business Day (at the address to which it is posted) after posting;

(b) if sent by facsimile or electronically before 5.00 p.m. on a Business Day at the place of receipt, on the day it is sent and otherwise on the next Business Day at the place of delivery.

23.4 Despite clause 23.3(ii) a facsimile is not treated as given or received unless at the conclusion of the transmission the sender's facsimile machine issues a transmission report which indicates that the relevant number of pages comprised in the notice have been sent.

23.5 A notice sent or delivered in a manner provided by clause 23.2 must be treated as validly given to and received by the party to which it is addressed even if:

(a) the addressee has been liquidated or deregistered or is absent from the place at which the notice is delivered or to which it is sent; or

(b) the notice is returned unclaimed.

23.6 Any notice by a party may be given and may be signed by the solicitor for the party.

23.7 Any notice to a party may be given to the solicitor for the party by any of the means listed in clause 23.2 to the solicitor's business address or facsimile number as the case may be.

24. LIABILITY OF MEMBERS

(a) The liability of each Member, whether actual, contingent or prospective, is limited to the unpaid Issue Price of his/her/its Units except if the RE and the relevant Member agree otherwise in writing that the liability of a Member may be further limited or waived.

(b) A creditor or other person claiming against the RE as trustee of the Scheme has no recourse against a Member and no Member is personally liable to indemnify the RE, any creditor of the RE or any person claiming against the RE in respect of any actual, contingent, prospective or other liability of the RE in relation to the Scheme.

25. RETIREMENT AND APPOINTMENT OF RE

s601FL 25.1 The RE may retire as RE as permitted by s601FM of the Law.

s601FM 25.2 The RE must retire when required by s601FM of the Law.

s601FR 25.3 If the RE changes the former RE must comply with s601FR of the Law.

s601FS 25.4 The rights, obligations and liabilities of a former RE are as detailed in s601FS of the Law.

25.5 A Member may not be appointed as RE.

25.6 The RE must not subscribe for, transfer or hold any interest in a Unit.

26. CHANGING THE CONSTITUTION

s601GC(1) 26.1 This Constitution may be modified or repealed or replaced with a new Constitution:

(a) by special resolution of the Members of the Scheme;

or

(b) by the RE if the RE reasonably considers the change will not adversely affect Members' rights.

26.2 In the event the RE wishes to change the Constitution the RE must:

s601GC(2) (a) lodge with the ASIC a copy of the modification or the new Constitution;

(b) the modification, or repeal and replacement, cannot take effect until the copy has been lodged;

s601GC(3) (c) the RE must lodge with the ASIC a consolidated copy of the Scheme's Constitution if the ASIC directs it to do so;

s601GC(4) 26.3 The RE must send a copy of the Scheme's Constitution to a Member of the Scheme within seven (7) days if the Member:

(a) asks the RE in writing for the copy; and

(b) pays any fee (up to the prescribed amount) required by the RE.

27. STATEMENTS, ACCOUNTS AND AUDIT

27.1 **Appointment of auditors**

(a) The RE must appoint an Auditor to regularly audit the accounts in relation to the Scheme and perform the other duties required of the Scheme's auditors under this Constitution and the Law.

(b) The RE must appoint an Auditor of the Compliance Plan (as defined in section 601HG of the Law).

27.2 **Retirement of auditors**

The Scheme Auditor and the Compliance Plan Auditor may each retire or be removed in accordance with the Law.

27.3 **Remuneration of Auditor**

The remuneration of the Scheme Auditor and Compliance Plan Auditor will each be fixed by the RE.

27.4 **Accounts and reports**

(a) The accounts of the Scheme must be kept and prepared by the RE in accordance with applicable Accounting Standards and the Law.

(b The RE must report to Members concerning the affairs of the Scheme and their holdings as required by the Law. Subject to the Law, the person preparing a report may determine the form, content and timing of it.27.5 **Audit**

The RE will cause:

(a) the Scheme Auditor to audit and report on the Scheme's accounts;

(b) the Compliance Plan Auditor to audit and report on the Compliance Plan,

each in the manner required by the Law.

28. MEETINGS OF MEMBERS

28.1 **Convening Meetings**

The RE may at any time call and convene a meeting of Members and must call and convene a meeting of Members when required to do so by the Law.

28.2 **Calling and holding meetings**

s252G(4) (a) A notice of meeting sent by post is taken to be given the day after it is delivered.

s252R(2) (b) If, at any time, there is only 1 Member of the Scheme, the quorum for a meeting is 1 in all other cases the quorum for a meeting is 2.

s252R(3) (c) If an individual is attending a meeting as a Member and as a body corporate representative, the RE may in determining whether a quorum is present, count the individual more than once.

s252W(2) (d) A proxy is not entitled to vote on a show of hands.

s252W(3) (e) A proxy is entitled to speak and vote for a Member (to the extent allowed by the appointment) even if the Member is present (but only so long as the Member does not speak or vote, as the case may be).

s252Y(2) (f) An appointment of proxy:

(i) is valid even if it does not specify the Member's address;

and

(ii) may be a standing one.

s252Z(5) (g) The RE may determine, in relation to a particular meeting or generally, that proxy documents may be received up to any shorter period before the meeting.

s253K(2) (h) A poll cannot be demanded on any resolution concerning:

(i) the election of the chair of a meeting; or

(ii) the adjournment of a meeting.

29. OTHER ACTIVITIES AND OBLIGATIONS OF THE RE

29.1 Subject to the Law, nothing in this Constitution restricts the RE (or its associates) from:

(a) dealing with itself (as manager, trustee or responsible entity of another trust or scheme or in another capacity);

(b) being interested in any contract or transaction with itself (as manager, trustee or responsible entity of another trust or managed investment scheme or in another capacity) or with any Member or retaining for its own benefit profits or benefits derived from any such contract or transaction; or

(c) acting in the same or similar capacity in relation to any other trust or managed investment scheme.

29.2 All obligations of the RE which might otherwise be implied by law are expressly excluded to the extent permitted by law.

30. GOVERNING LAW

This Deed is governed by the laws of the State of Queensland. The RE and the Members submit to the non-exclusive jurisdiction of courts exercising jurisdiction there.

31. ASIC INSTRUMENT

If relief from the provisions of the Law granted by an ASIC instrument requires that this Constitution contain certain provisions, then those provisions are taken to be incorporated into this Constitution at all times at which they are required to be included and prevail over any other provisions of this Constitution to the extent of any inconsistency. However, if the relief is granted by Class Order (rather than specifically in relation to the Scheme) then the ASIC instrument (and the provisions it requires) will only be taken to be incorporated if the RE declares in writing that this is the case.

EXECUTED AS A DEED:

GIVEN under the Common Seal of LM INVESTMENT MANAGEMENT LIMITED ACN 077 208 461 by authority of a resolution of the Board of Directors under the hands of two Directors who certify that they are the proper officers to affix this seal and in the presence of:

) .....
) Director

) .....
) Director

A Justice of the Peace/Solicitor

TABLE OF CONTENTS

1.	DICTIONARY AND INTERPRETATION	2
1.1	Dictionary of Terms	2
1.2	Interpretation	8
1.3	Accounting Standards	9
2.	ESTABLISHMENT OF TRUST	9
2.1	Trustee	9
2.2	Role of Trustee	9
2.3	Appointment of Custodian	9
2.4	Name of Trust	9
2.5	Initial Issue	9
3.	UNITS AND MEMBERS	10
3.1	Units	10
3.2	Classes	10
3.3	Fractions	10
3.4	Equal value	10
3.5	Interest	10
3.6	Consolidation and re-division	10
3.7	Rights attaching to Units	10
3.8	Conditions	11
4.	BINDING ON ALL PARTIES	11
5.	ISSUE OF UNITS	11
5.1	Offer and minimum subscription	11
5.2	Form of Application	11
5.3	Acceptance or rejection	11
5.4	Uncleared funds	11
5.5	Issue of Units	12
5.6	Number of Units issued	12
5.7	Unit Holding Statement	12
6.	ISSUE PRICE	12
7.	REDEMPTION OF UNITS - WHILE THE SCHEME IS LIQUID	13
7.1	Redemption request - while the Scheme is Liquid	13
7.2	Application for redemption of Units	13
7.3	Redemption	13
7.4	Cancellation	14
8.	REDEMPTION PRICE	14
9.	TRANSFER OF UNITS	14
9.1	Transferability of Units	14
9.2	Registration of Transfers	14
9.3	Where registration may be refused	15
9.4	Where registration must be refused	15
9.5	Notice of non-registration	15
9.6	Suspension of transfers	15
10.	TRANSMISSION OF UNITS	16
10.1	Entitlement to Units on death	16
10.2	Registration of persons entitled	16
10.3	Distributions and other rights	16
11.	DISTRIBUTABLE INCOME	17
11.1	Income of the Scheme	17

11.2	Expenses and provisions of the Scheme	17
11.3	Distributable Income	17
12.	DISTRIBUTIONS	17
12.1	Distribution Period	17
12.2	Distributions	17
12.3	Present entitlement	17
12.4	Capital distributions	17
12.5	Grossed up Tax amounts	18
12.6	Reinvestment of Distributable Income	18
13.	NATURE OF RE POWERS	18
14.	COMPLAINTS PROCEDURES	20
15.	TERM OF TRUST	21
16.	WINDING UP THE SCHEME	21
17.	VALUE OF THE SCHEME FUND	24
17.1	Valuation of the Scheme Property	24
17.2	Valuation if required	24
17.3	Determination of Net Fund Value	24
18.	FEES, TAXES, COSTS AND EXPENSES	24
18.1	Taxes:	24
18.2	Payment of Debts:	24
18.3	Fees:	24
18.5	Costs and Expenses	25
19.	INDEMNITY AND LIABILITY	27
20.	POWERS OF ATTORNEY	28
21.	TITLE TO SCHEME FUND	29
21.1	Custodian to hold as agent of RE	29
22.	THE REGISTER	29
22.1	Keeping registers	29
22.2	Information in registers	29
22.3	Changes	29
23.	NOTICES	29
24.	LIABILITY OF MEMBERS	30
25.	RETIREMENT AND APPOINTMENT OF RE	31
26.	CHANGING THE CONSTITUTION	31
27.	STATEMENTS, ACCOUNTS AND AUDIT	31
27.1	Appointment of auditors	31
27.2	Retirement of auditors	31
27.3	Remuneration of Auditor	31
27.4	Accounts and reports	32
27.5	Audit	32
28.	MEETINGS OF MEMBERS	32
28.1	Convening Meetings	32
28.2	Calling and holding meetings	32
29.	OTHER ACTIVITIES AND OBLIGATIONS OF THE RE	33
30.	GOVERNING LAW	33
31.	ASIC INSTRUMENT	33

5101 page 1/1 15 July 2001

ASIC registered agent number

lodging party or agent name: LM Investment Management Ltd

office, level, building name or PO Box no.: PO Box 485

street number and name: Surfers Paradise

suburb / city: state/territory: Qld postcode: 4217

telephone: 07 5584 4522

facsimile: 07 5582 2505

DX number: suburb / city

AUSTRALIAN SECURITIES & INVESTMENTS COMMISSION
019979866

ASS DASH PROC RED-A RED-P

Australian Securities & Investments Commission

form **5101**

Notification of
change to registered scheme's constitution

Corporations Act 2001
601GC

name of registered scheme: LM Mortgage Income Fund

ARSN: 089343288

name of responsible entity: LM Investment Management Ltd

ACN: 077208461

Details of change

☐ **Modification** of constitution authorised by special resolution of members
date of resolution (d/m/y): / /

☐ **Replacement** of constitution authorised by special resolution of members
date of resolution (d/m/y): / /

☑ **Modification** of constitution authorised by responsible entity
date authorised (d/m/y): 21/4/06

☐ **Replacement** of constitution authorised by responsible entity
date of replacement (d/m/y): / /

** A copy of the modification / new constitution is attached to this form.

NB: The modification, or repeal and replacement, of the constitution does not take effect until the copy has been lodged.

Signature

I certify that the information in this form is true and complete.

print name: Carolyn Hodge capacity: Secretary

sign here: date: 21/4/06

Small business (less than 20 employees), please provide an estimate of the time taken to complete this form

Include
- The time actually spent reading the instructions, working on the question and obtaining the information
- The time spent by all employees in collecting and providing this information

hrs mins

LM INVESTMENT MANAGEMENT LIMITED
ACN 077 208 461

AND

THE MEMBERS AS THEY ARE CONSTITUTED
FROM TIME TO TIME OF THE
LM MORTGAGE INCOME FUND

ARSN 089 343 288

DEED OF MODIFICATION OF CONSTITUTION

Lodged By:

LM Investment Management Ltd
Level 4
9 Beach Rd
SURFERS PARADISE QLD 4217

PH: (07) 5584 4500
FAX: (07) 5592 2505

THIS DEED is made by LM INVESTMENT MANAGEMENT LIMITED ACN 077 208 461 ("the RE") on the 21 day of April 2006.

RECITALS

A. On the 24th day of August, 1999 the RE executed a Deed (the "Constitution") establishing the LM MORTGAGE INCOME FUND ARSN 089 343 288.

B. Clause 26.1 of the Constitution provides, among other things, that the Constitution may be modified by the RE if the RE reasonably considers the change will not adversely affect Member's rights.

C. By Deeds of Modification dated the 15 March, 2000, 13 June 2001 and the 19 July 2002 the RE exercised that power and modified the Constitution.

D. Pursuant to section 601GC of the Corporations Act, the RE lodged a replacement version of the Constitution incorporating the amendments referred to in recital C on the 6 June 2005.

E. The RE proposes to amend the Constitution in the manner set out in this Deed.

F. The RE considers that the change provided for in this Deed does not adversely affect Member's rights.

OPERATIVE PROVISIONS

1. A term used in this Deed and defined in the Constitution has the same meaning when used in this Deed.

2. The RE modifies the Constitution by:

(a) deleting Clause 13.2(a) and replacing the clause as follows:-

"13.2 The RE must only invest Members' funds in:

(a) subject to clause 13.3 and 13.3A, mortgage investments provided that:

(i) all mortgages are secured over property and the amount which may be advanced to a Borrower does not exceed an LVR of 75% of the value of the security property on initial settlement.

(ii) the type of real estate offered for security is acceptable to the RE;

(iii) the value of the property offered as security has been established in accordance with the Mortgage Lending Valuation Policy of the RE ;

(b) deleting Clause 13.3 and replacing the clause as follows:-

"13.3 Notwithstanding the provisions of clause 13.2(a), after a loan has settled and where the RE considers it is in the best interests of the Members of the Scheme, the RE may approve an LVR not to exceed 85% of the value of the security property."

(c) adding clause 13.3A as follows:-

"13.3A Notwithstanding any other provision of this Constitution, the LVR of a loan that is in default may exceed 85%"

3. This Deed takes effect from its date of execution.

EXECUTED AS A DEED:

LM INVESTMENT MANAGEMENT LIMITED ACN 077 208 461

EXECUTED by LM INVESTMENT MANAGEMENT LIMITED ACN 077 208 461 in accordance with Section 127 of the Corporations Law

)
)Director
)
)
)
Director/Secretary

ASIC registered agent number

lodging party or agent name: LM Investment Management Ltd

office, level, building name or PO box no.: PO Box 495

street number and name

suburb / city: Surfers Paradise state/territory: Qld postcode: 4217

telephone: (07) 55844500

facsimile: ( )

DX number: suburb / city

5101 page 1/1 15 July 2001

AUSTRALIAN SECURITIES & INVESTMENTS COMMISSION

019979890

ASS CASH PROC REG-A REG-P

Australian Securities & Investments Commission

form **5101**

Notification of

change to registered scheme's constitution

Corporations Act 2001

8016C

name of registered scheme: LM Mortgage Income Fund

ARSN: 089 343 288

name of responsible entity: LM Investment Management Ltd

ACN: 077208461

Details of change

☐ **Modification** of constitution authorised by special resolution of members

date of resolution (d/m/y) / /

☐ **Replacement** of constitution authorised by special resolution of members

date of resolution (d/m/y) / /

☐ **Modification** of constitution authorised by responsible entity

date authorised (d/m/y) / /

☑ **Replacement** of constitution authorised by responsible entity

date of replacement (d/m/y) 31/5/07

AUSTRALIAN SECURITIES & INVESTMENTS COMMISSION RECEIVED 31 MAY 2007

** **A copy of the modification / new constitution is attached to this form.**

NB: **The modification, or repeal and replacement, of the constitution does not take effect until the copy has been lodged.**

Signature

I certify that the information in this form is true and complete.

print name: Carolyn Hodge capacity: Secretary

sign here date: 31/5/07

Small business (less than 20 employees), please provide an estimate of the time taken to complete this form

Include

- The time actually spent reading the instructions, working on the question and obtaining the information
- The time spent by all employees in collecting and providing this information

hrs mins

LM INVESTMENT MANAGEMENT LIMITED
ABN 68 077 208 461
Australian Financial Services Licensee 220281

AND

THE MEMBERS AS THEY ARE CONSTITUTED
FROM TIME TO TIME OF THE
LM FIRST MORTGAGE INCOME FUND
ARSN 089 343 288

REPLACEMENT CONSTITUTION

DEED made this 31 day of May 2007

BETWEEN: LM INVESTMENT MANAGEMENT LIMITED ACN 077 208 461 a company duly incorporated in Queensland having its registered office at Level 4, RSL Centre, 9 Beach Road, Surfers Paradise in the State of Queensland (the Responsible Entity hereinafter referred to as the "RE")

AND: All those persons who from time to time apply for Units and are accepted as Unitholders of the Scheme ("the Members")

WHEREAS:

A. The RE holds a responsible entity's licence from the ASIC.

B. The RE established a pooled mortgage unit trust called the LM Mortgage Income Fund on 28 September 1999. From 31 May 2007 the LM Mortgage Income Fund will be known as the LM First Mortgage Income Fund.

C. By applying to invest in this Scheme through a PDS a person will become a Member and be bound by this Constitution.

D. Clause 26.1(b) and section 601GC(1)(b) of the Law allow the RE to modify or repeal and replace the Constitution where the RE reasonably considers the change will not adversely affect Members' rights. The RE is satisfied the amendments contemplated by this replacement Constitution will not adversely affect Members' rights.

E. Accordingly with effect from the date of this deed poll, the existing constitution of the Scheme is repealed and replaced with this Constitution.

F. This Constitution is made with the intent that the benefits and obligations hereof will enure not only to the RE but also to the extent provided herein to every person who is or becomes a Member.

IT IS AGREED:

1. DICTIONARY AND INTERPRETATION

1.1 Dictionary of Terms

In this Constitution:

"**Accounting Standards**" means the accounting standards and practices determined under clause 1.3;

"**Adviser**" means the financial adviser who has offered Unit/s in this Scheme to a Member;

"**Applicant**" anyone who submits an application for Unit/s in the Scheme in accordance with the PDS;

"**Application**" means a request from a Member to the RE to issue Units in a managed investment scheme pursuant to an Arrangement;

"**Application Form**" an application in writing for Unit/s in the Scheme

attached to the PDS.

"**Application Money**" the amount received from an Applicant when lodging the application in respect of the Unit/s applied for in accordance with the PDS;

"**Arrangement**" means a written arrangement between the RE and a Member that sets out the circumstances in which Applications for Units in registered schemes operated by the RE, may be accepted;

"**ASIC**" the Australian Securities and Investments Commission;

"**ASIC Instrument**" means:

(a) an exemption or modification granted by ASIC in accordance with Part 5C.11 of the Law; or

(b) any other instrument issued by ASIC under a power conferred on ASIC which relates to the RE or the Scheme.

"**Auditor**" means the auditor of the Scheme appointed by the RE under clause 27.1 and shall be qualified to act as a registered scheme auditor pursuant to the Law;

"**Authorised Investments**" means

(a) monies deposited (whether secured or unsecured) with a Bank, or any corporation related to a Bank or other corporation or monies deposited with any trustee company, fund, bills of exchange, certificates of deposit and negotiable certificates of deposit issued by a Bank or similar instrument accepted and endorsed by a Bank;

(b) any investments the time being authorised by the laws of the Commonwealth of Australia or any State or Territory thereof for the investment of trust funds;

(c) monies deposited with an authorised short term money market dealer as such expression is used in section 65 of the Law;

(d) any investment in or acquisition of cash, stocks, bonds, notes or other securities or derivatives issued by the Government of Australia, any other country, any company, corporation, body corporate, association, firm, mutual fund or unit trust;

(e) any investment in or acquisition of options, entitlements or rights to any of the securities or derivatives referred to in clause (d) of this provision;

(f) real property or interests in real property whether by acquisition of units in unit trusts or otherwise;

(g) interests in any registered managed investment scheme (as defined in the Law) including but not limited to any scheme of which the RE acts as RE;

(h) making loans to any person or company with or without interest, whether secured or unsecured, and for any period whatsoever; and

(i) the acquisition of foreign currencies, hedging contracts, commodity contracts of any kind which are quoted on a financial market (as defined in the Law).

"**Bank**" has the meaning given to an ADI in section 5 of the Banking Act 1959 (Cth) and also includes an ADI constituted by or under a law of the State or Territory and a foreign ADI as that term is defined in section 5 of the Banking Act 1959 (Cth).

"**Borrower**" any person who applies to the Scheme to borrow Scheme Property and who is approved by the RE;

"**Business Day**" any day on which trading Banks are generally open for business on the Gold Coast, Queensland;

"**Class**" means a class of Units, being Units which have the same rights.

CO" the Compliance Officer of the RE;

"**Commencement Date**" means the date of registration of the Scheme;

"**Compliance Committee**" the Compliance Committee of the RE.

"**Compliance Plan**" means the Compliance Plan for the Scheme lodged at the ASIC on Scheme registration;

"**Constitution**" this document including any Schedule, Annexure or Amendments to it and which also means the Unit Trust Deed;

"**Custodian**" Permanent Trustee Australia Limited ACN 008 412 913;

"**Custody Agreement**" an agreement dated the 4th day of February, 1999 and any further amendments entered into between the Custodian and the RE;

"**Development Loan**" a loan to fund the construction of a building on mortgaged property which is to be drawn down before completion of the building;

"**Differential Fee Arrangement**" means an arrangement pursuant to Class Order [CO 03/217] which provides an exemption from

S601FC(1)(d) of the Law in relation to differential fee arrangements offered to investors investing in the Fund as a Wholesale Investor, within the meaning of Wholesale Client in Section 761G of the Corporations Act;

"**Distributable Income**" means, in relation to the Scheme, any amount determined by the RE from time to time to be distributed to Members, including without limitation any one or more of the following:

(a) the net income of the Scheme;

(b) other income of the Scheme (after adjusting for any Liabilities); and

(c) any amount of capital of the Scheme;

"**Distribution Period**" is the period nominated in clause 12.1;

"**Dollars**", "**A$**" and "**$**" mean the lawful currency of the Commonwealth of Australia;

"**Extraordinary Resolution**" means a resolution of which notice has been given in accordance with this Constitution and the Law and that has been passed by at least 50% of the total votes that may be cast by Members entitled to vote on the resolution (including Members who are not present in person or by proxy);

"**Financial Year**" means the period of 12 months ending on the 30th day of June in each year during the continuance of this Constitution and includes the period commencing on the date the trust was established and expiring on the next succeeding 30th day of June and any period between the 30th day of June last occurring before the termination of the trust and the termination of the trust;

"**FICS**" means the Financial Industry Complaints Service Limited;

"**GST**" means a tax, impost or duty on goods, services or other things imposed by any fiscal, national, state, territory or local authority or entity and whether presently imposed or novel, together with interest or penalties either before or after the date of this Constitution;

"**Income**" means all amounts which are, or would be recognised as, income by the application of the Accounting Standards;

"**Issue Price**" means the price at which a Unit is issued calculated in accordance with clause 6.

"**Investment Term**" means the fixed investment term selected by the Member when they invest in the Scheme for a fixed term and includes any subsequent fixed term for the investment where the investment is rolled over for that subsequent term.

"**Law**" means the Corporations Act 2001 and the Corporations Regulations.

"**Lender**" means the RE on behalf of the Members lending Scheme Property through the Scheme;

"**Lending Rules**" means the rules detailed in clauses 13.2 and 13.3;

"**Liabilities**" means at any time the aggregate of the following at that time as calculated by the RE in accordance with the Accounting Standards:

(a) Each liability, excluding Unit Holder Liability, of the RE in respect of the Scheme or, where appropriate, a proper provision in accordance with the applicable Accounting Standards in respect of that liability.

(b) Each other amount payable out of the Scheme, excluding Unit Holder Liability or, where appropriate, a proper provision in accordance with the applicable Accounting Standards in respect of that liability.

(c) Other appropriate provisions in accordance with the applicable Accounting Standards.

"**Liquid Scheme**" means a registered scheme that has liquid assets which account for at least 80% of the value of scheme property.

"**LMM**" means Law Mortgage Management Pty Ltd ACN 055 691 426;

"**LVR**" means loan to valuation ratio and is the ratio of the amount of a loan to the valuation of the property offered as security for a loan in the Scheme;

"**Member**" in relation to a Unit, means the person registered as the holder of that Unit (including joint holders).

"**Minimum Investment**" means the amount of $10,000 being the minimum amount the RE will accept as an investment in the Scheme increased in multiples of $500 each unless the RE, in its sole discretion, agrees to accept a lesser amount as an investment or agrees to accept an amount that is not a multiple of $500.

"**Mortgagee**" in all mortgages held by the Scheme the Mortgagee will be the Custodian as agent for the RE;

"**Mortgage Lending Valuation Policy**" means the RE's mortgage lending valuation policy as detailed in the Compliance Plan;

"**Net Fund Value**" at any time, means the value of the Scheme Property less the Liabilities at that time.

"Net Accounting Income" means as detailed in Clause 11.3;

"Net Accounting Loss" means as detailed in Clause 11.3;

"Power" means any right, power, authority, discretion or remedy conferred on the RE by this Constitution or any applicable law;

"Promoter" for the purpose of the Law the promoter of this Scheme is the RE;

"PDS" means a Product Disclosure Statement or any Supplementary Product Disclosure Statement for the Scheme;

"Register" means the register of Members maintained by the RE under clause 22;

"Responsible Entity" or **"RE"** means the company named in the ASIC's records as the responsible entity of the Scheme and referred to in this document as the RE and who is also the Trustee of the Scheme;

"Scheme" means a managed investment scheme to be known as the "LM First Mortgage Income Fund" that is to be registered under s601EB of the Law and also means the Trust;

"Scheme Property" means assets of the Scheme including but not limited to:

(a) contributions of money or money's worth to the Scheme; and

(b) money that forms part of the Scheme assets under the provisions of the Law; and

(c) money borrowed or raised by the RE for the purposes of the Scheme; and

(d) property acquired, directly or indirectly, with, or with the proceeds of, contributions or money referred to in paragraph (a), (b) or (c); and

(e) the income and property derived, directly or indirectly from contributions, money or property referred to in paragraph (a), (b), (c) or (d);

"Scheme Valuation Policy" means the scheme valuation policy as detailed in the Compliance Plan;

"Security Property" means any property offered by a Borrower as security for a Mortgage in the Scheme;

"Special Resolution" means a resolution of which notice has been given in accordance with this Constitution and the Law and that has been passed by at least 75% of the votes cast by Members entitled to vote on the resolution;

"**Subscription Account**" an account opened and maintained by the RE into which is deposited all Application Moneys;

"**Tax**" includes, but is not limited to:

(a) stamp duty, excise and penalties relating to these amounts which are imposed on the RE in respect of any assets in the Scheme;

(b) taxes and duties and penalties relating to these items imposed as a result of any payment made to or by the RE under this Constitution;

(c) taxes imposed or assessed upon:

(i) any Application Money;

(ii) distributions of Income to Members, capital gains, profits or any other amounts in respect of the Scheme; or

(iii) the RE in respect of its capacity as responsible entity of the Scheme;

(d) imposts, financial institutions duties, debits tax, withholding tax, land tax or other property taxes charged by any proper authority in any jurisdiction in Australia in respect of any matter in relation to the Scheme, and every kind of tax, duty, rate, levy, deduction and charge including any GST;

"**Tax Act**" means the Income Tax Assessment Act 1936 (Cth) and the Income Tax Assessment Act 1997 (Cth);

"**Trustee**" means the RE;

"**Unit**" means an undivided interest in the Scheme Property created and issued under this Constitution;

"**Unit Holder Liability**" means the liability of the Scheme to the Members for their undivided interest in the Scheme Property;

"**Unit Holding**" means the number of Units in the Scheme held by a Member as evidenced in the Register of Unit holders;

"**Unit Holding Statement**" means a statement issued by the RE to a Member pursuant to clause 5.7;

"**Valuation Date**" means the date which is the last day of each month or any date during each month at the RE's discretion or the date on which the RE determines there has been a material change in the value of the Scheme Property;

"**Withdrawal Notice**" means a notice in writing given by a Member and

received by the RE by the start of the relevant Withdrawal Notice Period stating the Member's name, the number of Units the Member wishes to have redeemed, and any other information reasonably required by the RE;

"Withdrawal Notice Period" means:

(a) the period commencing 30 days before the expiry of the relevant Investment Term where the notice relates to an investment held for an Investment Term; or

(b) the period of 30 days for any other investment not held for an Investment Term; or

(c) any other time period as determined by the RE.

"Withdrawal Price" means the price at which a Unit is redeemed calculated in accordance with Clause 8.

1.2 **Interpretation**

In this Constitution, unless the context otherwise requires:

(a) headings and underlining are for convenience only and do not affect the interpretation of this Constitution;

(b) words importing the singular include the plural and vice versa;

(c) words importing a gender include any gender;

(d) other parts of speech and grammatical forms of a word or phrase defined in this Constitution have a corresponding meaning;

(e) an expression importing a natural person includes any company, partnership, joint venture, association, corporation or other body corporate and any Governmental Agency;

(f) a reference to any thing includes a part of that thing;

(g) a reference to a part, clause, party, annexure, exhibit or schedule is a reference to a part and clause of, and a party, annexure exhibit and schedule to, this Constitution;

(h) a reference to any statute, regulation, proclamation, ordinance or by-law includes all statutes, regulations, proclamations, ordinances or by-laws amending, consolidating or replacing it, and a reference to a statute includes all regulations, proclamations, ordinances and by-laws issued under that statute;

(i) a reference to a document includes all amendments or supplements to, or replacements or novations of, that document;

(j) where the day on or by which any thing is to be done is not a

Business Day, that thing must be done on or by the preceding Business Day except that any amount payable on demand where the demand is made on a day which is not a Business Day must be paid on the next succeeding Business Day;

(k) a reference to an agreement includes an undertaking, deed, agreement or legally enforceable arrangement or understanding whether or not in writing;

(l) a reference to a document includes any agreement in writing, or any statement, notice, deed, instrument or other document of any kind;

(m) a reference to a body (including, without limitation, an institute, association or authority), whether statutory or not:

(i) which ceases to exist; or

(ii) whose powers or functions are transferred to another body; is a reference to the body which replaces it or which substantially succeeds to its powers or functions;

(n) a reference to any date means any time up to 5.00 pm (Queensland time) on that date; and

(o) a reference to dealing with a Unit includes any subscription, withdrawal, sale, assignment, encumbrance, or other disposition whether by act or omission and whether affecting the legal or equitable interest in the Unit.

1.3 **Accounting Standards**

In respect of any accounting practice relevant to this Constitution, the following accounting standards apply as if the Scheme were a company in accordance with:

(a) the accounting standards required under the Law; and

(b) if no accounting standard applies under clause 1.3(a), the accounting practice determined by the RE.

2. ESTABLISHMENT OF TRUST

2.1 **Trustee**

The RE continues to act as trustee of the Scheme.

s601FC(2) 2.2 **Role of Trustee**

The RE recognises that it continues to hold the Scheme Property on trust for the Members.

s601FB(2) 2.3 **Appointment of Custodian**

(a) The RE has appointed the Custodian as agent to hold the Scheme

Property on behalf of the RE.

(b) The Custodian holds the Scheme Property as agent of the RE for the term of the Scheme on terms and conditions as detailed in the Custody Agreement.

2.4 **Name of Trust**

The name of the trust and Scheme is the LM First Mortgage Income Fund or any other name that the RE may determine from time to time.

2.5 **Initial Issue**

The Scheme commenced at such time after the Commencement Date when LMM or its nominee paid $100.00 to the RE to establish the Scheme Property. The RE issued to LMM or its nominee 100 Units in return for that payment.

3. **UNITS AND MEMBERS**

3.1 **Units**

The beneficial interest in Scheme Property is divided into Units. Unless the terms of issue of a Unit or a Class otherwise provide, all Units will carry all rights, and be subject to all the obligations of Members under this Constitution.

3.2 **Classes**

Different Classes may be issued. If the RE determines in relation to particular Units, the terms of issue of those Units may eliminate, reduce or enhance any of the rights or obligations which would otherwise be carried by such Units.

3.3 **Fractions**

Fractions of a Unit may not be issued. When any calculations under this Constitution would result in the issue of a fraction of a Unit, the number of Units to be issued must be rounded down to the nearest whole Unit.

3.4 **Equal value**

At any time, all the Units in a Class are of equal value unless the units are issued under a Differential Fee Arrangement.

3.5 **Interest**

A Unit confers an interest in the Scheme Property as a whole. No Unit confers any interest in any particular asset of the Scheme Property.

3.6 **Consolidation and re-division**

(a) Subject to clause 3.6(b) the RE may at any time divide the Scheme Property into any number of Units other than the number into which the Scheme Property is for the time being divided.

(b) In the case of (i) or (ii) above, the RE must refuse to register same and must continue to treat the seller or transferor as the case may be as the registered holder for all purposes and the purported sale, purchase, disposal or transfer shall be of no effect.

(c) If the transferee is not a Member the RE must not consent to the registration until the RE is satisfied that the transferee has agreed to be bound by the Constitution.

9.5 **Notice of non-registration**

If the RE declines to register any transfer of Units, the RE must within 5 Business Days after the transfer was lodged with the RE give to the person who lodged the transfer written notice of, and the reasons for, the decision to decline registration of the transfer.

9.6 **Suspension of transfers**

The registration of transfers of Units may be suspended at any time and for any period as the RE from time to time decide. However, the aggregate of those periods must not exceed 30 days in any calendar year.

10. **TRANSMISSION OF UNITS**

10.1 **Entitlement to Units on death**

(a) If a Member dies:

(i) the survivor or survivors, where the Member was a joint holder; and

(ii) the legal personal representatives of the deceased, where the Member was a sole holder,

will be the only persons recognised by the RE as having any title to the Member's interest in the Units.

(b) The RE may require evidence of a Member's death as it thinks fit.

(c) This clause does not release the estate of the deceased joint Member from any liability in respect of a Unit that had been jointly held by the Member with other persons.

10.2 **Registration of persons entitled**

(a) Subject to the Bankruptcy Act 1966 and to the production of any information that is properly required by the RE, a person becoming entitled to a Unit in consequence of the death or bankruptcy (or other legal disability) of a Member may elect to:

(i) be registered personally as a Member; or

(ii) have another person registered as the Member.

(b) All the limitations, restrictions and provisions of this Constitution relating to:

(i) the right to transfer; and

(ii) the registration of a transfer;

for Units apply to any relevant transfer as if the death or bankruptcy or legal disability of the Unit Member had not occurred and the notice or transfer were a transfer signed by that Member.

10.3 **Distributions and other rights**

(a) If a Member dies or suffers a legal disability, the Member's legal personal representative or the trustee of the Member's estate (as the case may be) is, on the production of all information as is properly required by the RE, entitled to the same distributions, entitlements and other advantages and to the same rights (whether in relation to meetings of the Scheme or to voting or otherwise) as the Member would have been entitled to if the Member had not died or suffered a legal disability.

(b) Where two or more persons are jointly entitled to any Unit as a result of the death of a Member, they will, for the purposes of this Constitution, be taken to be joint holders of the Unit.

11. DISTRIBUTABLE INCOME

11.1 **Income of the Scheme**

The Income of the Scheme for each Financial Year will be determined in accordance with applicable Accounting Standards.

11.2 **Expenses and provisions of the Scheme**

For each Financial Year:

(a) the expenses of the Scheme will be determined in accordance with the applicable Accounting Standards; and

(b) provisions or other transfers to or from reserves may be made in relation to such items as the RE considers appropriate in accordance with the applicable Accounting Standards including, but not limited to, provisions for income equalisation and capital losses.

11.3 **Distributable Income**

The Distributable Income of the Scheme for a month, a Financial Year or any other period will be such amount as the RE determines.

Distributable Income is paid to Members after taking into account any Adviser fees or costs associated with individual Members' investments, to the extent those fees or costs have not otherwise been taken into account.

12. DISTRIBUTIONS

12.9 Distribution Period

The Distribution Period is one calendar month or as otherwise determined by the RE in its absolute discretion.

12.2 Distributions

The RE must distribute the Distributable Income relating to each Distribution Period within 21 days of the end of each Distribution Period.

12.3 Present entitlement

Unless otherwise agreed by the RE and subject to the rights, restrictions and obligations attaching to any particular Unit or Class, the Members on the Register will be presently entitled to the Distributable Income of the Scheme on the last day of each Distribution Period.

12.4 Capital distributions

The RE may distribute capital of the Scheme to the Members. Subject to the rights, obligations and restrictions attaching to any particular Unit or Class, a Member is entitled to that proportion of the capital to be distributed as is equal to the number of Units held by that Member on a date determined by the RE divided by the number of Units on the Register on that date. A distribution may be in cash or by way of bonus Units.

12.5 Grossed up Tax amounts

Subject to any rights, obligations and restrictions attaching to any particular Unit or Class, the grossed up amount under the Tax Act in relation to Tax credits or franking rebates is taken to be distributed to Unit Members in proportion to the Distributable Income for a Distribution Period as the case may be, which is referable to a dividend or other income to which they are presently entitled.

12.6 Reinvestment of Distributable Income

(a) The RE may invite Members to reinvest any or all of their distributable income entitlement by way of application for additional Units in the Scheme.

(b) The terms of any such offer of reinvestment will be determined

by the RE in its discretion and may be withdrawn or varied by the RE at any time.

(c) The RE may determine that unless the Member specifically directs otherwise they will be deemed to have accepted the reinvestment offer.

(d) The Units issued as a result of an offer to reinvest will be deemed to have been issued on the first day of the next Distribution Period immediately following the Distribution Period in respect of which the distributable income being reinvested was payable.

13. NATURE OF RE POWERS

s601GA(1)(b) 13.1 The RE has all the powers:

(a) of a natural person to invest and borrow on security of the Scheme Property;

(b) in respect of the Scheme and the Scheme Property that it is possible under the Law to confer on a RE and on a Trustee;

(c) as though it were the absolute owner of the Scheme Property and acting in its personal capacity; or

(d) necessary for fulfilling its obligations under this Constitution and under the Law.

s601GA(3) 13.2 The RE must only invest Members' funds in:

(a) subject to clause 13.3 and 13.3A, mortgage investments provided that:

(i) all mortgages are secured over property and the amount which may be advanced to a Borrower does not exceed an LVR of 75% of the value of the security property on initial settlement.

(ii) the type of real estate offered for security is acceptable to the RE;

(iii) the value of the property offered as security has been established in accordance with the Mortgage Lending Valuation Policy of the RE ;

(b) other mortgage backed schemes in accordance with this clause and the RE's compliance standards;

(c) a range of interest bearing investments backed by Australian Banks, building societies, State or Federal governments, or foreign banks as approved by the RE.

(d) Authorised Investments.

s601GA(3) 13.3 Notwithstanding the provisions of clause 13.2(a), after a loan has settled and where the RE considers it is in the best interests of the Members of the Scheme, the RE may approve an LVR not to exceed 85% of the value of the security property.

13.3A Notwithstanding any other provision of this Constitution, the LVR of a loan that is in default may exceed 85%

s601GA(3) 13.4 Whenever a loan of Scheme funds involves a Development Loan, the RE shall ensure it has included amongst its officers or employees persons with relevant project management experience who are competent to manage loans of this kind.

s601GA(3) 13.5 To the extent allowed by law:

(a) any restriction or prohibition imposed upon the RE in relation to the investment from time to time of the Scheme Property or any part thereof is hereby excluded from the obligations imposed.

(b) without derogating from the generality of the foregoing this exclusion specifically applies to any "Prudent Person Rule" or the like which may be implied by any future enactment of legislation.

s601GA(3) 13.6 To the extent allowed by law:

(a) the RE may borrow or raise money with or without security over the Scheme Property or any part of it on any terms, including any rate of interest and any fees and expenses as the RE thinks fit;

(b) the RE may deal with any property to exercise all the powers of a mortgagee pursuant to the mortgage terms and conditions.

s601GA(3) 13.7 The RE must direct the Custodian to deal with the Scheme Property in accordance with this Constitution.

14. COMPLAINTS PROCEDURES

s601GA(1)(c) 14.1 If a Member has a complaint they should generally first contact their Adviser. If the Adviser is unavailable, unwilling, or unable to assist, or if the Member wishes to directly contact the RE, and the complaint relates to the Fund or the RE, then the Member should contact the Complaints Officer of the RE at the registered office of the RE. Complaints may be made in writing or by telephone. The Complaints Officer will take responsibility for the complaint and record it in the Complaints Register.

14.2 The Complaints Officer may (if applicable) contact the Adviser for further background information and attempt to mediate a satisfactory resolution

of the complaint or escalate as necessary. The Complaints Officer has 30 days to respond to the complaint once it is received by the Complaints Officer. He/she must attempt to resolve the complaint within a satisfactory time period as determined by the nature of the complaint and the Member's response.

14.3 In acknowledging or resolving formal complaints, the RE must make or cause to be made, a written response including:-

(a) the name, title and contact details of the person actually handling the complaint;

(b) a summary of the RE's understanding of the complaint;

(c) details of the RE's offer for resolution of the complaint and relevant time frame;

(d) where the complaint is not fully dealt with in the letter an estimate of time required for the RE to resolve the complaint.

14.4 Full details of each formal complaint and resolution thereof must be recorded in the Complaints Register including:-

(a) the person responsible for resolving the complaint;

(b) the name of the Member making the complaint;

(c) the nature of the complaint;

(d) the product service or department in respect of which the complaint was made;

(e) the actual time required to resolve the complaint;

(f) the actual resolution of the complaint;

(g) recommendations, if any, for changes to products disclosures systems or processes to ensure similar complaints do not arise in the future.

14.5 The Complaints Register should be reviewed by the Complaints Manager as part of an ongoing review process to determine whether recommendations for change arising from resolved complaints have been effectively incorporated in the compliance program.

14.6 Where the RE believes it has either resolved the complaint, or it has not resolved the complaint but believes it can do nothing more to satisfy the complainant, and the Member feels their complaint has still not been satisfactorily resolved, the complainant must be referred to the FICS for mediation. The FICS adopts a three stage approach in resolving complaints as follows:-

(a) stage 1: initial opportunity for Member to resolve complaints;

(b) stage 2: complaints review, investigation and conciliation;

(c) stage 3: independent determination of complaints by adjudicator.

The full terms of reference for the FICS are held by the RE.

14.7 If a complaint cannot be resolved to the satisfaction of the Member by the RE or the FICS then the complainant Member may:-

(a) refer the matter to arbitration or the courts; or

(b) take whatever other action is open to the complainant Member under the general law.

14.8 The RE must disclose the details of its complaints procedure to all investors.

15. **TERM OF TRUST**

The Scheme begins on the Commencement Date and is to be wound up on the earlier to occur of:

(a) the date which is eighty years from the Commencement Date; and

(b) any earlier date which the RE, in its absolute discretion may appoint as the Vesting Date.

16. **WINDING UP THE SCHEME**

s601GA(1)(d) 16.1 The Scheme shall only be wound up in accordance with the Law and this Constitution.

16.2 The RE must wind up the Scheme in the following circumstances:-

s601NE(1)(a) (a) if the term of the Scheme as detailed in this Constitution has expired;

s601NE(1)(b) (b) the Members pass an extraordinary resolution directing the RE to wind up the Scheme;

s601NE(1)(c) (c) the Court makes an order directing the RE to wind up the Scheme pursuant to the Law and in particular pursuant to section 601FQ(5) and section 601ND;

s601NE(1)(d) (d) the Members pass an extraordinary resolution to remove the RE but do not at the same time pass an extraordinary resolution choosing a company to be the new RE that consents to becoming the Scheme's RE;

s601NC(1) 16. 3 (a) If the RE considers that the purpose of the Scheme:

(i) has been accomplished; or

(ii) cannot be accomplished,

it may take steps to wind up the Scheme.

(b) If the RE wishes to wind up the Scheme pursuant to clause

16.3(a), the RE must give to the Members of the Scheme and to the ASIC a notice in writing;

(i) explaining the proposal to wind up the Scheme, including explaining how the Scheme's purpose has been accomplished or why that purpose cannot be accomplished; and

(ii) informing the Members of their rights to take action under Division 1 of Part 2G.4 of the Law for the calling of a Members' meeting to consider the proposed winding up of the Scheme and to vote on a special resolution Members propose about the winding up of the Scheme; and

(iii) informing the Members that the RE is permitted to wind up the Scheme unless a meeting is called to consider the proposed winding up of the Scheme within 28 days of the RE giving the notice to the Members;

(c) if no meeting is called within that 28 days to consider the proposed winding up, the RE may wind up the Scheme.

s601NE(2) 16.4 (a) The RE may wind up the Scheme in accordance with this Constitution and any orders under S601NF(2) of the Law if the RE is permitted by S601NC(3) of the Law to wind up the Scheme.

s601NF (3) (b) An order to wind up the Scheme pursuant to s601ND (1) or s601NF (1) or (2) of the Law may be made on the application of:

(i) the RE; or
(ii) a director of the RE: or
(iii) a Member of the Scheme; or
(iv) the ASIC.

s601NE(3) 16.5 The RE shall not accept any further Applications for Units in the Scheme or make any further loans from the Scheme Property at a time after the RE has become obliged to ensure the Scheme is wound up or after the Scheme has started to be wound up.

16.6 The RE shall manage the Scheme until such time as all winding up procedures have been completed.

16.7 Subject to the provisions of this clause 16 upon winding up of the Scheme the RE must:

(a) realise the assets of the Scheme Property;

(b) pay all liabilities of the RE in its capacity as Trustee of the Scheme including, but not limited to, liabilities owed to any Member who is a creditor of the Scheme except where such liability is a Unit

Holder Liability;

(c) subject to any special rights or restrictions attached to any Unit, distribute the net proceeds of realisation among the Members in the same proportion specified in Clause 12.4;

(d) The Members must pay the costs and expenses of a distribution of assets under clause 16.7(c) in the same proportion specified in clause 12.4.

(e) The RE may postpone the realisation of the Scheme Property for as long as it thinks fit and is not liable for any loss or damage attributable to the postponement.

(f) The RE may retain for as long as it thinks fit any part of the Scheme Property which in its opinion may be required to meet any actual or contingent liability of the Scheme.

(g) The RE must distribute among the Members in accordance with clause 16.7 anything retained under clause 16.7(f) which is subsequently not required.

s601NG 16.8 If on completion of the winding up of a registered Scheme, the RE or such other person who may be winding up the Scheme has in their possession or under their control any unclaimed or undistributed money or other property that was part of the Scheme Property the RE or person winding up the Scheme must, as soon as practicable, pay the money or transfer the property to the ASIC to be dealt with pursuant to Part 9.7 of the Law.

s601EE 16.9 If at any time the Scheme is operated while it is unregistered the following may apply to the Court to have the Scheme wound up:

(a) The ASIC
(b) The RE
(c) A Member of the Scheme

16.10 The RE shall arrange for an Auditor to audit the final accounts of the Scheme after the Scheme is wound up.

17. VALUE OF THE SCHEME FUND

17.1 Valuation of the Scheme Property

The RE may cause the Scheme Property to be valued at any time in accordance with the Scheme Valuation Policy of the RE.

17.2 Valuation If required

The RE must cause the Scheme Property or any asset of the Scheme Property to be valued if required by ASIC or under the Law and the valuation must be undertaken in accordance with those requirements.

17.3 **Determination of Net Fund Value**

The RE may determine the Net Fund Value at any time in its discretion, including more than once on each day.

18. FEES, TAXES, COSTS AND EXPENSES

s601GA(2) 18.1 **Taxes:**

The RE may use the Scheme Property to pay any Tax or other obligation, liability or expense required by any applicable law in relation to:

(a) this Constitution;

(b) any amount incurred or payable by the RE;

(c) a gift or settlement effected by this Constitution;

(d) the exercise by the RE of any Power; or

(e) money or investments held by or on behalf of the RE under this Constitution.

s601GA(2) 18.2 **Payment of Debts:**

The RE may set aside any money from the Scheme Property which, in the RE's opinion, is sufficient to meet any present or future obligation of the Scheme.

s601GA(2) 18.3 **Fees:**

The RE is entitled to receive out of the Scheme Property, a management fee of up to 5.5 % per annum (inclusive of GST) of the Net Fund Value in relation to the performance of its duties as detailed in this Constitution, the Compliance Plan and the Law. This fee is to be calculated monthly and paid at such times as the RE determines

s601GA(2) 18.4 The RE shall be entitled to fees in relation to the following duties:

(a) the subscription and withdrawal of units;

(b) the transfer or transmission of Units;

(c) the establishment/loan application fees;

(d) the structuring or packaging of loan proposals;

(e) loan management;

(f) the rollover of a loan facility;

(g) due diligence enquiries generally;

(h) the sale of real estate or assets of the Scheme Property;

(i) the promotion and management of the Scheme;

(j) the appointment of the Custodian pursuant to the Custody Agreement;

(k) the winding-up of the Scheme;

(l) the performance of its duties and obligations pursuant to the Law and this Constitution.

s601GA(2) 18.5 **Costs and Expenses**

The RE shall be indemnified out of Scheme Property for liabilities or expenses incurred in relation to the performance of its duties; including:

(a) Auditor's fees;

(b) legal fees and outgoings in relation to settlement, rollover, default or recovery of loans

(c) barrister/QC - legal counsel fees;

(d) search fees including property searches, company, bankruptcy, CRAA searches and any other searches which may be necessary to enable location, identification and/or investigation of borrowers/guarantors/mortgagors;

(e) valuation fees;

(f) independent expert's or consultant's fees including but not limited to marketing agents, property specialists, surveyors, quantity surveyors, town planners, engineers;

(g) property report/property consultant fees;

(h) process servers' fees;

(i) private investigator fees;

(j) fees in relation to the marketing and packaging of security properties for sale;

(k) real estate agent's sales commissions;

(l) costs of maintenance of mortgage securities;

(m) outstanding accounts relating to mortgage securities such as council rates;

(n) locksmith for changing locks of mortgage securities as appropriate;

(o) insurance (property and contents);

(p) removalists for removal of borrower's property as appropriate;

(q) security guards to attend mortgage securities as appropriate;

(r) building and/or property inspection report fees - i.e. building, town planning experts and the like;

(s) all ASIC charges;

(t) all costs of supplying Members with copies of this Constitution and any other documents required by the Law to be provided to Members;

(u) all costs and expenses incurred in producing PDS' and Supplementary PDS' or any other disclosure document required

by the Law;

(v) reasonable costs incurred in protecting or preserving all assets offered as security;

s601 FB(2)

(w) all liability, loss, cost, expense or damage arising from the proper performance of its duties in connection with the Scheme performed by the RE or by any agent appointed pursuant to s601 FB(2) of the Law;

(x) any liability, loss, cost, expense or damage arising from the lawful exercise by the RE and the Custodian of their rights under the Power of Attorney contained in clause 20;

(y) fees and expenses of any agent or delegate appointed by the RE;

(z) bank and government duties and charges on the operation of bank accounts;

(aa) costs, charges and expenses incurred in connection with borrowing money on behalf of the Scheme under the Constitution;

(bb) insurances directly or indirectly protecting the Scheme Property;

(cc) fees and charges of any regulatory or statutory authority;

(dd) taxes in respect of the Scheme but not Taxes of the RE [save and except any goods and services or similar tax ("GST")] which are payable by the RE on its own account;

(ee) costs of printing and postage of cheques, advices, reports, notices and other documents produced during the management of the Scheme;

(ff) expenses incurred in connection with maintaining accounting records and registers of the Scheme and of the Scheme Auditor;

(gg) costs and disbursements incurred in the preparation and lodgement of returns under the Law, Tax Act or any other laws for the Scheme;

(hh) costs of convening and holding meetings of Members;

(ii) costs and disbursements incurred by or on behalf of the RE in connection with its retirement and the appointment of a substitute;

(jj) costs and disbursements incurred by the RE in the initiation, conduct and settlement of any court proceedings;

(kk) costs of any insurance premiums insuring against the costs of legal proceedings (whether successful or not) including legal

proceedings against Compliance Committee Members not arising out of a wilful breach of a duty referred to in S601JD of the Law;

(ll) costs of advertising the availability of funds for lending;

(mm) brokerage and underwriting fees;

(nn) if and when the RE becomes responsible to pay any GST in respect of any services provided to the Scheme or any payments in respect of GST to be made by the Members or the RE in respect of the Scheme or under the terms of this Constitution then the RE shall be entitled to be indemnified in respect of such GST from the Scheme Property;

s601GA(2) 18.6 In the event that the RE has not performed its duties, the lack of entitlement to payment of fees pursuant to 18.3 is only in respect of that part of the payment which relates to the specific lack of proper performance on any given matter. Nothing in this clause shall be interpreted to mean that the RE is not entitled to be paid fees and expenses for work properly performed.

s601GA(2) 18.7 In the event of any dispute regarding the payment of fees and expenses, the RE shall be paid such fees and expenses until the dispute is fully determined. Any overpayment of the RE shall be repaid forthwith upon the identification of the overpayment.

18.8 The RE is entitled to recover fees and expenses from the Scheme provided they have been incurred in accordance with this Constitution.

18.9 The RE may waive the whole or any part of the remuneration to which it would otherwise be entitled under this clause.

18.10 Despite any other provision of this Constitution, the RE may pay a Member's Adviser a fee or fees as directed by the Adviser from time to time. These fees are to be paid out of Scheme Property, as an expense of the Scheme. Where income of the Scheme is not sufficient to pay in full an Adviser's fee and the relevant Member's expected income distribution, the RE may reduce the Adviser's fee and/or the expected income distribution on a pro rata basis, or on any other basis agreed with the Adviser.

19. INDEMNITY AND LIABILITY

s601GA(2) 19.1 The following clauses apply to the extent permitted by law:

(a) The RE is not liable for any loss or damage to any person (including any Member) arising out of any matter unless, in respect of that matter, it acted both:

(i) otherwise than in accordance with this Constitution and its duties; and

(ii) without a belief held in good faith that it was acting in accordance with this Constitution or its duties.

In any case the liability of the RE in relation to the Scheme is limited to the Scheme Property, from which the RE is entitled to be, and is in fact, indemnified.

(b) In particular, the RE is not liable for any loss or damage to any person arising out of any matter where, in respect of that matter:

(i) it relied in good faith on the services of, or information or advice from, or purporting to be from, any person appointed by the RE;

(ii) it acted as required by Law; or

(iii) it relied in good faith upon any signature, marking or documents.

(c) In addition to any indemnity under any Law, the RE has a right of indemnity out of the Scheme Property on a full indemnity basis, in respect of a matter unless, in respect of that matter, the RE has acted negligently, fraudulently or in breach of trust.

(d) The RE is not liable to account to any Member for any payments made by the RE in good faith to any duly authorised authority of the Commonwealth of Australia or any State or Territory of Australia for taxes or other statutory charges.

20. POWERS OF ATTORNEY

20.1 Each Member by execution of the Application Form or the transfer by which he/she/it acquires Units in the Scheme appoints the RE and the Custodian and any director officer attorney or substitute nominated by either the RE or the Custodian severally for this purpose as its attorney and agent with the right:

(a) at any time to:

(i) sign any document in relation to any subscription and withdrawal agreement;

(ii) sign any document in relation to the transfer or transmission of Units;

(iii) sign any variation of this Constitution;

(iv) sign any document required by ASIC to be executed by a Member in respect of the Scheme.

(b) at the request in writing of either the RE or the Custodian the Member must execute separate Powers of Attorney in a form reasonably required by the RE or the Custodian appointing the RE and/or the Custodian as its attorney for the purpose of this clause.

(c) any attorney may exercise its rights notwithstanding that the exercise of the right constitutes a conflict of interest or duty;

20.2 each Member indemnifies and shall keep indemnified any attorney against any liability, loss, cost, expense or damage arising from the lawful exercise of any right by the attorney under the Power of Attorney.

21. TITLE TO SCHEME FUND

21.1 **Custodian to hold as agent of RE**

The Scheme Property will be held in the name of the Custodian as agent for the RE on the terms and conditions as detailed in the Custody Agreement.

22. THE REGISTER

22.1 **Keeping registers**

The RE must establish and keep a register of Members, and if applicable, the other registers required by the Law.

22.2 **Information in registers**

To the extent applicable, the Register must be kept in accordance with, and contain the information required by the Law. Otherwise, the RE may decide what information is included in the Register. If the Law applies, the RE has the powers conferred under the Law in relation to the Register.

22.3 **Changes**

Every Member must promptly notify the RE of any change of name or address and the RE must alter the Register accordingly.

23. NOTICES

23.1 A notice or other communication connected with this Constitution has no legal effect unless it is in writing.

23.2 In addition to any other method of service provided by law, the notice must be:

(a) sent by post, postage prepaid, to the address for the Member in the RE's register of interests;

(b) sent by facsimile to the facsimile number of the Member; or

(c) otherwise delivered including via email, at the address of the

addressee of the Member as is subsequently notified.

23.3 A notice must be treated as given and received:

(a) if sent by post, on the 2nd Business Day (at the address to which it is posted) after posting;

(b) if sent by facsimile or electronically before 5.00 p.m. on a Business Day at the place of receipt, on the day it is sent and otherwise on the next Business Day at the place of delivery.

23.4 Despite clause 23.3(ii) a facsimile is not treated as given or received unless at the conclusion of the transmission the sender's facsimile machine issues a transmission report which indicates that the relevant number of pages comprised in the notice have been sent.

23.5 A notice sent or delivered in a manner provided by clause 23.2 must be treated as validly given to and received by the party to which it is addressed even if:

(a) the addressee has been liquidated or deregistered or is absent from the place at which the notice is delivered or to which it is sent; or

(b) the notice is returned unclaimed.

23.6 Any notice by a party may be given and may be signed by the solicitor for the party.

23.7 Any notice to a party may be given to the solicitor for the party by any of the means listed in clause 23.2 to the solicitor's business address or facsimile number as the case may be.

24. LIABILITY OF MEMBERS

(a) The liability of each Member, whether actual, contingent or prospective, is limited to the unpaid Issue Price of his/her/its Units except if the RE and the relevant Member agree otherwise in writing that the liability of a Member may be further limited or waived.

(b) A creditor or other person claiming against the RE as trustee of the Scheme has no recourse against a Member and no Member is personally liable to indemnify the RE, any creditor of the RE or any person claiming against the RE in respect of any actual, contingent, prospective or other liability of the RE in relation to the Scheme.

25. RETIREMENT AND APPOINTMENT OF RE

s601FL 25.1 The RE may retire as RE as permitted by s601FM of the Law.

s601FM 25.2 The RE must retire when required by s601FM of the Law.

s601FR 25.3 If the RE changes the former RE must comply with s601FR of the Law.

s601FS 25.4 The rights, obligations and liabilities of a former RE are as detailed in s601FS of the Law.

26. CHANGING THE CONSTITUTION

s601GC(1) 26.1 This Constitution may be modified or repealed or replaced with a new Constitution:

(a) by special resolution of the Members of the Scheme;

or

(b) by the RE if the RE reasonably considers the change will not adversely affect Members' rights.

26.2 In the event the RE wishes to change the Constitution the RE must:

s601GC(2) (a) lodge with the ASIC a copy of the modification or the new Constitution;

(b) the modification, or repeal and replacement, cannot take effect until the copy has been lodged;

s601GC(3) (c) the RE must lodge with the ASIC a consolidated copy of the Scheme's Constitution if the ASIC directs it to do so;

s601GC(4) 26.3 The RE must send a copy of the Scheme's Constitution to a Member of the Scheme within seven (7) days if the Member:

(a) asks the RE in writing for the copy; and

(b) pays any fee (up to the prescribed amount) required by the RE.

27. STATEMENTS, ACCOUNTS AND AUDIT

27.1 **Appointment of auditors**

(a) The RE must appoint an Auditor to regularly audit the accounts in relation to the Scheme and perform the other duties required of the Scheme's auditors under this Constitution and the Law.

(b) The RE must appoint an Auditor of the Compliance Plan (as defined in section 601HG of the Law).

27.2 **Retirement of auditors**

The Scheme Auditor and the Compliance Plan Auditor may each retire or be removed in accordance with the Law.

27.3 **Remuneration of Auditor**

The remuneration of the Scheme Auditor and Compliance Plan Auditor will each be fixed by the RE.

27.4 **Accounts and reports**

(a) The accounts of the Scheme must be kept and prepared by the RE

in accordance with applicable Accounting Standards and the Law.

(b The RE must report to Members concerning the affairs of the Scheme and their holdings as required by the Law. Subject to the Law, the person preparing a report may determine the form, content and timing of it.

27.5 **Audit**

The RE will cause:

(a) the Scheme Auditor to audit and report on the Scheme's accounts;

(b) the Compliance Plan Auditor to audit and report on the Compliance Plan,

each in the manner required by the Law.

28. MEETINGS OF MEMBERS

28.1 **Convening Meetings**

The RE may at any time call and convene a meeting of Members and must call and convene a meeting of Members when required to do so by the Law.

28.2 **Calling and holding meetings**

s252G(4) (a) A notice of meeting sent by post is taken to be given the day after it is delivered.

s252R(2) (b) If, at any time, there is only 1 Member of the Scheme, the quorum for a meeting is 1 in all other cases the quorum for a meeting is 2.

s252R(3) (c) If an individual is attending a meeting as a Member and as a body corporate representative, the RE may in determining whether a quorum is present, count the individual more than once.

s252W(2) (d) A proxy is not entitled to vote on a show of hands.

s252W(3) (e) A proxy is entitled to speak and vote for a Member (to the extent allowed by the appointment) even if the Member is present (but only so long as the Member does not speak or vote, as the case may be).

s252Y(2) (f) An appointment of proxy:

(i) is valid even if it does not specify the Member's address; and

(ii) may be a standing one.

s252Z(5) (g) The RE may determine, in relation to a particular meeting or

generally, that proxy documents may be received up to any shorter period before the meeting.

s253K(2) (h) A poll cannot be demanded on any resolution concerning:

(i) the election of the chair of a meeting; or

(ii) the adjournment of a meeting.

29. OTHER ACTIVITIES AND OBLIGATIONS OF THE RE

29.1 Subject to the Law, nothing in this Constitution restricts the RE (or its associates) from:

(a) dealing with itself (as manager, trustee or responsible entity of another trust or scheme or in another capacity);

(b) being interested in any contract or transaction with itself (as manager, trustee or responsible entity of another trust or managed investment scheme or in another capacity) or with any Member or retaining for its own benefit profits or benefits derived from any such contract or transaction; or

(c) acting in the same or similar capacity in relation to any other trust or managed investment scheme.

29.2 All obligations of the RE which might otherwise be implied by law are expressly excluded to the extent permitted by law.

30. GOVERNING LAW

This Deed is governed by the laws of the State of Queensland. The RE and the Members submit to the non-exclusive jurisdiction of courts exercising jurisdiction there.

31. ASIC INSTRUMENT

If relief from the provisions of the Law granted by an ASIC instrument requires that this Constitution contain certain provisions, then those provisions are taken to be incorporated into this Constitution at all times at which they are required to be included and prevail over any other provisions of this Constitution to the extent of any inconsistency. However, if the relief is granted by Class Order (rather than specifically in relation to the Scheme) then the ASIC Instrument (and the provisions it requires) will only be taken to be incorporated if the RE declares in writing that this is the case.

EXECUTED AS A DEED:

GIVEN under the Common Seal of LM INVESTMENT MANAGEMENT LIMITED ACN 077 208 461 by authority of a resolution of the Board of Directors under the hands of two Directors who certify that they are the proper officers to affix this seal and in the presence of:

) .....
) Director
)
) .....
) Director

A Justice of the Peace/Solicitor

TABLE OF CONTENTS

1.	DICTIONARY AND INTERPRETATION	2
1.1	Dictionary of Terms	2
1.2	Interpretation	9
1.3	Accounting Standards	10
20	ESTABLISHMENT OF TRUST	10
2.1	Trustee	10
2.2	Role of Trustee	10
2.3	Appointment of Custodian	10
2.4	Name of Trust	11
2.5	Initial Issue	11
30	UNITS AND MEMBERS	11
3.1	Units	11
3.2	Classes	11
3.3	Fractions	11
3.4	Equal value	11
3.5	Interest	11
3.6	Consolidation and re-division	11
3.7	Rights attaching to Units	12
3.8	Conditions	12
40	BINDING ON ALL PARTIES	12
50	ISSUE OF UNITS	12
5.1	Offer and minimum subscription	12
5.2	Form of Application	12
5.3	Acceptance or rejection	13
5.4	Uncleared funds	13
5.5	Issue of Units	13
5.6	Number of Units issued	13
5.7	Unit Holding Statement	13
60	ISSUE PRICE	14
70	REDEMPTION OF UNITS – WHILE THE SCHEME IS LIQUID	14
7.1	Redemption request – while the Scheme is Liquid	14
7.3	Redemption	14
7.4	Cancellation	15
80	REDEMPTION PRICE	15
90	TRANSFER OF UNITS	16
9.1	Transferability of Units	16
9.2	Registration of Transfers	16
9.3	Where registration may be refused	16
9.4	Where registration must be refused	16
9.5	Notice of non-registration	17
9.6	Suspension of transfers	17
100	TRANSMISSION OF UNITS	17
10.1	Entitlement to Units on death	17
10.2	Registration of persons entitled	17
10.3	Distributions and other rights	18
110	DISTRIBUTABLE INCOME	18
11.1	Income of the Scheme	18

11.2	Expenses and provisions of the Scheme	18
11.3	Distributable Income	18
120	DISTRIBUTIONS	19
12.1	Distribution Period	19
12.2	Distributions	19
12.3	Present entitlement	19
12.4	Capital distributions	19
12.5	Grossed up Tax amounts	19
12.6	Reinvestment of Distributable Income	19
130	NATURE OF RE POWERS	20
140	COMPLAINTS PROCEDURES	21
150	TERM OF TRUST	23
160	WINDING UP THE SCHEME	23
170	VALUE OF THE SCHEME FUND	25
17.1	Valuation of the Scheme Property	25
17.2	Valuation if required	25
17.3	Determination of Net Fund Value	26
180	FEES, TAXES, COSTS AND EXPENSES	26
18.1	Taxes:	26
18.2	Payment of Debts:	26
18.3	Fees:	26
18.5	Costs and Expenses	27
.19.	INDEMNITY AND LIABILITY	29
20.	POWERS OF ATTORNEY	30
21.	TITLE TO SCHEME FUND	31
21.1	Custodian to hold as agent of RE	31
22.	THE REGISTER	31
22.1	Keeping registers	31
22.2	Information in registers	31
22.3	Changes	31
23.	NOTICES	31
24.	LIABILITY OF MEMBERS	32
25.	RETIREMENT AND APPOINTMENT OF RE	32
26.	CHANGING THE CONSTITUTION	33
27.	STATEMENTS, ACCOUNTS AND AUDIT	33
27.1	Appointment of auditors	33
27.2	Retirement of auditors	33
27.3	Remuneration of Auditor	33
27.4	Accounts and reports	33
27.5	Audit	34
28.	MEETINGS OF MEMBERS	34
28.1	Convening Meetings	34
28.2	Calling and holding meetings	34
29.	OTHER ACTIVITIES AND OBLIGATIONS OF THE RE	35
30.	GOVERNING LAW	35
31.	ASIC INSTRUMENT	35

LM Investment Management Ltd
Australia's Specialist Mortgage Trust Manager

31 May 2007

Australian Securities and Investment Commission
GPO Box 9827
Brisbane Qld 4001

To Whom It May Concern

Re: Replacement constitutions for registered schemes operated by LM Investment Management Ltd AFSL 220281

Enclosed are replacement constitutions for:

- The LM Cash Performance Fund ARSN 087 304 032; and
- The LM Mortgage Income Fund ARSN 089 343 288.

effective as of 31 May 2007.

We have included forms 5101 for each replacement constitution and $33 for each replacement constitution.

We have attached two of each of the replacement constitutions. Could you please stamp one copy and return to our office for confirmation of lodgment.

If you have any questions in relation to this matter please contact myself on 07 55844500.

Yours faithfully

Carolyn Hodge
Business Standards and Compliance Manager
LM Investment Management Ltd

ASIC

Australian Securities & Investments Commission

REGULATORY GUIDE 45

Mortgage schemes: Improving disclosure for retail investors

May 2012

About this guide

This is a guide for responsible entities, compliance committees, compliance plan auditors, valuers, publishers and others involved with the issue or advertising of interests in mortgage schemes.

It sets out ASIC's benchmarks and disclosure principles for improved disclosure to retail investors to help them understand and assess unlisted mortgage schemes, while maintaining the flexibility of the public fundraising process.

It also sets out the standards we expect responsible entities and publishers to meet when advertising unlisted and listed mortgage schemes that are offered to retail investors.

About ASIC regulatory documents

In administering legislation ASIC issues the following types of regulatory documents.

Consultation papers: seek feedback from stakeholders on matters ASIC is considering, such as proposed relief or proposed regulatory guidance.

Regulatory guides: give guidance to regulated entities by:

- explaining when and how ASIC will exercise specific powers under legislation (primarily the Corporations Act)
- explaining how ASIC interprets the law
- describing the principles underlying ASIC's approach
- giving practical guidance (e.g. describing the steps of a process such as applying for a licence or giving practical examples of how regulated entities may decide to meet their obligations).

Information sheets: provide concise guidance on a specific process or compliance issue or an overview of detailed guidance.

Reports: describe ASIC compliance or relief activity or the results of a research project.

Document history

This version was issued in May 2012 and is based on legislation and regulations as at the date of issue.

Previous version:

- Superseded Regulatory Guide 45, issued 2 September 2008

Disclaimer

This guide does not constitute legal advice. We encourage you to seek your own professional advice to find out how the Corporations Act and other applicable laws apply to you, as it is your responsibility to determine your obligations.

Examples in this guide are purely for illustration; they are not exhaustive and are not intended to impose or imply particular rules or requirements.

Contents

A **Overview** 4
Improved disclosure for unlisted mortgage schemes 4
Who this guide applies to 5
Benchmarks and disclosure principles for unlisted mortgage schemes 6
Advertising standards for all mortgage schemes 8

B **The unlisted mortgage scheme sector** 10
Business models of mortgage schemes 10
Risks to investors 11

C **Benchmarks for unlisted mortgage schemes** 14
Benchmark 1: Liquidity 14
Benchmark 2: Scheme borrowing 16
Benchmark 3: Loan portfolio and diversification 16
Benchmark 4: Related party transactions 17
Benchmark 5: Valuation policy 17
Benchmark 6: Lending principles—Loan-to-valuation ratios 18
Benchmark 7: Distribution practices 19
Benchmark 8: Withdrawal arrangements 20

D **Disclosure principles for unlisted mortgage schemes** 22
Disclosure Principle 1: Liquidity 22
Disclosure Principle 2: Scheme borrowing 23
Disclosure Principle 3: Loan portfolio and diversification 24
Disclosure Principle 4: Related party transactions 26
Disclosure Principle 5: Valuation policy 27
Disclosure Principle 6: Lending principles—Loan-to-valuation ratios 27
Disclosure Principle 7: Distribution practices 28
Disclosure Principle 8: Withdrawal arrangements 30

E **Form and method of disclosure** 33
Method of disclosure 33
Timing for implementing improved disclosure 37
ASIC review of PDSs and ongoing disclosure 38

F **Advertising standards for all mortgage schemes** 40
Standards for advertisements 40
How ASIC deals with contraventions 44
The role of publishers and the media 45

G **Compliance plans** 47
The compliance plan 47
Compliance committees 48
Compliance plan auditors 49

Appendix: Example of disclosure against the benchmarks 50

Key terms 53

Related information 56

© Australian Securities and Investments Commission June 2012

A Overview

ASIC has developed eight benchmarks and eight disclosure principles for unlisted mortgage schemes that can help retail investors understand the risks, assess the rewards being offered and decide whether these investments are suitable for them.

Responsible entities of unlisted mortgage schemes in which retail investors invest should:

- disclose against the benchmarks on an 'if not, why not' basis (see Section C); and
- address the disclosure principles (see Section D).

We have also set standards for advertising of all mortgage schemes (whether listed or unlisted) to retail investors: see Section F.

Those involved with mortgage schemes (e.g. compliance committees, compliance plan auditors and valuers) should consider these disclosure and advertising obligations when carrying out their responsibilities: see Section G.

Improved disclosure for unlisted mortgage schemes

RG 45.1 Since mid-2007, Australia has experienced debt market turbulence flowing from the US sub-prime crisis, together with successive interest rate increases and a cyclical softening in property markets. Some mortgage schemes have experienced financial stress under these economic conditions, evidenced by a decrease in fund inflows and extensions of withdrawal periods or suspensions of withdrawals.

RG 45.2 In this context, we consider that the requirement to provide retail investors in unlisted mortgage schemes with the information they need to make an informed investment decision requires, at a minimum, disclosure against the benchmarks and the provision of the information in the disclosure principles.

RG 45.3 We have developed eight benchmarks and eight disclosure principles that apply to all unlisted mortgage schemes in which retail investors invest: see Table 1. We expect unlisted mortgage schemes to:

(a) disclose whether the benchmarks (as applicable) are met and, if not met, provide an explanation on an 'if not, why not' basis (see Section C and RG 45.15–RG 45.17);

(b) address the disclosure principles (see Section D and RG 45.18–RG 45.19); and

(c) ensure that any advertising supports the benchmarks and disclosure principles in the Product Disclosure Statement (PDS) (see Section F).

RG 45.4 Failing to meet one or more of the benchmarks does not mean that a particular mortgage scheme is necessarily a poor investment. However, additional disclosure to investors will be needed to address that benchmark on an 'if not, why not' basis so that investors can assess the impact of failure to meet that benchmark on their investment decision.

RG 45.5 Disclosure is not designed to stop retail investors from taking investment risks, but to help them understand the risks involved in any particular investment or type of investment. This enables them to make an informed decision about whether the potential reward (the return on their investment) is balanced against the level of risk involved, and whether they are prepared to take on that risk.

RG 45.6 We believe that our approach balances:

(a) the need to improve disclosure to allow investors to make better informed decisions; and

(b) the desirability of not unduly interfering with this market as a market for raising capital.

Note: The need to strike an appropriate balance between protecting investors' interests and allowing markets to operate freely is part of ASIC's mandate under the *Australian Securities and Investments Commission Act 2001* (ASIC Act).

RG 45.7 This approach should also lead to more comparable disclosure for unlisted mortgage schemes, helping investors to compare investments in this sector.

Who this guide applies to

RG 45.8 For the purposes of this guide, a 'mortgage scheme' is a managed investment scheme that has, or that is likely to have, at least 50% of its non-cash assets invested in mortgage loans and/or unlisted mortgage schemes. Mortgage loans are loans secured by a mortgage over real property (including residential, commercial, industrial or retail property, or vacant land).

RG 45.9 We expect responsible entities of unlisted registered mortgage schemes in which retail investors invest directly or indirectly (e.g. through an investor directed portfolio service) to disclose against the benchmarks and address the disclosure principles as discussed in Sections C and D.

RG 45.10 We also expect responsible entities of both listed and unlisted registered mortgage schemes to follow the advertising standards in Section F.

RG 45.11 We expect other parties involved with issues of interests in unlisted registered mortgage schemes or advertisements for registered mortgage schemes generally to support the principles in this guide. This includes compliance committees, compliance plan auditors, valuers, publishers and media. For example, we expect compliance plans for mortgage schemes to set out adequate measures to ensure compliance with the disclosure and advertising standards in this guide: see Section G.

RG 45.12 We expect that a feeder fund would take into account information about the underlying fund(s) it plans to invest in when making a decision to invest in the fund(s). We consider it is important that feeder funds provide disclosure for the fund because the risks associated with investing in the feeder fund may differ from the underlying fund(s).

RG 45.13 Accordingly, the feeder fund should have information about the underlying fund(s) in which it has a material investment (or make reasonable endeavours to procure the information) and that is pertinent to the benchmarks and disclosure principles. If the information is not available, the responsible entity of the feeder fund should disclose this and explain why. We recognise that disclosure relating to loan portfolio and diversification, and valuation policies, may not be appropriate at the feeder fund level, in which case the feeder fund should provide disclosure on a 'look through' basis.

Benchmarks and disclosure principles for unlisted mortgage schemes

RG 45.14 Table 1 provides a summary of the eight benchmarks and eight disclosure principles that apply to all unlisted mortgage schemes in which retail investors invest.

Table 1: Benchmarks and disclosure principles for unlisted mortgage schemes in which retail investors invest

1. Liquidity	Benchmark 1 and Disclosure Principle 1 *apply only to pooled mortgage schemes* and address the scheme's ability to satisfy its expenses, liabilities and other cash flow needs, including the preparation of 12-month cash flow estimates that are approved by the directors.

2. Scheme borrowing	Benchmark 2 and Disclosure Principle 2 address the scheme's policy on borrowing, including the scheme's actual and intended borrowing, as well as the scheme's policy on borrowing.
3. Loan portfolio and diversification	Benchmark 3 and Disclosure Principle 3 *apply only to pooled mortgage schemes* and address the scheme's lending practices and portfolio risk, including concentration risk.
4. Related party transactions	Benchmark 4 and Disclosure Principle 4 address the risks associated with related party lending, investments and transactions, including details of any related party transactions.
5. Valuation policy	Benchmark 5 and Disclosure Principle 5 address the scheme's valuation practices, including when an independent valuation is required.
6. Lending principles—Loan-to-valuation ratios	Benchmark 6 and Disclosure Principle 6 address the scheme's lending practices, including the loan-to-valuation ratios.
7. Distribution practices	Benchmark 7 and Disclosure Principle 7 address the transparency of the scheme's distribution practices, including whether current distributions are paid from scheme borrowings, and disclosure of the source of distributions.
8. Withdrawal arrangements	Benchmark 8 and Disclosure Principle 8 address the transparency of the responsible entity's approach to withdrawals of investments when the scheme is liquid and when the scheme is non-liquid.

Disclosure against the benchmarks: 'If not, why not'

RG 45.15 Responsible entities of unlisted mortgage schemes in which retail investors invest should disclose against the benchmarks in Section C on an 'if not, why not' basis. This means providing a clear statement that the scheme either:

(a) meets the benchmark; or

(b) does not meet the benchmark *and* providing an explanation of how and why the responsible entity deals with the business factors or issues underlying the benchmark in another way.

RG 45.16 'Why not' means explaining how a responsible entity deals with the business factor or issue underlying the benchmark, including the alternative systems and controls the responsible entity has in place to deal with the issue underlying the benchmark.

RG 45.17 If a benchmark contains multiple requirements, all elements of the benchmark and the required disclosure should be addressed (i.e. it is not usually sufficient to explain in general terms why a benchmark has not been met or to address only some aspects of a benchmark). Additionally, disclosure should be made on the basis that a benchmark is either 'met' or 'not met'. If the benchmark is not fully met, the benchmark is regarded as 'not met' (rather than partially met) and there should be an explanation as to why it is not met.

Disclosure principles

RG 45.18 The purpose of the disclosure principles is to improve the consistency and quality of disclosure by responsible entities of unlisted mortgage schemes and to enhance investor confidence. The disclosure principles are explained further in Section D.

RG 45.19 The disclosure principles apply to information that retail investors reasonably need to know to make an informed investment decision and monitor whether their expectations are being met.

Transitional arrangements

RG 45.20 Until 1 January 2013, responsible entities should—at a minimum—continue to disclose against the benchmarks that were in place under superseded RG 45 issued in September 2008 to any PDS or ongoing disclosure provided to investors in unlisted mortgage schemes.

> Note: We encourage responsible entities to disclose against the benchmarks and apply the disclosure principles to new PDSs and ongoing disclosure before 1 January 2013 if possible.

Advertising standards for all mortgage schemes

RG 45.21 Experience indicates that retail investors who are thinking about investing place particular emphasis on the information and impressions given in advertisements. Some of the advertisements we have observed for mortgage schemes have not given a realistic impression of the scheme, its features and risks.

> Note: References to 'advertisements' in this guide should be read broadly. They include comment and promotion of mortgage schemes in media programs or publications (generally known as 'advertorials') and statements about mortgage schemes published by responsible entities on their websites that are intended to promote the scheme to retail investors. They do not, however, include statements in the PDS.

RG 45.22 To promote investor understanding of mortgage schemes and minimise the risk of mis-selling, we have set standards for responsible entities when advertising their mortgage schemes: see Table 2 and Section F. These standards apply to all mortgage schemes (whether listed or unlisted) that are offered to retail investors.

RG 45.23 While the primary responsibility for advertising material rests with the organisation placing the advertisement, under general law the publisher or other media conduit may also have some responsibility for its content. Therefore, we expect publishers and the media to support these standards when accepting advertisements for mortgage schemes.

RG 45.24 The standards we have set for responsible entities when advertising mortgage schemes seek to reduce the risk that advertisements will give retail investors messages about mortgage schemes that are inconsistent with disclosure in a complying PDS.

Table 2: Advertising standards for mortgage schemes (whether listed or unlisted) offered to retail investors

Area	Summary of standard
Repayment of principal investment	To avoid common misconceptions about the risk profile of mortgage schemes, advertisements should include a prominent statement to the effect that investors risk losing some or all of their money.
Returns on investment and investment ratings	Advertisements should only quote returns if the return is accompanied by prominent disclosure that there is a risk that the investment may achieve lower than expected returns. Advertisements should only quote investment ratings if the rating is properly explained and does not create a misleading impression about the scheme. The advertisement should state that investment ratings are only one factor that investors should consider when deciding whether to invest.
Comparisons with bank deposits and 'risk-free' suggestions	Advertisements should state that a mortgage scheme is not a bank deposit. They should *not* suggest that: • a mortgage scheme is, or compares favourably to, a bank deposit; or • there is little or no risk of the investor losing their principal or not being repaid.
Withdrawal periods, withdrawal rights and investment periods	Advertisements that refer to withdrawal periods, withdrawal rights or investment periods should include details of any restrictions on withdrawals that might apply.
Fees	Advertisements that state the amount of a fee (or that a type of fee is not payable) should include details of any circumstances in which a higher fee applies (or in which the fee is payable).
Suitability statements	Advertisements should not state or imply that the scheme is suitable for a particular class of investor.
Consistency with PDS disclosure	Statements in advertisements should be consistent with the corresponding disclosures on that subject matter in the PDS.
Telephone inquiries	Statements made in response to inquiries are subject to the same regulation about misleading and deceptive conduct as the advertisements.

B The unlisted mortgage scheme sector

Some features of unlisted mortgage schemes can create risks for investors.

Clear benchmarks and disclosure principles can help investors to make informed decisions about these products.

Business models of mortgage schemes

RG 45.25 A mortgage scheme operates on the basis that:

(a) the scheme raises funds by issuing interests to investors. These funds are either pooled and lent by the scheme to various borrowers (pooled schemes) or lent in relation to a specific property (contributory schemes). In both pooled and contributory schemes, loans are secured by mortgages over real property and security may be a first or subsequent mortgage. For pooled schemes, investors do not have an interest in a particular mortgage loan, but have an interest in scheme property as a whole;

(b) the return to investors is generally generated by interest payments made by the borrowers to the scheme;

(c) investments are either for a fixed term or can be withdrawn following a withdrawal request; and

(d) the value of an investor's investment may be subject to change depending on the asset position of the scheme.

RG 45.26 Some mortgage schemes may lend funds for construction or property development. For these schemes, the skills and experience of the responsible entity in assessing these activities and selecting appropriate loans are particularly important to the performance of the scheme.

RG 45.27 Some mortgage schemes promote that they can provide investors with a level of capital security by committing to pay investors back their initial investment at the end of their investment term. Other schemes promote fixed rates of return.

RG 45.28 Some mortgage schemes may lend funds to borrowers and 'capitalise' the expected interest payments. This means that the scheme may not be receiving actual cash payments from the borrower over the course of the loan and instead receive the capital and accumulated interest payments at the end of the loan term.

RG 45.29 Many mortgage schemes promote that withdrawal requests will generally be satisfied within a relatively short period.

Risks to investors

RG 45.30 Past experience and our analysis of the mortgage scheme market suggest that features of the operations of some mortgage schemes can hold particular risks for investors.

RG 45.31 The key features and risks are identified in Table 3. These features are not present in every unlisted mortgage scheme that is offered to retail investors. The investment risks described will vary from scheme to scheme and from business model to business model. However, disclosure about these features and risks, including to what extent they are present in a given offering, is relevant for a broad range of schemes.

RG 45.32 The benchmarks in Section C and the disclosure principles in Section D address these features and risks to help investors make informed decisions about whether an unlisted mortgage scheme is a suitable investment for them.

RG 45.33 We have excluded listed mortgage schemes for the purposes of the benchmarks and disclosure principles because:

(a) being listed means that there is a secondary market on which an investor can sell their investment;

(b) the market supervisor will assess and, if appropriate, admit the interests in the scheme to trading; and

(c) the market supervisor will supervise the scheme's ongoing compliance with any listing rules—in particular, a continuous disclosure regime.

Note: The advertising standards in Section F apply to all mortgage schemes, whether listed or unlisted.

Table 3: Risk features of unlisted mortgage schemes

Risk feature	Description	What this means
Liquidity	The liquidity of the scheme is key to its ability to meet its representations about whether investors can withdraw from the scheme and whether it can meet its other ongoing commitments.	Liquidity may be at risk because of a mismatch between when the responsible entity represents that it can meet withdrawal requests and cash flows from the underlying businesses or assets to which funds have been lent. Liquidity is frequently heavily dependent on continuing inflows from new investors, borrowings or 'rollovers' by existing investors because the underlying assets of the scheme may not be easily realised within a short period of time.

Risk feature	Description	What this means
Scheme borrowing	Some schemes borrow against the assets of the scheme to fund distributions, redemption requests or scheme operations generally.	If a scheme borrows against the assets of the scheme, investors' interests in the scheme's assets will generally rank behind the lender. Investors in schemes with high borrowings face the risk that distributions will not be made or withdrawals will be suspended so that loan payments can be met. Investors also face the risk that they may lose part or all of their investment if the scheme defaults on these loans.
Portfolio diversification	The criteria that responsible entities use to decide what loans to make are variable and prone to risk, especially where: • loan-to-valuation ratios are often much higher than for traditional lending; and • the loans made may be highly concentrated to particular types of commercial activities, locations or borrowers.	Lack of diversification in the scheme's loan book may mean that an adverse event affecting one borrower or one type of loan will simultaneously affect the majority of borrowers, and therefore put the overall portfolio at greater risk.
Related party transactions	Some schemes lend to, invest scheme funds in, and transact with, associated companies or businesses.	There is an increased risk that these transactions are less likely to be made on arm's length commercial terms and that the responsible entity will not monitor them as robustly as those involving unrelated parties.
Inconsistency in valuations	The valuations that schemes rely on are carried out on a variety of bases, with differing assumptions and instructions. These valuations are fundamental to determining how much the scheme may lend.	If valuations are not prepared properly or by appropriately qualified and experienced valuers, it is difficult to assess the risk exposure associated with a loan. It is also difficult to monitor loan-to-valuation ratios on a continuing basis.
Lending principles	Some schemes may take a more conservative approach than others when determining how much to lend to a borrower relative to the value of the underlying security property.	Schemes that lend at a higher loan-to-valuation ratio are more vulnerable to the risk of an adverse change in market conditions where the security obtained from borrowers becomes insufficient to cover the loan.
Distribution practices	Some schemes fund distributions out of sources other than income, such as borrowings.	Where distributions are not sourced solely from scheme income, there is a risk that these distribution practices may not be sustainable over the long term. This risk may be heightened where a scheme promotes a fixed return on investments.

Risk feature	Description	What this means
Withdrawal arrangements	Some schemes promote a short withdrawal period to attract investors, although the maximum period allowed in the scheme's constitution is much longer.	This practice creates the risk that investors do not fully appreciate that their right of withdrawal may be refused until a longer period of time has elapsed than the one represented.
Misleading advertising	Advertising used to promote some schemes helps create unrealistic expectations about investors' ability to withdraw their investment and the scheme's relative safety.	Even if the PDS highlights risk in an appropriate way, advertising that conveys messages not in line with the regulated disclosure document can undermine the effect of that disclosure.

C Benchmarks for unlisted mortgage schemes

Key points

All responsible entities of unlisted mortgage schemes should address general benchmarks on:

- liquidity—pooled mortgage schemes only (see RG 45.34–RG 45.41);
- scheme borrowing (see RG 45.42–RG 45.43);
- loan portfolio and diversification—pooled mortgage schemes only (see RG 45.44–RG 45.46);
- related party transactions (see RG 45.47–RG 45.49);
- valuation policy (see RG 45.50–RG 45.55);
- lending principles—loan-to-valuation ratios (see RG 45.56–RG 45.60);
- distribution practices (see RG 45.61–RG 45.63); and
- withdrawal arrangements (see RG 45.64–RG 45.71).

This information should be disclosed clearly and prominently in the responsible entity's PDS and ongoing disclosure: see Section E.

Benchmark 1: Liquidity

RG 45.34 For a pooled mortgage scheme, the responsible entity has cash flow estimates for the scheme that:

(a) demonstrate the scheme's capacity to meet its expenses, liabilities and other cash flow needs for the next 12 months;

(b) are updated at least every three months and reflect any material changes; and

(c) are approved by the directors of the responsible entity at least every three months.

Note 1: The cash flow estimates should be prepared on the basis of an estimate of zero inflows from new subscriptions for the relevant period. Withdrawals should be determined with reference to the period within which investors would reasonably expect withdrawal requests to be processed, rather than the maximum period within which the responsible entity is able to process withdrawal requests.

Note 2: 'Cash' and 'cash equivalents' have the same meaning as in Australian Accounting Standard AASB 107 *Statement of cash flows* (AASB 107). Paragraph 6 of AASB 107 defines 'cash' as 'cash on hand and demand deposits' and 'cash equivalents' as short-term, highly liquid investments that are readily convertible to known amounts of cash and which are subject to an insignificant risk of changes in value. However, for the purposes of the benchmark, a responsible entity cannot take into account undrawn amounts under bank overdraft or lending facilities.

Explanation

RG 45.35 For the purposes of this benchmark, 'liquidity' is the proportion of cash or cash equivalents in a scheme's assets. It is a powerful indicator of the ability of the scheme to meet its short-term commitments. For unlisted mortgage schemes, we are particularly concerned with relative liquidity (i.e. short-term assets relative to short-term liabilities).

> Note: 'Liquidity' for the purposes of this benchmark is not the same as 'liquidity' for the purposes of Pt 5C.6 (which relates to satisfying a statutory test). It is important that any disclosure to investors does not confuse these two concepts.

RG 45.36 The global financial crisis has highlighted the significant challenges that can be faced by mortgage schemes in managing their liquidity. Liquidity management is important so that schemes can meet:

(a) investor expectations about the payment of distributions;

(b) loan commitments drawn in stages by borrowers;

(c) changes in the scheme's operational needs;

(d) unexpected expenses of the scheme; and

(e) interest on scheme borrowing.

RG 45.37 A cash flow estimate is a key tool to measure the ability of a responsible entity of a scheme to meet its short-term commitments. For unlisted mortgage schemes, we are particularly concerned with the alignment of investor expectations about liquidity and the capacity of the scheme's assets to be realised to meet those expectations.

RG 45.38 We expect responsible entities to take into account their historical experience on inflows and outflows in estimating their cash flows and to disclose material assumptions underlying their cash flows (e.g. historical inflow and outflow rate) when disclosing against this benchmark.

RG 45.39 The cash flow estimates are not required to be disclosed to investors, but we envisage that responsible entities would need to review their estimated cash flows on an ongoing basis, update the estimates and reflect any material changes at least every three months to determine whether they continue to satisfy this benchmark.

RG 45.40 We expect responsible entities to periodically 'stress test' their liquidity assumptions. For example, we expect responsible entities to consider:

(a) their current PDS and the possibility of an ASIC stop order disrupting their cash flows; and

(b) the possibility of a significant increase in the rate of investor withdrawal requests.

RG 45.41 We expect responsible entities to take into account the results of this stress testing in their liquidity planning. In some cases, this may mean they need to increase their cash position: see RG 45.34.

Benchmark 2: Scheme borrowing

RG 45.42 The responsible entity does not have current borrowings and does not intend to borrow on behalf of the scheme.

Explanation

RG 45.43 Some schemes borrow to finance distributions or the operation of the scheme. It is preferable that borrowings are not used as a source to fund distributions and to satisfy withdrawal requests. It is important that investors are made aware if this is the case and are provided with details of the borrowings and credit facilities entered into by the scheme. Borrowings that are due to mature within a relatively short timeframe can be a significant risk factor, especially in periods where credit is more difficult and expensive to obtain. It is important that investors understand that they will rank behind creditors of a scheme.

Benchmark 3: Loan portfolio and diversification

RG 45.44 For a pooled mortgage scheme:

(a) the scheme holds a portfolio of assets diversified by size, borrower, class of borrower activity and geographic region;

(b) the scheme has no single asset in the scheme portfolio that exceeds 5% of the total scheme assets;

(c) the scheme has no single borrower who exceeds 5% of the scheme assets; and

(d) all loans made by the scheme are secured by first mortgages over real property (including registered leasehold title).

Explanation

RG 45.45 The primary assets of a mortgage scheme are the loans it makes to others. The quality of these loans and its other investments, and the nature of security taken to support these loans and investments, is a key element in the financial position and performance of the scheme.

RG 45.46 The more diversified a loan portfolio is, the lower the risk generally that an adverse event affecting one borrower or one type of loan will simultaneously affect the majority of borrowers, and therefore put the overall portfolio at risk.

Benchmark 4: Related party transactions

RG 45.47 The responsible entity does not lend to related parties of the responsible entity or to the scheme's investment manager.

Explanation

RG 45.48 Related party transactions (including loans to, and investments in, related parties) are less likely to be monitored as robustly as those involving unrelated parties. This can affect valuations, loan-to-valuation ratios, due diligence and credit assessment processes.

RG 45.49 The benchmark focuses on lending transactions (as well as the responsible entity's policy and practices for lending to related parties) because these appear to be the most common type of related party transaction that affects unlisted mortgage schemes.

Benchmark 5: Valuation policy

RG 45.50 In relation to valuations for the scheme's mortgage assets and their security property, the board of the responsible entity requires:

(a) a valuer to be a member of an appropriate professional body in the jurisdiction in which the relevant property is located;

(b) a valuer to be independent;

(c) procedures to be followed for dealing with any conflict of interest;

(d) the rotation and diversity of valuers;

(e) in relation to security property for a loan, an independent valuation to be obtained:

(i) before the issue of a loan and on renewal:

(A) for development property, on both an 'as is' and 'as if complete' basis; and

(B) for all other property, on an 'as is' basis; and

(ii) within two months after the directors form a view that there is a likelihood that a decrease in the value of security property may have caused a material breach of a loan covenant.

Explanation

RG 45.51 Robust and objective valuations are needed to ensure that a scheme's financial position is correctly stated in the PDS and ongoing

disclosure. This depends on responsible entities adopting rigorous policies as to when, how and by whom valuations are conducted.

RG 45.52 It is important for investor confidence that suitably qualified independent experts perform the valuations, and that the process is transparent.

RG 45.53 It is also in the interests of a responsible entity that the valuations it obtains and uses are robust and accurate. Responsible entities are responsible for the accuracy of the financial statements and other documents that rely on these valuations.

RG 45.54 We expect that, where possible, responsible entities will only use professional valuers who are registered or licensed in the relevant state or territory or overseas jurisdiction, and who subscribe to a relevant industry code of conduct. We also expect that responsible entities will be careful to ensure that their instructions to valuers are comprehensive and contain reasonable assumptions.

RG 45.55 It is also important that up-to-date valuations are obtained for properties over which responsible entities are to take security. Existing properties and the scheme's mortgage assets should also be subsequently valued at relevant times to ensure that the mortgages held in the scheme continue to be appropriately valued.

Benchmark 6: Lending principles—Loan-to-valuation ratios

RG 45.56 If the scheme directly holds mortgage assets:

(a) where the loan relates to property development—funds are provided to the borrower in stages based on independent evidence of the progress of the development;

(b) where the loan relates to property development—the scheme does not lend more than 70% on the basis of the latest 'as if complete' valuation of property over which security is provided; and

(c) in all other cases—the scheme does not lend more than 80% on the basis of the latest market valuation of property over which security is provided.

Explanation

RG 45.57 A scheme's approach to loan-to-valuation ratios is one indicator of how conservative or aggressive its lending practices are. Some schemes are willing to lend funds equal to a higher proportion of a property's value (sometimes up to or exceeding 100% of its value). Such ratios make a scheme more vulnerable to risk in that a change in

market conditions (e.g. a downturn in the property market) may mean it is unable to fully recover the money it has lent to borrowers. It also increases the risk that the security obtained from borrowers will be insufficient to cover the loan.

RG 45.58 We have separated loans relating to property development from other property-related loans (e.g. residential mortgages). By property development, we mean loans whose main or primary purpose is for real estate developments or construction (e.g. home units, retail, commercial, subdivisions and industrial development). The benchmark loan-to-valuation ratio for property development loans is lower than for other loans because it is calculated on an 'as if complete' basis.

RG 45.59 If funds are lent for property development activities, a loan-to-valuation ratio may be agreed upfront, but it is generally not appropriate to advance all of the funds to the developer upfront. Rather, we expect responsible entities to put systems and controls in place to ensure funds are only provided to the developer where there is satisfactory progress of the development (based on reliable external evidence of that progress).

RG 45.60 We expect that, during the term of the loan, the loan-to-valuation ratios will change. The loan-to-valuation ratios in the benchmark refer to the most recent valuation obtained for the relevant property. For second-ranking mortgages, the valuation would be on the basis of the unencumbered value of the property.

Benchmark 7: Distribution practices

RG 45.61 The responsible entity will not pay current distributions from scheme borrowings.

Explanation

RG 45.62 Investors need to know how distributions are funded because this is an important indicator of the performance of a scheme. In some situations, distributions that are funded wholly, or in part, from sources other than net scheme income (e.g. from borrowings) for the relevant distribution period may indicate that the distribution practices are unsustainable over the long term or may be insufficient to meet advertised returns. Accordingly, it is important that responsible entities disclose where distributions are sourced from and, where these are not sourced from scheme income, explain why.

© Australian Securities and Investments Commission (Jan 2013)

RG 45.63 We understand that, where scheme income is insufficient to meet advertised returns, schemes may fund distributions in a number of different ways (e.g. by reducing their fees, from scheme borrowings or from scheme capital) rather than paying a reduced return. Such practices have developed because competition in the mortgage scheme sector means that many schemes may prefer to meet advertised returns even if that means funding out of capital.

Benchmark 8: Withdrawal arrangements

Liquid schemes

RG 45.64 For liquid schemes:

(a) the maximum period allowed for in the constitution for the payment of withdrawal requests is 90 days or less;

(b) the responsible entity will pay withdrawal requests within the period allowed for in the constitution; and

(c) the responsible entity only permits members to withdraw at any time on request if at least 80% (by value) of the scheme property is:

(i) money in an account or on deposit with a bank and is available for withdrawal immediately, or otherwise on expiry of a fixed term not exceeding 90 days, during the normal business hours of the bank; or

(ii) assets that the responsible entity can reasonably expect to realise for market value within 10 business days.

Non-liquid schemes

RG 45.65 For non-liquid schemes, the responsible entity intends to make withdrawal offers to investors at least quarterly.

Note: If the scheme is a 'liquid scheme' responsible entities should indicate that the 'non-liquid scheme' section of this benchmark is not applicable (or vice versa) (see appendix).

Explanation

RG 45.66 Assets such as mortgage loans that are held by a mortgage scheme can be difficult to realise in poor market conditions. Despite this, under the statutory definition of 'liquid assets' in the *Corporations Act 2001* (Corporations Act), these assets could technically be 'liquid' if the

responsible entity reasonably expects to be able to realise those assets for market value within the period specified in the constitution.

RG 45.67 Investors may have expectations that a scheme has sufficient assets to readily support withdrawal requests. The freezing of redemptions by most pooled mortgage schemes following a substantial increase in the number of redemption requests is an example where investor expectations of liquidity could not be supported by a scheme, even where the scheme is technically 'liquid'.

RG 45.68 The benchmark distinguishes between liquid and non-liquid schemes, and reflects the differences in withdrawal arrangements that would apply in each case.

RG 45.69 For liquid schemes, the benchmark includes a period within which the constitution allows the payment of withdrawal requests to be made and addresses the nature of the assets held in the scheme where the scheme permits investors to withdraw from the scheme on request. The purpose of the benchmark is to align the withdrawal arrangements of a scheme that is operating as a 'liquid scheme' in a statutory sense with investors' common understanding that a liquid scheme is one that has sufficient realisable assets to meet withdrawal requests on demand. We consider these elements of the benchmark allow investors to better assess the liquidity of a scheme (as promoted to investors) against the actual liquidity of the scheme's underlying asset base. Accordingly, a scheme that is 'liquid' under the Corporations Act will not necessarily meet the benchmark.

RG 45.70 For non-liquid schemes, the benchmark addresses the requirement for all investors to have the ability to withdraw from the scheme on a periodic basis. Once the scheme becomes non-liquid, there is no statutory limit on the period for which it may remain non-liquid. It is preferable that mortgage schemes provide investors with the ability to withdraw on a periodic basis and, if this is not possible, investors should be clearly informed of this.

RG 45.71 For contributory mortgage schemes, the benchmark would generally be inapplicable if operators have disclosed that investors have no ability to withdraw from the scheme until the loan to which the mortgage relates has been repaid.

D Disclosure principles for unlisted mortgage schemes

Key points

Responsible entities of unlisted mortgage schemes should apply the disclosure principles as part of their disclosure obligations under Pt 7.9 of the Corporations Act. The disclosure principles also reflect the information required for ongoing disclosure to investors: see RG 45.129–RG 45.130.

Disclosure Principle 1: Liquidity

RG 45.72 For pooled mortgage schemes, the responsible entity should disclose information about:

(a) the current and future prospects of liquidity of the scheme;

(b) any significant risk factors that may affect the liquidity of the scheme; and

(c) the policy of the scheme on balancing the maturity of its assets with the maturity of its liabilities.

Note: If the responsible entity has no reasonable grounds for commenting on the prospects of liquidity, then it should state this and explain why to investors: see s769C and Regulatory Guide 170 *Prospective financial information* (RG 170) at RG 170.20.

Explanation

RG 45.73 The responsible entity's policy on liquidity management is important. Adequate liquidity is a key feature in the ability of the responsible entities of some mortgage schemes to meet expenses, liabilities and other cash flow needs, including investors' expectations about their ability to withdraw from those schemes.

RG 45.74 The responsible entity should disclose whether it reasonably expects there to be any changes to the scheme's expenses, liabilities and other cash flow needs that will affect the current and future liquidity of the scheme. For example, we expect responsible entities to explain the impact of an expected large number of quarterly investor withdrawal requests, draw-down of loan commitments or other significant changes to the scheme's operational needs.

Disclosure Principle 2: Scheme borrowing

RG 45.75 If the scheme has borrowings, the responsible entity should disclose:

(a) for borrowings due in less than two years—the total debts due and their maturity profile, undrawn credit facility and whether refinancing or sale of assets is likely during this period;

Note: The responsible entity should make appropriate disclosure about the prospects of refinancing or possible alternative actions (e.g. sale of assets or equity fundraising). If the responsible entity has no reasonable grounds for commenting on the prospect of refinancing or possible alternative actions, then it should state this and explain why to investors: see RG 170.20.

(b) for borrowings due in between two and five years—the total debts due and their maturity profile for each 12-month period and undrawn credit facility;

(c) for borrowings due after five years—the total debts due;

(d) why the responsible entity has borrowed the money, including whether the borrowed funds will be used to fund distributions or withdrawal requests;

(e) any material loan covenant breaches;

Note: A responsible entity should disclose any information about breaches of loan covenants that is reasonably required by investors and update investors about the status of any breaches through ongoing disclosure. Responsible entities should be aware that, in certain cases, investors would reasonably require information on likely breaches of loan covenants (e.g. if the responsible entity has approached the lender about a likely breach and been informed that the loan is likely to be terminated if the breach occurs).

(f) the fact that amounts owing to lenders and other creditors of the scheme rank before an investor's interests in the scheme; and

(g) the risks associated with the scheme's borrowing and credit facility maturity profile.

Note: A responsible entity should explain any risks associated with its borrowing and credit facility maturity profile, including whether borrowings have been hedged and, if so, to what extent.

RG 45.76 A responsible entity should also disclose:

(a) the existence and details of any current interest rate and foreign exchange hedging policies of the responsible entity; and

(b) whether the scheme's variable interest rate and/or foreign exchange exposure conforms with these policies.

Explanation

RG 45.77 It is important that investors understand the borrowing structure of a scheme and the risks associated with the structure, and be able to distinguish between schemes that borrow and those that do not.

RG 45.78 Responsible entities should also disclose whether borrowed funds will be used to fund distributions or withdrawal requests since this may indicate that the responsible entity's policy on distributions and withdrawals is not sustainable over the long term. Information about breaches of loan covenants reasonably required by investors is key risk information in upfront and ongoing disclosure.

RG 45.79 The returns of a scheme may be substantially affected by changes in the interest rate and/or foreign exchange rates. It is important for investors to understand the foreign exchange and hedging policies and any material variances between the actual position of the scheme and those policies.

Disclosure Principle 3: Loan portfolio and diversification

RG 45.80 For pooled mortgage schemes, the responsible entity should disclose the nature of the scheme's investment portfolio, including:

(a) by number and value:

(i) loans by class of activity (e.g. development or construction projects, industrial, commercial, retail, residential, specialised property, reverse mortgages);

(ii) loans by geographic region;

(iii) the proportion of loans that are in default or arrears for more than 30 days;

Note: A responsible entity should disclose, by number and value, the proportion of loans that are in both default and arrears if these terms have different meanings in the scheme's lending policy.

(iv) the nature of the security for loans made by the scheme (e.g. first or second ranking);

(v) loans that have been approved but have funds that have yet to be advanced and the funding arrangements in place for any of these undrawn loan commitments;

(vi) the maturity profile of all loans in increments of not more than 12 months;

(vii) loan-to-valuation ratios for loans, in percentage ranges;

(viii) interest rates on loans, in percentage ranges; and

Note: A responsible entity should also include disclosure about the scheme's hedging policy in relation to interest rates.

(ix) loans where interest has been capitalised;

(b) the proportion of the total loan money that has been lent to the largest borrower and the 10 largest borrowers;

Note: We acknowledge that, for reasons of privacy or commercial confidence, it may not be appropriate to name the largest borrowers. The total loan money lent to the 10 largest borrowers can be disclosed as an aggregate amount.

(c) the percentage of loans (by value) that are secured by second-ranking mortgages;

(d) the use of derivatives (if any);

(e) a clear description of the non-mortgage assets of the scheme, including the value of such assets; and

(f) the scheme's diversification policy and how the assets correlate with that policy.

RG 45.81 The responsible entity should disclose its policy on the above matters and on how the scheme will lend funds generally. For example, such disclosure should cover:

(a) the maximum loan amount for any one borrower;

(b) the method of assessing borrowers' capacity to service loans;

(c) the responsible entity's policy on revaluing security properties when a loan is rolled over or renewed; and

(d) the responsible entity's approach to taking security on lending by the scheme (e.g. the types of security it takes and in what circumstances, and whether the security must be income producing).

RG 45.82 If an unlisted pooled mortgage scheme invests in, or may invest in, other unlisted mortgage schemes (whether registered or unregistered), the responsible entity must disclose its policy on investing in those schemes, including the extent to which the responsible entity requires those schemes to meet the benchmarks and apply the disclosure principles in Sections C and D.

Explanation

RG 45.83 It is important that responsible entities disclose in their PDSs their approach to loan portfolio diversification and the degree of concentration of risk. Most responsible entities will have a firm policy on how and when the scheme will lend funds. This should be disclosed as clearly and prominently as possible to help investors monitor the financial position and performance of the scheme over time.

RG 45.84 Responsible entities should also disclose the nature of the security for loans made by the scheme (e.g. its ranking, the value of the assets supporting the security and the financial position of any guarantor).

Note: If any security rights (e.g. mortgages) held by the scheme have been assigned or transferred to third parties, this needs to be disclosed as well.

RG 45.85 Investors should know the proportion of loans that are in default or arrears and the scheme's approach to such loans. The responsible entity is or may be relying heavily on payment of interest and repayment of capital on the loans it has made to pay distributions and withdrawal proceeds to investors, and to maintain the financial position of the scheme. Therefore, investors have a strong interest in the proportion of loans in default or arrears and what the responsible entity is doing to address this.

RG 45.86 If a scheme lends to a number of related companies within a group of companies with common directors or ownership, the loans to those companies may be disclosed at an aggregate level on the basis that the borrower group is the borrower.

RG 45.87 Investors can also benefit from having useful additional information about the diversity and strength of the scheme's loan book. It will help investors to know details of ranges for:

(a) the maturity profiles of loans;

(b) loan-to-valuation ratios; and

(c) interest rates on loans.

Disclosure Principle 4: Related party transactions

RG 45.88 If the responsible entity enters into related party transactions, the responsible entity should disclose details of these transactions, including:

(a) the value of the financial benefit;

(b) the nature of the relationship (i.e. the identity of the related party, and the nature of the arrangements between the parties, in addition to how the parties are related for the purposes of the Corporations Act—for group structures, the nature of these relationships should be disclosed for all group entities);

(c) whether the arrangement is on arm's length terms, is reasonable remuneration, some other Ch 2E exception applies or ASIC has granted relief;

(d) whether member approval for the transaction has been sought and, if so, when;

(e) the risks associated with the related party arrangements; and

(f) the policies and procedures that the responsible entity has in place for entering into related party transactions, including how compliance with these policies and procedures is monitored.

Note: The term 'related party' is defined in s228 (as applied to the scheme by Pt 5C.7) and includes the responsible entity.

Explanation

RG 45.89 The additional disclosure is relevant to all types of related party transactions. Examples of services provided by related parties include investment management, mortgage and legal services.

RG 45.90 It is important that responsible entities disclose in the PDS their approach to related party lending, investments and other transactions, and how such transactions are assessed and monitored to consider whether the transaction is made with the same rigour and independence as transactions made on an arm's length commercial basis.

Note: Responsible entities are Australian financial services (AFS) licensees and have duties to adequately manage conflicts of interest: s912A(1)(aa). If appropriate, responsible entities may also need to obtain investor approval for related party transactions under Pt 5C.7.

Disclosure Principle 5: Valuation policy

RG 45.91 The responsible entity should disclose:

(a) where investors may access the scheme's valuation policy—for example, by disclosing that the policy is available on a relevant website;

(b) the processes that the directors employ to form a view on the value of the security property;

(c) the frequency of valuations of security property; and

(d) any material inconsistencies between any current valuation over security property and the scheme's valuation policy.

RG 45.92 For a contributory mortgage scheme, the responsible entity only needs to provide an investor with information about the valuation of the property securing a loan in which the investor has, or is being offered, an interest.

Explanation

RG 45.93 The valuation policy adopted by responsible entities should be available so that investors may better assess the reliability of the valuations of a scheme's assets and any property over which security has been taken.

Disclosure Principle 6: Lending principles—Loan-to-valuation ratios

RG 45.94 If the scheme directly holds mortgage assets, the responsible entity should disclose:

(a) the maximum and weighted average loan-to-valuation ratios for the scheme as at the date of reporting; and

(b) where funds are lent for property development:

(i) the criteria against which the funds are drawn down;

(ii) the percentage (by value) of the completion of any property that is under development as at the date of reporting; and

(iii) the loan-to-cost ratio of each property development loan as at the date of reporting.

RG 45.95 The responsible entity should also disclose the percentage of the scheme's assets that are property development loans. If property development loans exceed 20% of the scheme's assets, the responsible entity should identify the scheme as one that invests a significant component of funds in property development loans. If the loan-to-cost ratio of any property development loan exceeds 75%, this should also be highlighted.

Explanation

RG 45.96 We consider it relevant that responsible entities disclose the scheme's overall loan-to-valuation ratios in order to understand the scheme's risk exposure to changes in market conditions (e.g. a change in the property market). The overall ratios should be based on the most recent valuations of the scheme's mortgage assets.

RG 45.97 The loan-to-cost ratio is the ratio of the loan amount to the total cost of the construction or development project (including the cost of the land). This ratio and the responsible entity's policy on how and when funds are provided to developers should also be disclosed.

RG 45.98 It is good practice that, if the scheme invests a significant percentage—20% or more (by value)—of funds in property development loans, the scheme has a name that investors can identify as one that significantly lends for property development (e.g. 'ABC Mortgage Developments Scheme').

Disclosure Principle 7: Distribution practices

RG 45.99 If a responsible entity is making, or forecasting, distributions to members, it should disclose:

(a) the source of the current and forecast distributions (e.g. from income earned in the relevant distribution period, operating cash flow, financing facility, capital, application money);

(b) if the distribution is not solely sourced from income received in the relevant distribution period, the reasons for making those distributions and the risks associated with such distributions;

(c) if the distribution is sourced other than from income, whether this is sustainable over the next 12 months; and

(d) when the responsible entity will pay distributions and the frequency of payment of distributions.

Note: Any forward-looking statements should comply with s769C and RG 170. If a responsible entity does not have reasonable grounds for disclosing whether current or forecast distributions (from sources other than realised income) are sustainable, it should explain this to investors: see RG 170.20

RG 45.100 If the scheme promotes a particular return on investments, the responsible entity must clearly disclose details of the circumstances in which a lower return may be payable, together with details of how that lower return will be determined. For a contributory mortgage scheme, the responsible entity should, for a particular investor, disclose the above information to the investor for distributions or returns made, or forecasts to be made, to that investor.

RG 45.101 The responsible entity should include a table identifying up to five main factors that would have the most material impact on forecast distributions, the risks of changes to those factors on distributions and a sensitivity analysis based on changes to those factors. It must also explain how any excess returns actually earned by the scheme will be applied.

Explanation

RG 45.102 Some mortgage schemes seek to give investors an assurance about income stability by disclosing that a fixed return is generally payable. We consider that such disclosures will be misleading unless the responsible entity also makes prominent disclosure of:

(a) the mechanism by which it will seek to achieve a fixed return, together with any limitations of relying on that mechanism; and

(b) the circumstances in which investors may be paid a lower return and how that lower return will be determined.

RG 45.103 If distributions are funded (wholly or in part) from borrowings for the relevant distribution period, this may indicate that distribution practices are unsustainable over the long term or may be insufficient to meet advertised returns. Accordingly, detailed disclosure on the scheme's distribution practices and policies is important so that investors may assess whether the scheme's distribution policy is sustainable.

Disclosure Principle 8: Withdrawal arrangements

RG 45.104 The responsible entity should disclose:

(a) the scheme's withdrawal policy and any rights that the responsible entity has to change the policy;

(b) the ability of investors to withdraw from the scheme when it is liquid;

(c) the ability of investors to withdraw from the scheme when it is non-liquid;

(d) any significant risk factors or limitations that may affect the ability of investors to withdraw from the scheme;

(e) how investors can exercise their withdrawal rights, including any conditions on exercising these rights;

(f) the approach to rollovers and renewals, including whether the 'default' is that investments in the scheme are automatically rolled over or renewed;

(g) if the withdrawals from the scheme are to be funded from an external liquidity facility, the material terms of this facility, including any rights the provider has to suspend or cancel the facility;

(h) the maximum withdrawal period that applies to the payment of withdrawal requests when the scheme is liquid;

(i) any rights the responsible entity has to refuse or suspend withdrawal requests; and

(j) the policy of the scheme on balancing the maturity of its assets with the maturity of its liabilities and the ability of its members to withdraw (e.g. if a scheme has a policy of ensuring that sufficient assets are held in readily realisable investments to meet future withdrawal requests, the responsible entity should state this in its PDS, provide details of the source of the realisable investment and report against this in its ongoing disclosure).

RG 45.105 If the responsible entity makes representations to investors that they can withdraw from the scheme, there should be disclosure on:

(a) the grounds (which must be verifiable) for the statement;

(b) the supporting assumptions (which must not be hypothetical only) for the statement;

(c) the basis for the statement (which must not be based only on an opinion of the directors of the responsible entity if there are no objective grounds to support that opinion); and

(d) any significant risk factors that mean that withdrawal requests might not be satisfied within the expected period.

RG 45.106 If the PDS contains a statement to the effect that, historically, withdrawal requests have been satisfied within a particular period, this may suggest a link between historical withdrawal periods and withdrawal periods that are likely to apply in the future. The responsible entity should ensure the statement clarifies that investors should not conclude that there is such a link between the historical availability of withdrawals and their future availability.

RG 45.107 If the scheme promotes a fixed redemption unit price for investments (e.g. $1 per unit), the responsible entity must clearly disclose details of the circumstances in which a lower amount may be payable, details of how that amount will be determined and the impact of a default under the scheme's mortgage assets on investors (e.g. on investor distributions and the unit price).

RG 45.108 A responsible entity of a contributory mortgage scheme should, for a particular investor, disclose the above information to the investor as it relates to the investor's ability to withdraw.

Explanation

RG 45.109 It is important for responsible entities to make investors aware of withdrawal arrangements so that investors form realistic expectations about their ability to withdraw from a scheme. If a scheme constitution provides for a long withdrawal period but the scheme is promoted on the basis that withdrawal requests are satisfied within a much shorter period, it is important for responsible entities to clearly disclose that:

(a) the responsible entity does not have an obligation to satisfy withdrawal requests within the shorter period;

(b) the constitution provides a longer withdrawal period for satisfying withdrawal requests (including details of the longer withdrawal period); and

(c) if the scheme does not satisfy the statutory liquidity requirements, members will only have a limited ability to withdraw (if any).

Note 1: Members will only have a limited ability to withdraw if a scheme is not 'liquid' for the purposes of Pt 5C.6.

Note 2: If a responsible entity makes representations about likely future withdrawal periods, it must have reasonable grounds for those representations: s769C.

RG 45.110 Some mortgage schemes rely on investors keeping their funds invested beyond the end of the initial investment period. In some

cases, the terms of issue allow this to occur automatically unless the investor makes a positive decision to withdraw their funds. In other cases, it is the investor who makes a positive decision to have their funds reinvested.

RG 45.111 It is important that investors fully understand the responsible entity's approach to rollovers and renewals through clear disclosure in the PDS, including details of:

(a) the default position on maturity;

(b) what investors need to do to withdraw or reinvest their funds (including details of the relevant timeframes); and

(c) any restrictions on the ability of members to withdraw at the end of the initial period.

RG 45.112 We consider that it is potentially misleading not to provide investors with updated information about their investment when they are considering whether to roll over their investment. Depending on the circumstances, the responsible entity may also need to provide investors with an updated PDS.

RG 45.113 Some mortgage schemes seek to give investors an assurance about capital stability by disclosing that investments are generally redeemable at a fixed unit price. We consider that such disclosure will be misleading unless the responsible entity also makes prominent disclosure of:

(a) the mechanism by which it will seek to achieve a fixed withdrawal price (e.g. by relying on a third party guarantee), together with any limitations of relying on that mechanism;

(b) any restrictions on the ability of investors to withdraw from the scheme;

(c) what will occur if the portion of the net assets of the scheme attributable to an interest in the scheme has a value that is less than the fixed withdrawal price; and

(d) the circumstances in which investors may be paid a lower withdrawal price and how that lower price will be determined.

RG 45.114 It is also typical for the constitution of a mortgage scheme to confer discretion on the responsible entity to suspend withdrawals. Responsible entities should explain the discretion and the consequences of the exercise of that discretion.

E Form and method of disclosure

Disclosure against the benchmarks and information addressing the disclosure principles should be included in any Product Disclosure Statements (PDSs) and ongoing disclosure for these schemes issued on or after 1 January 2013.

This information should also be included in the most effective way possible (e.g. on a website or in regular updates).

It is best practice for a PDS to contain a table within the first 15 pages summarising the entity's disclosure against the benchmarks, including explanations if it does not meet the benchmarks.

Method of disclosure

RG 45.115 Disclosure against the benchmarks and information addressing the disclosure principles should be:

(a) included in the PDS (see RG 45.118–RG 45.121); and

(b) updated in ongoing disclosure as material changes occur (see RG 45.129–RG 45.130). We also expect disclosure updates to be provided at least half-yearly (if not already provided under ongoing disclosure obligations).

RG 45.116 In some circumstances, disclosure may be made on a website (e.g. by relying on Class Order [CO 03/237] *Updated information in product disclosure statements*): see RG 45.129 and RG 45.131–RG 45.135.

RG 45.117 Provisions in the Corporations Act and the ASIC Act apply to disclosure made in advertising material. Advertising by responsible entities should support investor understanding of disclosure against the benchmarks and information addressing the disclosure principles, and be consistent with all corresponding disclosures on that subject matter in the PDS.

Disclosure in a PDS

RG 45.118 We prefer that, within the first 15 pages of a PDS, the responsible entity should address in a table whether or not the benchmarks are met: see the appendix for an example of the form of disclosure. We consider it useful if the table also identifies where further information (if any) on the benchmarks can be found, and that this further information is disclosed as early on as practicable in the PDS.

Information addressing the disclosure principles should also be disclosed as soon as practicable after the benchmark table.

RG 45.119 Our benchmarks and disclosure principles relate to matters that, in any event, must be disclosed under s1013D–1013E because issues relating to these matters might reasonably be expected to have a material influence on the decision of a reasonable person, as a retail client, whether to invest in the scheme.

> Note: The benchmarks and disclosure principles do not attempt to specify all the information that is required to be included in a PDS by the Corporations Act.

RG 45.120 We expect a PDS for an unlisted mortgage scheme to explain in a clear, concise and effective way:

(a) the business model of the mortgage scheme and what it will actually do with the money;

(b) the track record and experience of senior management; and

(c) the nature of the investor's interest in the mortgage scheme (e.g. what withdrawal rights apply, if any).

RG 45.121 We believe that disclosure against the benchmarks and applying the disclosure principles in a PDS promote compliance with the requirement that PDSs should be worded in a clear, concise and effective manner by encouraging comparability and uniformity of financial measures, and highlighting issues that ASIC and industry experts consider crucial to making an investment decision.

Clear, concise and effective disclosure

RG 46.122 PDSs must be worded and presented in a clear, concise and effective manner: s1013C(3). A PDS should therefore contain clear and prominent disclosure of the key features and risks of the investment. For unlisted mortgage schemes, this *includes* the benchmark and disclosure principle information.

RG 46.123 The requirement for 'clear, concise and effective' disclosure should be read as a compound phrase so that each word qualifies the other. This means it is inappropriate to focus on one word in the phrase at the expense of others.

RG 46.124 We consider that a PDS will generally be clear, concise and effective if it:

(a) highlights key information (e.g. through an investment overview as explained below);

(b) uses plain language;

(c) is as short as possible;

(d) explains complex information, including any technical terms; and

(e) is logically ordered and easy to navigate.

RG 46.125 We encourage responsible entities to use consumer-friendly tools as much as possible in disclosing key features and risks, including tables, diagrams and other comparative features. Such effective disclosure will help retail investors compare investments across the unlisted mortgage scheme sector.

> Note: Responsible entities should refer to Regulatory Guide 168 *Disclosure: Product Disclosure Statements (and other disclosure obligations)* (RG 168) and Regulatory Guide 228 *Prospectuses: Effective disclosure for retail investors* (RG 228) when considering ways to ensure that a PDS is worded in a clear, concise and effective manner.

Investment overview

RG 46.126 We consider there is a greater risk that a PDS will not be worded and presented in a clear, concise and effective manner if the PDS does not include an investment overview within the first few pages that highlights information that is key to a retail investor's investment decision.

RG 46.127 An investment overview is an introduction to the issuer and offer. It is not intended to replace the PDS and investors should read the whole document. The investment overview should:

(a) be the first substantive section of the PDS;

(b) highlight and provide a meaningful summary of information that is key to a retail investor's investment decision, including at least a summary of the benchmark and disclosure principle information; and

(c) provide balanced disclosure of the benefits and risks.

RG 46.128 If the key information is too lengthy to be included in full, the first few pages of the PDS should provide a summary of the information with a clear reference to more detailed disclosure.

Ongoing disclosure

RG 45.129 Responsible entities may have obligations under the Corporations Act (e.g. under Chs 2M and 6CA and Pt 7.9) to provide ongoing disclosure to investors, including:

(a) issuing a supplementary PDS when there are certain material changes to information in a current PDS;

> Note: PDSs commonly allow information to be updated on a website if the information is not materially adverse: see [CO 03/237]. We consider that if the omission of disclosure

against the benchmarks and information addressing the disclosure principles is not materially adverse, the responsible entity will generally be able to rely on [CO 03/237] to update the PDS for this information without the need for a supplementary or new PDS: see RG 45.131–RG 45.135.

(b) providing periodic statements to investors in registered schemes under s1017D;

(c) for disclosing entities and registered schemes, disclosing material changes and significant events (e.g. under s675 and 1017B); and

(d) complying with annual reporting obligations (e.g. under Ch 2M).

RG 45.130 We expect responsible entities to provide disclosure updates at least half-yearly in addition to providing ongoing updates whenever there have been material changes to previously disclosed information. If there have been any material changes to a scheme's performance against the benchmarks, including against the scheme's alternative approach to meeting the benchmarks, or to the information provided under the disclosure principles, the responsible entity must explain these in ongoing disclosure. Responsible entities should also provide updates on the status of performance against the benchmarks and information provided under the disclosure principles, and any changes not covered under the ongoing disclosure.

Website disclosure

RG 45.131 We acknowledge that website disclosure allows an entity to provide material information to investors in a timely and efficient way. A responsible entity that makes website disclosure should have regard to Regulatory Guide 198 *Unlisted disclosing entities: Continuous disclosure obligations* (RG 198) in terms of how to disclose on its website.

RG 45.132 Disclosure against the benchmarks should be located in a single place on the website. The home page should contain a prominent link to this location so that investors can easily access it. If investors have to look for information in a number of places, there is a greater likelihood that they will not find all the information necessary to make an informed investment decision.

RG 45.133 However, we would discourage a responsible entity from publishing lengthy documents on its website in which the material information is 'buried' among information that is not material. If a responsible entity considers that an investor may have difficulty readily identifying material information, it should consider separately highlighting that information to investors.

RG 45.134 In addition to making material information available on its website, a responsible entity should consider whether direct disclosure of the

© Australian Securities and Investments Commission May 2012

information to investors is appropriate. This may occur, for example, where the entity is aware that a significant number of investors might not have ready access to the internet.

RG 45.135 A responsible entity that discloses material information on its website should consider giving investors the option of receiving an email alert when material information is updated. We strongly encourage this type of facility because it helps investors to become aware of relevant information as soon as possible after it is published.

Timing for implementing improved disclosure

RG 45.136 For all listed and unlisted mortgage schemes, responsible entities should comply with the advertising standards (which applied from 2 September 2008).

RG 45.137 Disclosing against the benchmarks and addressing the disclosure principles applies to both existing and new offers of interests in unlisted mortgage schemes.

RG 45.138 By 1 January 2013, the responsible entity of an existing unlisted mortgage scheme should address the benchmarks on an 'if not, why not' basis and apply the disclosure principles in updated disclosure that is brought to the attention of existing investors. This could be done by using the responsible entity's normal investor communication channels (e.g. in a regular investor update, in a periodic statement under s1017D or by including the information on a website that is used to communicate with investors).

RG 45.139 The updated disclosure should also advise investors how the responsible entity intends to update them on the status of the benchmark and disclosure principle information and about material changes. This is particularly important if the responsible entity intends to use a website to communicate material changes to key information.

RG 45.140 By 1 January 2013, if an existing PDS is still in use, responsible entities should either:

(a) include the benchmark and additional disclosure principle information on a website referred to in the PDS (if the omission of information from the PDS is not materially adverse); or

(b) update the PDS by a new or supplementary PDS so that it includes the benchmark and additional disclosure principle information.

Note: We consider that, if the omission of the benchmark and additional disclosure principle information from an existing PDS is not materially adverse, the responsible

entity will generally be able to rely on [CO 03/237] to update the PDS for this information without the need for a supplementary or new PDS.

RG 45.141 PDSs dated on or after 1 January 2013 should clearly and prominently disclose against the benchmarks on an 'if not, why not' basis and apply the disclosure principles. The PDS should also explain how the responsible entity intends to update investors for ongoing disclosure.

Note: Responsible entities of contributory mortgage schemes that provide an investor with a supplementary PDS for the investor's mortgage loan may deal with the benchmarks in the supplementary PDS.

RG 45.142 If there are any material changes to the scheme's performance against the benchmarks or to the disclosure principle information, the responsible entity should deal with this in ongoing disclosure. It is good practice to update investors on material changes to key information about an unlisted mortgage scheme as soon as practicable (e.g. by updating a website used for this purpose).

RG 45.143 It is good practice for responsible entities to update investors at least half-yearly on the status of their performance against the benchmarks and the disclosure principles, including whether the information has been updated for any material changes since the last investor report.

ASIC review of PDSs and ongoing disclosure

RG 45.144 From 1 January 2013, we will review PDSs in use and ongoing disclosure for unlisted mortgage schemes to check that the benchmark and disclosure principle information is adequately disclosed.

RG 45.145 We will consider exercising our stop order powers under s1020E if we consider there is material non-disclosure or misleading disclosure of these matters. The benchmarks and disclosure principles relate to matters that must be disclosed under the Corporations Act. Material non-disclosure or misleading disclosure may also result in liability to investors.

RG 45.146 We will also:

(a) work with responsible entities to ensure that the benchmarks and disclosure principles, and our expectations, are understood;

(b) discuss any concerns we have about a responsible entity's disclosure with them and, where necessary, require additional disclosure;

(c) discuss any concerns we have about the financial position and performance of a scheme with the responsible entity; and

(d) conduct surveillance visits, as needed, to test and reinforce our expectations.

F Advertising standards for all mortgage schemes

KEY POINTS

Responsible entities of all mortgage schemes (whether listed or unlisted) can promote investor understanding and minimise the risk of mis-selling by ensuring that advertising for their products meets certain standards: see RG 45.147–RG 45.169.

Responsible entities that fail to comply with these standards risk making false or misleading statements or engaging in misleading or deceptive conduct: see RG 45.170–RG 45.171.

Under general law, a publisher or other media conduit may have some responsibility for an advertisement's content: see RG 45.172–RG 45.177.

Standards for advertisements

Repayment of principal investment

RG 45.147 Retail investors may confuse products where returns, interest rates or fixed-term investment periods are advertised with bank or other deposits. Many mortgage schemes advertise one or more of these features. Retail investors may fail to realise that a mortgage scheme investment is an equity investment in a managed investment scheme, and there is a higher risk of losing some or all of their money than is the case with a bank deposit.

RG 45.148 For this reason, any advertisements for mortgage scheme investments that are offered to retail investors should contain prominent disclosure that investors risk losing some or all of their money.

Returns on investment and investment ratings

RG 45.149 Advertisements for mortgage schemes that are offered to retail investors should *only* quote returns on the investment if they are accompanied by prominent disclosure that there is a risk that the investment may achieve lower than expected returns.

Note: This includes advertisements with generic references to the return (e.g. to a 'very high', 'highly competitive', 'regular' or 'consistent' return), as well as to a specific return.

RG 45.150 References to returns in advertising can be very influential to retail investors. These references can be misleading if at the same time the investor is not given information about the likelihood of being paid that return.

RG 45.151 If an investment rating is used in a mortgage scheme advertisement, it should be properly explained. This explanation should include the meaning of the rating and where an investor can obtain further information about the rating. The advertisement should also state that investment ratings are only one factor to be taken into account when deciding whether to invest.

RG 45.152 Responsible entities should ensure that:

(a) the impression the investment rating creates about the mortgage scheme being advertised is not misleading; and

(b) investment ratings used in advertisements for mortgage schemes are only quoted from research houses that hold an AFS licence.

Comparisons with bank deposits and 'risk-free' suggestions

RG 45.153 Advertisements for mortgage schemes should state that the mortgage scheme is *not* a bank deposit. Advertisements should also *not* suggest that:

(a) the mortgage scheme is, or compares favourably to, a bank deposit or other deposit product; or

(b) there is little or no risk of the investor losing their principal or not being paid a return.

RG 45.154 This means that the following terms should be avoided in advertisements for mortgage schemes: 'secure', 'secured', 'guaranteed', 'warranted', 'safe', 'deposit', 'first ranking' and 'fixed income'.

RG 45.155 We consider that the use of these (or similar) terms creates a misleading impression about the mortgage scheme and the risks involved with investing in it. They contribute to the misconception that investors can achieve higher returns than a bank deposit without the risk of losing their money.

RG 45.156 Terms such as 'secure', 'secured', 'guaranteed' and 'warranted' convey an impression of a safe investment and, in our experience, they have a disproportionate effect on retail investors. We consider that investors will be left with a misleading impression about the risk profile of the mortgage scheme without a detailed explanation of:

(a) the nature of the security, guarantee or warranty;

(b) the fact that investors in the scheme are unsecured equity investors; and

(c) the fact that lenders to the scheme have priority over the assets of the scheme.

RG 45.157 We consider the use of terms such as 'fixed income' may also create a misleading impression that the returns an investor receives are not subject to change and that the returns are in the form of interest rather than a return from the revenue generated by the scheme.

Withdrawal periods, withdrawal rights and investment periods

RG 45.158 Many mortgage schemes operate on the basis that withdrawal requests will be satisfied within a relatively short period even though the constitution of the scheme allows for a much longer maximum period to satisfy withdrawal requests.

RG 45.159 We consider that an advertisement that promotes a withdrawal period or withdrawal rights will be misleading unless there is prominent disclosure:

(a) of any longer period within which the responsible entity may satisfy withdrawal requests;

(b) that there are circumstances in which the responsible entity may suspend withdrawals (if this is the case); and

(c) that members will only have limited rights to withdraw if the scheme does not satisfy the statutory liquidity test in the Corporations Act.

RG 45.160 Some mortgage schemes advertise fixed-term investments (e.g. six months or 12 months). If the investor can only withdraw at the end of the fixed term by making a withdrawal request, the reference to the fixed-term investment is likely to be misleading unless it is accompanied by prominent disclosure of the risk that the investor will not be paid their withdrawal proceeds within a reasonable period after the end of the fixed term.

Fees

RG 45.161 Some mortgage schemes advertise that a particular type of fee is not payable or is payable at a low rate. If this arrangement is dependent on conditions being satisfied (e.g. it is a requirement that the member not withdraw from the scheme for a specified period of time), we consider the advertisement will be misleading unless there is prominent disclosure of:

(a) if it is advertised that no fee is payable, the circumstances in which a fee is payable, together with the amount of the fee; and

(b) if it is advertised that a fee is payable at a particular rate, the circumstances in which a higher fee is payable, together with the amount of the higher fee.

Suitability statements

RG 45.162 Advertisements for mortgage schemes should not state or imply that the investment is suitable for a particular class of investor (e.g. 'this product is suitable for a conservative investor' or 'this product is suitable for a self-managed super fund'). Such a statement may be misleading because it may convey the impression that the responsible entity has actually assessed the suitability of the mortgage scheme for particular investors targeted by the advertisement.

Consistency with PDS disclosure

RG 45.163 Statements in advertisements for mortgage schemes should be consistent with all corresponding disclosures on that subject matter in the PDS. In particular, responsible entities should take into account the disclosures in the PDS about the benchmarks in Section C and the disclosure principles in Section D.

RG 45.164 In ensuring consistency with disclosure in the PDS, responsible entities should be aware that an advertisement may be misleading if it quotes a statement from the PDS out of context. For example, while it may not be misleading to describe a return on a mortgage scheme product as 'guaranteed' in the PDS, where sufficient information is given about the guarantee and its likely efficacy, using the term 'guaranteed' in an advertisement is likely to be misleading.

Telephone inquiries

RG 45.165 Statements made over the telephone or in any correspondence in response to inquiries about mortgage schemes are subject to the same regulation for misleading and deceptive conduct as the advertisements. Therefore, the same restrictions apply (e.g. about using words such as 'secure', 'secured' and 'guaranteed').

RG 45.166 Responsible entities of mortgage schemes should ensure that all statements made by call centre staff (or other staff or contractors engaged by them) to prospective investors who respond to advertisements for mortgage schemes are consistent with disclosures on that subject in the PDS. In the case of returns, withdrawal periods, withdrawal rights, investment periods and fees, no statements should be made that would have been prohibited in the advertisement to which the inquiry related.

RG 45.167 To ensure compliance with this standard, responsible entities could develop a script and a list of questions and answers that call centre staff and any other staff fielding these inquiries should adhere to.

Warning statements generally

RG 45.168 The warning statements referred to in RG 45.148–RG 45.153 and RG 45.159–RG 45.161 should be prominent. For example, investors who notice a statement about returns (if any) should also be reasonably likely to notice the corresponding warning statement and be able to easily understand it. This will help ensure investors have a balanced impression of the mortgage scheme offering.

RG 45.169 We are not prescribing 'boilerplate' or standardised warning statements. It is the responsibility of the responsible entity to ensure that its advertisement is not misleading or deceptive and that the warning statements referred to in RG 45.148–RG 45.153 and RG 45.159–RG 45.161 are effective.

How ASIC deals with contraventions

RG 45.170 Responsible entities of mortgage schemes who fail to comply with the advertising standards risk making false or misleading statements or engaging in misleading or deceptive conduct in contravention of the Corporations Act or ASIC Act.

RG 45.171 The law provides ASIC with various options for dealing with false or misleading advertisements for mortgage schemes, or mortgage scheme advertising that constitutes misleading or deceptive conduct. These include:

(a) issuing a stop order on any false or misleading statements in an advertisement for a mortgage scheme;

(b) seeking an injunction against a responsible entity for mortgage scheme advertising that constitutes misleading or deceptive conduct;

(c) investigating potential criminal action for contraventions of s1041E of the Corporations Act or s12DF of the ASIC Act; and

(d) taking other regulatory action against a responsible entity where mortgage scheme advertising contravenes its obligations as an AFS licensee.

Note: See Regulatory Guide 156 *Advertising of debentures and notes to retail investors* (RG 156) at RG 156.29–RG 156.30 for further guidance about when advertising may be misleading or deceptive.

© Australian Securities and Investments Commission June 2011

The role of publishers and the media

RG 45.172 While the primary responsibility for advertising material rests with the organisation placing the advertisement, under general law the publisher may also have some responsibility for its content. This depends on whether the publisher received the 'advertisement for publication in the ordinary course of that business and did not know, and had no reason to believe, that its publication would amount to an offence against that provision': s1044A, Corporations Act; s12GI(4), ASIC Act.

RG 45.173 We believe that the advertising standards in this guide give publishers knowledge of the type of conduct that would contravene the law. This means that publishers should ensure that they are in a position to decline advertisements for mortgage schemes that:

(a) fail to contain the statements referred to in RG 45.148–RG 45.153 and RG 45.159–RG 45.161;

(b) have any references to returns that fail to comply with the standards in RG 45.149–RG 45.150;

(c) have any references to withdrawal periods, withdrawal rights or investment periods that fail to comply with the standards in RG 45.158–RG 45.160;

(d) use the terms 'secure', 'secured', 'guaranteed' or 'warranted' (or similar terms) (see RG 45.156); or

(e) contain suitability statements (see RG 45.162).

RG 45.174 Generally, responsible entities will use the terms 'mortgage', 'mortgage scheme', 'mortgage trust' or 'mortgage fund' to describe products subject to this regulatory guide. But we encourage publishers to specifically ask their advertising clients if the product they are advertising is regulated by this guide.

RG 45.175 To help publishers identify potentially problematic advertisements, we will make available details of responsible entities of mortgage schemes that have previously had a stop order made against either their PDS or any of their advertisements. We expect publishers to scrutinise advertisements by these responsible entities with particular care.

RG 45.176 We also expect publishers to cease publishing an advertisement if we inform them that it is currently subject to a stop order. We will assist publishers by making this information available.

RG 45.177 If a publisher contributes to the content of the advertisement (e.g. in writing advertorials) or otherwise has an active involvement in the promotion of the financial product (e.g. through co-branding or where

© Australian Securities and Investments Commission June 2010

a media personality uses their influence to promote a product), we regard the publisher as being in the same position as the responsible entity in terms of its responsibility to comply with the advertising standards in this guide. We consider that this level of active involvement may mean that the general defence that publishers might claim against liability for content of an advertisement under s1044A is unlikely to apply.

G Compliance plans

Compliance plans must set out measures for the responsible entity to comply with the Corporations Act and scheme constitution.

We expect compliance plans for mortgage schemes to set out adequate measures to ensure compliance with the disclosure and advertising obligations discussed in this guide.

We expect compliance committees and compliance plan auditors to be aware of these disclosure and advertising obligations and to have regard to them in carrying out their duties.

Responsible entities, compliance committees and compliance plan auditors should consider these disclosure and advertising obligations when assessing whether a compliance plan is adequate.

The compliance plan

RG 45.178 Compliance plans play a key role in protecting investors and promoting their interests. The law requires managed investment schemes to have a compliance plan: s601EA. The compliance plan must set out adequate measures for the responsible entity to ensure compliance with the Corporations Act and the scheme's constitution: s601HA. The responsible entity has a duty to comply with the compliance plan: s601FC(1)(h).

RG 45.179 Compliance plans should contain adequate procedures to ensure that responsible entities comply with their upfront and ongoing disclosure obligations, including their disclosure obligations in this guide. Compliance plans should also contain adequate procedures to ensure that responsible entities comply with their advertising obligations.

RG 45.180 We do not expect that responsible entities will necessarily need to change their compliance plans to deal expressly with the disclosure and advertising obligations discussed in this guide. Good compliance plans should already contain procedures to ensure that responsible entities comply with all of their disclosure and advertising obligations under the law.

RG 45.181 However, we do expect responsible entities to critically examine existing compliance plans and consider whether they are adequate to ensure compliance with the obligations discussed in this guide. Regardless of whether a scheme has a compliance committee, responsible entities have a duty to ensure that compliance plans

establish adequate measures to ensure compliance (including with disclosure and advertising obligations): s601FC(1)(g).

Compliance committees

RG 45.182 Many mortgage schemes have a compliance committee. A scheme is required to have a compliance committee unless at least half of the responsible entity's directors are external directors: s601JA. If the scheme does not have a compliance committee, the responsible entity's directors should be particularly vigilant about ensuring the responsible entity complies with the compliance plan and the compliance plan is adequate.

RG 45.183 The functions of a compliance committee are to:

(a) monitor the extent to which a responsible entity complies with the compliance plan and report its findings to the responsible entity;

(b) report any breach of the law or the scheme's constitution to the responsible entity;

(c) report to ASIC if the compliance committee considers that the responsible entity is not taking adequate action to deal with a matter reported under paragraph (b); and

(d) assess at regular intervals whether the compliance plan is adequate, report to the responsible entity on the assessment and make recommendations to the responsible entity about any changes that it considers should be made to the plan: s601JC(1).

RG 45.184 We expect compliance committees for mortgage schemes to be aware of the disclosure and advertising obligations discussed in this guide. Compliance committees need to regularly assess whether the compliance plan contains adequate measures to ensure compliance by responsible entities with their:

(a) upfront and ongoing disclosure obligations, including the benchmark information in Section C and the disclosure principle information in Section D; and

(b) advertising obligations as discussed in Section F.

RG 45.185 If a compliance committee forms the view that a compliance plan is not adequate, it needs to report this to the responsible entity, together with recommendations about changes that should be made to the plan.

RG 45.186 A compliance committee should also monitor compliance by the responsible entity with the compliance plan. Where a compliance committee identifies non-compliance or a possible breach of the law (including a breach relating to the responsible entity's disclosure and

advertising obligations), the compliance committee will need to make a report to the responsible entity and, if necessary, report the matter to us.

Compliance plan auditors

RG 45.187 Compliance plans are subject to an annual audit. The auditor of a compliance plan must give the responsible entity a report that states the auditor's opinion on whether:

(a) the responsible entity has complied with the compliance plan; and

(b) the plan continues to meet the requirements of the Corporations Act.

RG 45.188 We expect compliance plan auditors to be aware of the disclosure and advertising obligations in this guide. In determining whether a plan continues to meet the requirements of the Corporations Act, compliance plan auditors should consider whether the compliance plan is adequate to ensure compliance with these disclosure and advertising obligations.

Appendix: Example of disclosure against the benchmarks

Benchmark	Statement	Explanation	Reference
Benchmark 1: Liquidity			
For a pooled mortgage scheme, the responsible entity has cash flow estimates for the scheme that: (a) demonstrate the scheme's capacity to meet its expenses, liabilities and other cash flow needs for the next 12 months; (b) are updated at least every three months and reflect any material changes; and (c) are approved by the directors of the responsible entity at least every three months.	The benchmark is not met.	The scheme will not be able to meet its expected liabilities after 6 months because [*insert details of how the liabilities will be funded*].	For additional disclosure on this benchmark, see [*section X*] of this [*relevant disclosure document*].
Benchmark 2: Scheme borrowing			
The responsible entity does not have current borrowings and does not intend to borrow on behalf of the scheme.	The benchmark is met.	N/A	For additional disclosure on this benchmark, see [*section X*] of this [*relevant disclosure document*].
Benchmark 3: Loan portfolio and diversification			
For a pooled mortgage scheme: (a) the scheme holds a portfolio of assets diversified by size, borrower, class of borrower activity and geographic region; (b) the scheme has no single asset in the scheme portfolio that exceeds 5% of the total scheme assets; (c) the scheme has no single borrower who exceeds 5% of the scheme assets; and (d) all loans made by the scheme are secured by first mortgages over real property (including registered leasehold title).	The benchmark is not met.	The scheme lends to [*insert borrower's details*], who accounts for more than 5% of the scheme's total assets, because [*insert explanation*]. The increased concentration risk is addressed by [*insert details*].	For additional disclosure on this benchmark, see [*section X*] of this [*relevant disclosure document*].
Benchmark 4: Related party transactions			
The responsible entity does not lend to related parties of the responsible entity or to the scheme's investment manager.	The benchmark is not met.	The responsible entity lends to companies with common directors on the same commercial basis as loans to unrelated parties because [*insert explanation*], which requires [*insert details of procedures*].	For additional disclosure on this benchmark, see [*section X*] of this [*relevant disclosure document*].

Benchmark	Statement	Explanation	Reference
Benchmark 5: Valuation policy			
In relation to valuations for the scheme's mortgage assets and their security property, the board of the responsible entity requires: (a) a valuer to be a member of an appropriate professional body in the jurisdiction in which the relevant property is located; (b) a valuer to be independent; (c) procedures to be followed for dealing with any conflict of interest; (d) the rotation and diversity of valuers; (e) in relation to security property for a loan, an independent valuation to be obtained: (i) before the issue of a loan and on renewal: (A) for development property, on both an 'as is' and 'as if complete' basis; and (B) for all other property, on an 'as is' basis; and (ii) within two months after the directors form a view that there is a likelihood that a decrease in the value of security property may have caused a material breach of a loan covenant.	The benchmark is met.	N/A	For additional disclosure on this benchmark, see *[section X]* of this *[relevant disclosure document]*.
Benchmark 6: Lending principles—Loan-to-valuation ratios			
If the scheme directly holds mortgage assets: (a) where the loan relates to property development—funds are provided to the borrower in stages based on independent evidence of the progress of the development; (b) where the loan relates to property development—the scheme does not lend more than 70% on the basis of the latest 'as if complete' valuation of property over which security is provided; and (c) in all other cases—the scheme does not lend more than 80% on the basis of the latest market valuation of property over which security is provided.	The benchmark is met.	N/A	For additional disclosure on this benchmark, see *[section X]* of this *[relevant disclosure document]*.
Benchmark 7: Distribution practices			
The responsible entity will not pay current distributions from scheme borrowings.	The benchmark is met.	N/A	For additional disclosure on this benchmark, see *[section X]* of this *[relevant disclosure document]*.

Benchmark	Statement	Explanation	Reference
Benchmark 8: Withdrawal arrangements			
Liquid schemes			
For liquid schemes: (a) the maximum period allowed for in the constitution for the payment of withdrawal requests is 90 days or less; (b) the responsible entity will pay withdrawal requests within the period allowed for in the constitution; and (c) the responsible entity only permits members to withdraw at any time on request if at least 80% (by value) of the scheme property is: (i) money in an account or on deposit with a bank and is available for withdrawal immediately, or otherwise on expiry of a fixed term not exceeding 90 days, during the normal business hours of the bank; or (ii) assets that the responsible entity can reasonably expect to realise for market value within 10 business days.	The benchmark is not met.	The scheme constitution provides a period of 3 years for the responsible entity to meet withdrawal requests, which means such requests may be delayed for at least 3 years because [*insert explanation*] and [*insert details of how withdrawals will be satisfied*].	For additional disclosure on this benchmark, see [*section X*] of this [*relevant disclosure document*].
Non-liquid schemes			
For non-liquid schemes, the responsible entity intends to make withdrawal offers to investors at least quarterly	Not applicable		

Key terms

Term	Meaning in this document
AASB 107 (for example)	An Australian accounting standard made for the purposes of the Corporations Act (in this example, numbered 107)
advertisements	Includes comment and promotion of mortgage schemes in media programs or publications (generally known as 'advertorials') and statements about mortgage schemes published by responsible entities on their websites that are intended to promote the scheme to retail investors (but does not include statements in the PDS)
AFS licence	An Australian financial services licence under s913B of the Corporations Act that authorises a person who carries on a financial services business to provide financial services Note: This is a definition contained in s761A of the Corporations Act.
AFS licensee	A person who holds an Australian financial services licence under s913B of the Corporations Act Note: This is a definition contained in s761A of the Corporations Act.
ASIC	Australian Securities and Investments Commission
ASIC Act	*Australian Securities and Investments Commission Act 2001*
'as if complete' valuation	An estimate of the market value of a property, assuming certain specified improvements are made
'as is' valuation	An estimate of the market value of a property in its current state (i.e. without any further improvements)
Australian accounting standards	Standards made for the purposes of s296(1) of the Corporations Act
benchmark information	A statement in relation to each benchmark that the scheme either: • meets the benchmark; or • does not meet the benchmark *and* explains how and why the responsible entity deals with the business factors or issues underlying the benchmark in another way
cash or cash equivalents	Has the same meaning as in AASB 107: see Note 2 to RG 45.34
Ch 2E (for example)	A chapter of the Corporations Act (in this example, numbered 2E)
[CO 03/237] (for example)	An ASIC class order (in this example, numbered 03/237)

Term	Meaning in this document
contributory mortgage scheme	A mortgage scheme under which an investor invests in a single mortgage loan through: • a general authority, where the investor receives a summary after the application is approved followed by a cooling-off period; or • a specific authority, where the investor receives a supplementary PDS before investing
Corporations Act	*Corporations Act 2001*, including regulations made for the purposes of that Act
Corporations Regulations	Corporations Regulations 2001
CP 99	An ASIC consultation paper (in this example, numbered 99)
disclosure principle information	Information covered by the disclosure principles in Section D of this guide
feeder fund	A scheme that invests all or most of its assets in other unlisted mortgage schemes
liquidity	For the purposes of Benchmark 1 and Disclosure Principle 1, the proportion of cash or cash equivalents in a scheme's assets Note: 'Liquidity' for the purposes of this benchmark and disclosure principle is not the same as 'liquidity' for the purposes of Pt 5C.6 (which relates to satisfying a statutory test).
market value	An estimate of the amount for which the property or asset could exchange on the valuation date between a willing buyer and a willing seller in an arm's length transaction
mortgage loan	A loan secured by a mortgage over real property (including residential, commercial, industrial or retail property, or vacant land)
mortgage scheme	A managed investment scheme that has, or that is likely to have, at least 50% of its non-cash assets invested in mortgage loans and/or unlisted mortgage schemes Note: This definition includes contributory mortgage schemes.
Product Disclosure Statement (PDS)	A document that must be given to a retail client in relation to the offer or issue of a financial product in accordance with Div 2 of Pt 7.9 of the Corporations Act Note: See s761A for the exact definition.
Pt 5C.7 (for example)	A part of the Corporations Act (in this example, numbered 5C.7)
registered managed investment scheme	A managed investment scheme registered under s601EB of the Corporations Act
registered scheme	A registered managed investment scheme

Term	Meaning in this document
related party	Has the meaning given to that term in s228, or as modified by Pt 5C.7 for registered schemes, as the case may be
responsible entity	The public company named in ASIC's record of the scheme's registration as the responsible entity or temporary responsible entity of a registered scheme
retail client	A client as defined in s761G of the Corporations Act and associated Corporations Regulations
retail investor	For the purposes of this guide, a retail client who invests in a mortgage scheme
RG 69	An ASIC regulatory guide (in this example, numbered 69)
rollovers	Where an existing investor keeps their money in the existing mortgage scheme for an additional term (whether on the same or slightly different terms)
s1017B (for example)	A section of the Corporations Act (in this example, numbered 1017B), unless otherwise specified

Related information

Headnotes

advertising, benchmarks, compliance committees, compliance plan auditors, compliance plans, contributory mortgage schemes, deceptive, disclosure, disclosure principles, listed, misleading, mortgage schemes, pooled mortgage schemes, PDSs, Product Disclosure Statements, responsible entities, unlisted, valuers

Class order

[CO 03/237] *Updated information in product disclosure statements*

Regulatory guides

RG 69 *Debentures and notes: Improving disclosure for retail investors*

RG 76 *Related party transactions*

RG 118 *Commentary on compliance plans: Contributory mortgage schemes*

RG 119 *Commentary on compliance plans: Pooled mortgage schemes*

RG 132 *Managed investments: Compliance plans*

RG 144 *Mortgage investment schemes*

RG 156 *Advertising of debentures and notes to retail investors*

RG 168 *Disclosure: Product Disclosure Statements (and other disclosure obligations)*

RG 170 *Prospective financial information*

RG 198 *Unlisted disclosing entities: Continuous disclosure obligations*

RG 228 *Prospectuses: Effective disclosure for retail investors*

Legislation

ASIC Act, s12DF and 12GI(4)

Corporations Act, Chs 2E, 2M and 6CA, Pts 5C.6, 5C.7 and 7.9, s228, 601EA, 601FC, 601HA, 601JA, 601JC, 675, 769C, 912A, 1013C, 1013D, 1013E, 1017B, 1017D and 1020E

Consultation papers

CP 99 *Mortgage schemes: Improving disclosure for retail clients*

CP 141 *Mortgage schemes: Strengthening the disclosure benchmarks*

Assets of the LM First Mortgage Income Fund

The assets of the Fund as at 29 February 2008 totalled $718,403,075 and were made up as follows:

- Australian First Registered Mortgage Securities 96%
- Cash & "At Call" Securities 4%

As at 29 February 2008 the mortgage allocation was as follows:

Security Property Type Allocation

- Commercial 34%
- Residential 36%
- Industrial 8%
- Pre-Development Land 16%
- Retail 6%

Geographic Distribution of Security Property

- New South Wales 35%
- Australian Capital Territory 3%
- Victoria 9%
- Queensland 34%
- Western Australia 7%
- Northern Territory 11%
- Tasmania 1%

Construction and Development Mortgage Securities

- Construction & Development Mortgage Securities 33%
- Non-Construction Mortgage Securities 67%*

**Non-Construction Mortgage Securities includes pre-development land, completed developments and income generating commercial loans.*

Mortgage portfolio details as at 29 February 2008

Total amount of mortgage securities	$687,494,654
Number of mortgages	74
% of mortgages with fixed interest rates	100%
Average loan to valuation ratio	63.89%
Smallest loan	$94,672
Largest loan	$85,523,929
Average loan size	$9,290,468
Undrawn loan commitments over next 24 months	$362,375,790
Average monthly undrawn loan commitments	$15,098,991

The Manager maintains a detailed cash flow model which assesses the total Fund inflows and outflows including programmed loan repayments from borrowers and progressive loan draws. This model allows the Fund's Portfolio Manager to accurately assess Fund cash requirements to ensure sufficient liquidity for the Fund to meet its commitments at all times.[18]

As at 29 February 2008 there were 52 borrowers. Two borrowers had a mortgage that exceeded 5% of the mortgage portfolio. The Manager generally ensures that no single mortgage exceeds 10% of the Fund's assets.

One borrower may have an interest in several loan facilities by way of different entities. The Manager assesses the total exposure to one borrower as including those related entities with different loan facilities.

Mortgage securities by maturity profile as at 29 February 2008

Period maturing	% of Total	Value $
0-6 months	36.42%	$264,114,682
6-12 months	32.65%	$224,434,036
12-18 months	17.19%	$118,182,830
18-24 months	5.70%	$39,203,830
24-36 months	3.37%	$23,164,303
36-48 months	0%	$0
48-60 months	2.67%	$18,321,927

Mortgage securities by interest rate profile as at 29 February 2008

For the month ended 29 February 2008 the average interest rate of the mortgage portfolio was 9.69%.

Interest rate %	% of Total	Value $
= or < 7.00%	0.12%	$816,519
7.01-7.50	1.57%	$10,812,275
7.51-8.00	7.78%	$53,467,988
8.01-8.50	11.13%	$76,515,263
8.51-9.00	10.51%	$72,213,890
9.01-9.50	15.67%	$107,696,936
9.51-10.00	1.98%	$13,630,474
10.01-10.50	5.45%	$37,435,117
10.51-11.00	30.59%	$210,310,344
11.01-11.50	9.66%	$66,433,970
11.51-12.00	5.54%	$38,088,833

Status of Mortgage Loans

The Manager considers a loan to be in default when interest payments have not been received in breach of a loan agreement, or the loan term has expired without repayment of principal. Set out in the table below are details of Fund loans falling into the former category.

LM First Mortgage Income Fund Loans in Arrears

Period	Principal	Unpaid Interest	No. of loans
60-90 days	$10,436,287	$609,953	1
90 days and over	$34,685,533	$6,165,154	7
Total	$45,121,820	$6,775,107	8

As at 29 February 2008 the percentage of mortgage securities in arrears was 7.49%.

All of the loans except for one in arrears were past their maturity date. As at 29 February 2008 one other loan was past its maturity date and it represents 0.6% of the mortgage portfolio.

The Manager utilises its property expertise and its Arrears Management Policies and Procedures to secure realisation and exit strategies for all arrears loans.

As at the date of this PDS the directors do not consider the arrears above will result in a capital loss for the Fund.

[18] While the Manager considers any delays unlikely, in certain circumstances the Manager may delay withdrawals from the Fund by up to 365 days or suspend withdrawals in order to protect all investments. Refer to page 17 of this PDS ("How to Withdraw").

LM First Mortgage Income Fund Geographic Diversification

NSW 31.46% WA 6.89%
ACT 1.27% NT 0.00%
VIC 8.53% TAS 0.55%
QLD 51.29% SA 0.00%

Geographic Guidelines	No. of Loans	Value
New South Wales	16	190,108,900
Victoria	7	51,525,601
Queensland	20	309,909,117
South Australia	0	0
Australian Capital Territory	1	7,669,590
Western Australia	3	41,656,465
Northern Territory	0	0
Tasmania	1	3,330,767

LM First Mortgage Income Fund Portfolio Details as at 30 September 2009

Mortgage Portfolio Details	Actual
Total value of mortgage securities	$604,195,441
Number of mortgages	48
Average loan size	$12,600,000
Average loan to valuation ratio	82.03%
Total value of loans with interest built into the facility and/or capitalised	$523,130,529
Number of loans with interest built into the facility and/or capitalised	39
Total value of undrawn loan commitments over next 24 months (progressive loan draws) funded by cashflows of the Fund	$6,000,000
Number of loans with undrawn loan commitments over next 24 months (progressive loan draws) funded by cashflows of the Fund	5
Average monthly undrawn loan commitments funded by cashflows of the Fund	$1,300,000

The valuation policy for the Fund's first mortgage securities is written into the lending guidelines of the Fund, forms part of the compliance plan for the Fund, and is subject to independent audit.

The independent audit includes emphasis on asset valuation and loan recoverability. At 82.03% the average loan to valuation ratio of the Fund's mortgage portfolio is reflected against the value of the Fund's registered first mortgage assets. Ernst & Young finalised their independent financial year end audit, and as at 30 September, 2009 reports full fund value with investor unit price also retaining its full capital value.[2]

As at 30 September 2009 there were 32 borrowers. 8.04% of total monies was lent to the fund's largest borrower and 54.22% of total monies was lent to the fund's ten largest borrowers. The Fund does not have one single borrower that exceeds 10.00% of the fund's assets.

Loan to Valuation Ratio (LVR)

LVR	No. of Loans	Value ($)
< 50.00%	7	38,903,052
50.01% - 60.00%	6	59,741,302
60.01% - 70.00%	1	7,669,590
70.01% - 80.00%	10	161,345,939
80.01% - 90.00%	10	111,894,655
90.01% - 100.00%	14	224,641,003
> 100%	0	0

The average LVR across the mortgage portfolio as at 30 September 2009 is 82.03%.

[2] Past performance is not a reliable indicator of future performance.

LM First Mortgage Income Fund Portfolio Details as at 31 January 2010

Mortgage Portfolio Details	Actual
Total value of mortgage securities	$580,715,275
Number of mortgages	42
Average loan size	$13,800,000
Average loan to valuation ratio	[redacted]
Total value of loans with interest built into the facility and/or capitalised	$513,929,017
Number of loans with interest built into the facility and/or capitalised	37
Total value of undrawn loan commitments over next 24 months (progressive loan draws) funded by cashflows of the Fund	5,000,000
Number of loans with undrawn loan commitments over next 24 months (progressive loan draws) funded by cashflows of the Fund	8
Average monthly undrawn loan commitments funded by cashflows of the Fund	$900,000

The valuation policy for the Fund's first mortgage securities is written into the lending guidelines of the Fund, forms part of the compliance plan for the Fund, and is subject to independent audit.

As at 31 January 2010 there were 25 borrowers. 8.11% of total monies was lent to the Fund's largest borrower and 56.03% of total monies was lent to the Fund's ten largest borrowers. The Fund does not have one single borrower that exceeds 10.00% of the Fund's assets.

Loan to Valuation Ratio (LVR)

LVR	No. of Loans	Value ($)
< 50.00%	2	8,726,053
50.01% - 60.00%	2	20,499,339
60.01% - 70.00%	2	17,490,701
70.01% - 80.00%	8	75,425,302
80.01% - 90.00%	[redacted]	[redacted]
90.01% - 100.00%	[redacted]	[redacted]
> 100%	[redacted]	[redacted]

The average LVR across the mortgage portfolio as at 31 January 2010 is 83.59%.

LM First Mortgage Income Fund Mortgage Securities by Maturity Profile as at 31 January 2010

Period Maturing	No. of Loans	Value ($)
0 – 12 months	41	577,285,393
– 24 months	1	3,429,882
25 – 36 months	0	0
37 – 48 months	0	0
49 – 60 months	0	0

Please note that whilst a large portion of the Fund's loans reach maturity over the forthcoming 12 months only some will repay the Fund around their maturity date.

LM First Mortgage Income Fund Portfolio Details as at 30 June 2010

Mortgage Portfolio Details	Actual
Total value of mortgage securities	$565,818,255
Number of mortgages	39
Average loan size	$14,500,000
Average loan to valuation ratio	86.56%
Total value of loans with interest built into the facility and/or capitalised	$514,996,552
Number of loans with interest built into the facility and/or capitalised	35
Total value of undrawn loan commitments over next 24 months (progressive loan draws) funded by cashflows of the Fund	1,600,000
Number of loans with undrawn loan commitments over next 24 months (progressive loan draws) funded by cashflows of the Fund	1
Average monthly undrawn loan commitments funded by cashflows of the Fund	$400,000

The valuation policy for the Fund's mortgage securities is written into the lending guidelines of the Fund, which are included on pages 6 and 7 of this document. They also form part of the compliance plan for the Fund, and as such the processes are included as part of the independent audit of the Fund.

The unit price of the fund remains $1.00 as per the audited financial report to end December 2009 signed off by the Fund's auditors on and current as at 7 June 2010.[1,3,4] The independent audit confirms that the financials represent a true and fair view of the financial position of the Fund.

Notwithstanding the value of loans capitalising interest, approximately $135 million of loans are generating income to the Fund from business and rental activity.

As at 30 June 2010 there were 25 borrowers. 8.38% of total monies was lent to the Fund's largest borrower and 58.29% of total monies was lent to the Fund's ten largest borrowers. The Fund does not have one single borrower that exceeds 10.00% of the Fund's assets.

Loan to Valuation Ratio (LVR)

LVR	No. of Loans	Value ($)
< 50.00%	3	10,326,345
50.01% - 60.00%	0	0
60.01% - 70.00%	3	21,512,976
70.01% - 80.00%	3	64,900,316
80.01% - 90.00%	11	171,886,083
90.01% - 100.00%	12	198,977,810
100.01% - 110.00%	7	98,213,745

The average loan to valuation across the mortgage portfolio as at 30 June, 2010 is 86.56%.

The average loan to valuation ratio of the fund has increased from sub 70% to 86.56% since the Fund closed to protect capital value and to prioritise repayment of the previous CBA line of credit facility. The unit price remains $1.00.[1,3,4] It is the loan to valuation ratio that has absorbed the impacts during this time, not the unit price. The conservative loan to valuation position the Fund adopts on initial setting of its loans has insulated it from the 2008 and 2009 softening in asset valuations. In addition the loan to valuation ratio has absorbed necessary capitalisation of interest and loan realisation costs which are due to the Fund and which are accruing for collection by the Fund when the borrower repays the Fund.

Where required the Fund has asserted its legal rights to take control and ensure the Fund is optimally positioned for recoverability.

In line with the Fund's investment policies certain assets within the Fund are secured by properties in various stages of ongoing development. Following the disruptions caused by the worldwide financial crisis, LM has assumed control of some assets in order to effectively manage the successful realisation of each property's development strategy. That strategy includes increasing an asset's loan to valuation ratio position above 100% where it is reasonable to do so based on overall expectations for recoverability of loan amount and interest. The most recent audited financial statements (signed on 7 June 2010) confirms the Manager's determination of full recoverability of these loan assets has been assessed on a fair and reasonable basis.

Whilst the Australian economy has continued its strong performance trends, liquidity in the "non-homeowner mortgage" sector remains tighter than has been evident in recent memory. The resultant effect has been a significant reduction in sales as raising finance for such a purchase is slow.

The most reasonable and the preferred exit and recovery strategy is to complete the ongoing development of each of these assets to position them for maximum property value on sale for recovery of original loan capital and interest due on the loans.

Comprehensive and detailed analysis of the assets supports full recoverability of Fund capital.

The audited financial report for the Fund for the period ending 31 December 2009, signed on 7 June 2010 confirms unit price of the full $1.00.[1,3,4]

010 www.LMaustralia.com > LM First Mortgage Income Fund

LM First Mortgage Income Fund Geographic Diversification

- New South Wales 24.21%
- Australian Capital Territory 1.70%
- Victoria 4.66%
- Queensland 61.52%
- Western Australia 7.03%
- Northern Territory 0.00%
- Tasmania 0.88%
- South Australia 0.00%

Geographic Guidelines	No. of Loans	Value ($)
New South Wales	9	111,632,366
Victoria	2	21,499,842
Queensland	14	283,673,411
South Australia	0	0
Australian Capital Territory	1	7,849,604
Western Australia	3	32,414,912
Northern Territory	0	0
Tasmania	1	4,032,940

LM First Mortgage Income Fund Portfolio Details as at 31 May 2011

Mortgage Portfolio Details	Actual
Total value of mortgage securities	$461,103,075
Number of mortgages	30
Average loan size	$20,047,960
Average loan to valuation ratio	91.98%
Total value of loans with interest built into the facility and/or capitalised	$413,803,804
Number of loans with interest built into the facility and/or capitalised	27
Total value of undrawn loan commitments over next 24 months (progressive loan draws) funded by cashflows of the Fund	Nil
Number of loans with undrawn loan commitments over next 24 months (progressive loan draws) funded by cashflows of the Fund	Nil
Average monthly undrawn loan commitments funded by cashflows of the Fund	Nil

The total value of loans generating income to the Fund from business and rental activities is approximately $154.1 million and includes some loans with interest capitalised.

As at 31 May 2011 there were 22 borrowers. 12.09% of total monies was lent to the Fund's largest borrower and 66.90% of total monies was lent to the Fund's ten largest borrowers. The Fund does not have one single borrower that exceeds 10.00% of the Fund's assets.

LM First Mortgage Income Fund Portfolio Details as at 31 October 2012

Mortgage Portfolio Details	Actual
Total value of mortgage securities	$326,102,759
Number of mortgages	27
Average loan size	$12,077,880
Average loan to valuation ratio	100%
Total value of loans with interest built into the facility and/or capitalised	$316,830,190
Number of loans with interest built into the facility and/or capitalised	25
Total value of undrawn loan commitments over next 30 months (progressive loan draws) funded by cashflows of the Fund	Nil
Number of loans with undrawn loan commitments over next 30 months (progressive loan draws) funded by cashflows of the Fund	Nil
Average monthly undrawn loan commitments funded by cashflows of the Fund	Nil

As at 31 October 2012 there were 21 borrowers. 15.89% of total monies was lent to the Fund's largest borrower and 79% of total monies was lent to the Fund's ten largest borrowers. The Fund has one borrower that exceeds 10.00% of the Fund's assets and 9 borrowers that exceed 5% of the Fund's assets. As the assets are sold and the number of mortgages decreases it is the Responsible Entity's expectation that the exposure of the Fund to each borrower will increase.

Loan to Valuation Ratio (LVR)

LVR	No. of Loans	Value ($)
< 50.00%	0	0
50.01% - 60.00%	0	0
60.01% - 70.00%	0	0
70.01% - 80.00%	0	0
80.01% - 90.00%	0	0
90.01% - 100.00%	27	326,102,759

The average loan to valuation across the mortgage portfolio as at 31 October 2012 is 100%. This is as a result of the Fund's closure, when due to the credit crunch and credit constraints during the global financial crisis, the majority of the Fund's borrowers were unable to meet the Fund's request for repayment of the loan at maturity, which resulted in the loans being in default. Loan to valuation ratio requirements have been exceeded as interest and recovery costs have been capitalised to the original loan amount concurrently with a softening in value of the property underlying the Fund's first mortgage. LM, utilising the strong legal position afforded by the Fund's first mortgage security over the assets, has taken control of the majority of assets on behalf Fund investors as required and is proceeding with an orderly sell down and realisation of the assets to result in pro-rata capital distributions to investors.

LM FIRST MORTGAGE INCOME FUND

BALANCE SHEET

As at 30 June 2008

	Notes	30 June 2008 Consolidated $	30 June 2008 Scheme $	30 June 2007 Consolidated $	30 June 2007 Scheme $
ASSETS					
Cash and cash equivalents	14	14,643,332	14,643,332	28,593,772	28,332,244
Receivables	13	4,797,790	4,797,789	6,997,000	6,934,391
Prepayments	12	7,845,017	7,845,017	3,482,170	3,482,170
Investments	8	-	1	5,654,350	1
Loans and receivables	9	606,824,738	606,824,738	834,505,081	840,505,081
TOTAL ASSETS		634,110,877	634,110,877	879,232,373	879,253,887
LIABILITIES					
Payables	10	878,796	878,796	481,752	503,266
Interest bearing loans and borrowings	11	150,000,000	150,000,000	90,466,662	90,466,662
Distributions payable	3(c)	3,305,015	3,305,015	4,959,322	4,959,322
Fair value of forward exchange contracts		40,606	40,606	-	-
TOTAL LIABILITIES EXCLUDING NET ASSETS ATTRIBUTABLE TO UNITHOLDERS		154,224,417	154,224,417	95,907,736	95,929,250
NET ASSETS ATTRIBUTABLE TO UNITHOLDERS	6	**479,886,460**	**479,886,460**	**783,324,637**	**783,324,637**

STATEMENT OF CHANGES IN EQUITY

For the year ended 30 June 2008

Net assets of the Scheme that are attributable to unitholders are classified as a liability rather than equity. As a result there was no equity at the start or end of the year. A *Statement of Changes in Net Assets Attributable to Unitholders* is disclosed in note 6.

LM MORTGAGE INCOME FUND

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

FOR THE FINANCIAL YEAR ENDED 30 JUNE 2003

8. RELATED PARTIES (cont)

Other transactions with the Scheme

From time to time directors LM Investment Management Limited, or their director-related entities, may invest or withdraw from the Scheme. These investments or withdrawals are on the same terms and conditions as those entered into by other Scheme investors.

Apart from the details disclosed in this note, no director has entered into a material contract with the Scheme since the end of the previous financial year and there were no material contracts involving directors' interests subsisting at year-end.

Related party transactions

Transactions with related parties are set out below:

Responsible Entity's remuneration	2003 $	2002 $
Total remuneration received or due and receivable:		
▪ Responsible Entity's fees for the year received directly from LM Mortgage Income Fund.	2,234,991	1,337,290
▪ Responsible Entity's fees earned by the Responsible Entity from other approved schemes invested in by LM Mortgage Income Fund.	-	524,895
▪ Other expenses included administration expenses incurred by the Responsible Entity, which are reimbursed to the Responsible Entity in accordance with the provisions of the Constitution.	173,889	18,300
Custodian's remuneration		
▪ Custodian's fees paid by Responsible Entity and reimbursed by the scheme	45,928	22,015

Balances with related parties

The aggregate amounts receivable from related parties by the Scheme at balance date are as follows:

LM Investment Management Ltd	1,139,543	-

These amounts are included in prepayments. No amounts are payable to related parties by the Scheme.

Investing activities

The Scheme has no investment in the Responsible Entity or its affiliates.

The Scheme may purchase and sell units in other approved schemes or investment entities operated by LM Investment Management Limited or its associates in the ordinary course of business at application and redemption prices calculated in accordance with the constitutions of those schemes. Details of LM Mortgage Income Fund's investments in other schemes operated by LM Investment Management Limited or its affiliates are set out below:

LM MORTGAGE INCOME FUND
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS
FOR THE FINANCIAL YEAR ENDED 30 JUNE 2004

8. RELATED PARTIES (continued)

Related party transactions

During the year the scheme sold a property as mortgagee in possession at an independent valuation to a related managed investment scheme The LM Property Performance Fund, full principal of $7,126,904 was recovered subsequent to balance date.

LM Special Participation Fund provides income assurance to investors in the Scheme. The LM Special Participation Fund agrees to underwrite interest payments to the Scheme at the discretion of the Responsible Entity, on behalf of borrowers. The LM Special Participation Fund does not guarantee the payment of all income, or return of capital. During the year, the Scheme has received underwriting payments on behalf of borrowers from a related scheme The LM Special Participation Fund totalling $4,414,918 (2003: $794,576) during the year.

Administration and funds management services are provided to the Scheme on behalf of the Responsible Entity by LM Administration Pty Limited. LM Administration Pty Ltd is paid a management fee for these services directly from scheme assets. In addition, LM Investment Management Limited is paid loan origination fees directly from the borrowers.

Remuneration of the Responsible Entity and related entities	2004 $	2003 $
Total remuneration received or due and receivable:		
▪ Fees for the year received directly from LM Mortgage Income Fund by LM Administration Pty Ltd	4,412,570	2,234,991
▪ Fees earned by LM Administration Pty Ltd from other approved schemes invested in by LM Mortgage Income Fund.	-	-
▪ Other expenses included administration expenses incurred by the Responsible Entity, which are reimbursed to the Responsible Entity in accordance with the provisions of the Constitution.	46,021	173,889
Custodian's remuneration		
▪ Custodian's fees paid by Responsible Entity and reimbursed by the scheme	70,806	45,928
Balances with related parties		
The aggregate amounts receivable from related parties by the Scheme at balance date are as follows:		
LM Administration Pty Ltd	1,935,881	1,139,543

These amounts are included in prepayments. No amounts are payable to related parties by the Scheme. The average monthly balance of prepayments during the year was $1,471,564 which was non-interest bearing. Interest foregone on the above amount if calculated at the weighted average cash rate of 5.29% would have been $77,845. If this revenue had been collected, the sum foregone would have been paid to LM Administration Pty Ltd as management fees during the year.

LM MORTGAGE INCOME FUND
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS
FOR THE FINANCIAL YEAR ENDED 30 JUNE 2005

8. RELATED PARTIES (cont'd)

Remuneration of the Responsible Entity and related entities

	2005 $	2004 $
Balances with related parties		
The aggregate amounts receivable from related parties by the Scheme at balance date are as follows:		
LM Administration Pty Ltd	3,354,615	1,935,881

These amounts are included in prepayments. No amounts are payable to related parties by the Scheme. The average monthly balance of prepayments during the year was $2,135,274 which was non-interest bearing. Interest foregone on the above amount if calculated at the weighted average cash rate of 5.32% would have been $113,602. If this revenue had been collected, the sum foregone would have been paid to LM Administration Pty Ltd as management fees during the year.

The LM Managed Performance Fund has second mortgage borrowings on loans that are first mortgages with the LM Mortgage Income Fund. The LM Managed Performance Fund on occasion may pay development & construction costs on those related loans.

Investing activities

The Scheme may purchase and sell units in other approved schemes or investment entities operated by LM Investment Management Limited or its associates in the ordinary course of business at application and redemption prices calculated in accordance with the constitutions of those schemes. Details of LM Mortgage Income Fund's investments in other schemes operated by LM Investment Management Limited or its affiliates are set out below:

Scheme name 30 June 2005	Investment at year end	Interest held in related scheme at year end	Number of Units acquired during the year	Number of Units redeemed during the year	Distribution paid or payable
LM Select Mortgage Income Fund	59,953	0.00%	-	-	-
30 June 2004					
LM Select Mortgage Income Fund	59,953	0.75%	-	-	-
LMQ Mortgage Facilities	-	-	-	9,976	-

These investments are on normal terms and conditions.

LM MORTGAGE INCOME FUND

Notes to the financial statements for the year ended 30 June 2006

	2006 Consolidated $	2005 Scheme $	2005 Scheme $
Total remuneration received or due and receivable			
▪ Fees for the year paid directly by the Scheme to LM Administration Pty Ltd	10,683,880	10,683,880	7,874,560
▪ Fees earned by LM Administration Pty Ltd from other approved schemes invested in by Scheme.	-	-	-
▪ Other expenses including administration expenses incurred by the Responsible Entity, which are reimbursed to the Responsible Entity in accordance with the provisions of the Constitution.	489,342	489,342	127,880
Custodian's remuneration			
▪ Custodian's fees paid by Responsible Entity and reimbursed by the Scheme	305,059	305,059	235,055
Balance with related parties			
Aggregate amounts receivable from related parties by the Scheme were as follows:			
▪ LM Administration Pty Limited (management fees prepaid by the Scheme)*(i)*	3,869,587	3,869,587	3,354,615
▪ LM MIF Investments Pty Limited *(ii)*	-	6,000,000	-
▪ Australian International Investments Pty Limited *(iii)*	1,690,000	1,690,000	1,690,000

(i) These amounts are included in prepayments. No amounts are payable to related parties by the Scheme. The average monthly balance of prepayments during the year was $3,504,032 which was non-interest bearing. Interest foregone on the above amount if calculated at the weighted average cash rate of 5.54% would have been $194,123. If this revenue had been collected, the sum foregone would have been paid to LM Administration Pty Ltd as management fees during the year.

(ii) LM MIF Investments Pty Limited has an unsecured interest bearing loan with the Scheme. This facility was entered into on an arms length basis and is on normal terms and conditions.

(iii) Peter Charles Drake is a director and guarantor of Australian International Investment Services Pty Ltd which is a joint borrower in a loan facility outstanding to the Scheme as at 30 June 2006 for $1,690,000 (MORT 2157). This transaction was approved on an arms length basis and is on normal terms and conditions.

The LM Managed Performance Fund has second mortgages on loans that are first mortgages of the LM Mortgage Income Fund totalling $19,636,287 (2005: $2,831,822). The LM Managed Performance Fund may on occasion pay development and construction costs on those related loans.

LM FIRST MORTGAGE INCOME FUND

Notes to the financial statements 30 June 2007

	30 June 2007		30 June 2006	
	Consolidated	Scheme	Consolidated	Scheme
	$	$	$	$
Total remuneration received or due and receivable				
■ Fees for the year paid directly by the Scheme to LM Administration Pty Ltd	9,934,860	9,934,860	10,683,880	10,683,880
■ Fees earned by LM Administration Pty Ltd from other approved schemes invested in by Scheme.	-	-	-	-
■ Other expenses including administration expenses incurred by the Responsible Entity, which are reimbursed to the Responsible Entity in accordance with the provisions of the Constitution.	386,755	386,755	489,342	489,342
Custodian's remuneration				
■ Custodian's fees paid by the Scheme	185,054	185,054	305,059	305,059
Balance with related parties				
Aggregate amounts receivable from related parties by the Scheme were as follows:				
■ LM Administration Pty Limited (management fees prepaid by the Scheme)*(i)*	2,793,556	2,793,556	3,869,587	3,869,587
■ LM MIF Investments Pty Limited *(ii)*	-	6,000,000	-	6,000,000
■ Australian International Investments Pty Limited *(iii)*	2,520,000	2,520,000	1,690,000	1,690,000

i). These amounts are included in prepayments. No amounts are payable to related parties by the Scheme. The average monthly balance of prepayments during the year was $7,204,945 (2006: $3,504,032) which was non-interest bearing. Interest foregone on the above amount if calculated at the weighted average cash rate of 5.57% would have been $401,315 (2006: $194,123). If this revenue had been collected, the sum foregone would have been paid to LM Administration Pty Ltd as management fees during the year.

ii). LM MIF Investments Pty Limited has an unsecured interest bearing loan with the Scheme. This facility was entered into on an arms length basis and is on normal terms and conditions.

iii). Peter Charles Drake is a director and guarantor of Australian International Investment Services Pty Ltd which is a joint borrower in a loan facility outstanding to the Scheme as at 30 June 2007 for $2,520,000 (2006: $1,690,000). This transaction was approved on an arms length basis and is on normal terms and conditions.

LM FIRST MORTGAGE INCOME FUND

	30 June 2008		30 June 2007	
	Consolidated	Scheme	Consolidated	Scheme
	$	$	$	$
Total remuneration received or due and receivable				
• Fees for the year paid directly to LM Administration Pty Ltd	5,801,477	5,801,477	9,934,860	9,934,860
• Expenses including administration expenses incurred by the Responsible Entity and its associated entities, which are reimbursed in accordance with the provisions of the Constitution.	-	-	386,755	386,755
• Expenses including administration expenses incurred by LM Administration Pty Ltd, which are reimbursed in accordance with the provisions of the Constitution.	826,743	826,743	-	-
• Loan origination fees received by borrowers within the Scheme that were reimbursed to the Responsible Entity for the administration of loan origination services	9,410,607	3,381,487	9,410,607	3,381,487
Custodian's remuneration				
• Custodian's fees paid by the Scheme	157,876	157,876	185,054	185,054
Balance with related parties				
Aggregate amounts receivable from related parties by the Scheme were as follows:				
• LM Administration Pty Ltd (management fees prepaid by the Scheme)*(i)*	6,716,960	6,716,960	2,793,556	2,793,556
• LM MIF Investments Pty Limited *(ii)*	-	-	-	6,000,000
• Australian International Investments Pty Limited *(iii)*	7,780,093	7,780,093	2,520,000	2,520,000
• LM Managed Performance Fund (*iv*)	5,100,000	5,100,000	-	-

i). These amounts are included in prepayments of $7,845,017 at 30 June 2008. No amounts are payable to related parties by the Scheme. The average monthly balance of prepayments during the year was $6,632,631 (2007: $7,204,945) which was non-interest bearing. Interest foregone on the above amount if calculated at the weighted average cash rate of 5.94% would have been $393,978 (2007: $401,315). If this revenue had been collected, the sum foregone would have been paid to LM Administration Pty Ltd as management fees during the year.

ii). LM MIF Investments Pty Limited had an unsecured interest bearing loan with the Scheme. This facility was entered into on an arms length basis and is on normal terms and conditions.

iii). Peter Charles Drake is a director and guarantor of Australian International Investment Services Pty Ltd which is a joint borrower in a loan facility outstanding to the Scheme as at 30 June 2008 for $7,780,093 (2007: $2,520,000). This transaction was approved on an arms length basis and is on normal terms and conditions.

LM FIRST MORTGAGE INCOME FUND

Notes to the Financial Statements 30 June 2009

	30 June 2009 Scheme $	30 June 2008 Consolidated $	30 June 2008 Scheme $
Responsible Entity remuneration received or due and receivable			
• Management fees for the year paid or payable directly to LM Administration Pty Ltd	10,310,762	5,801,477	5,801,477
• Management fees for the year paid or payable to LM Investment Management Limited	5,100,000	-	-
• Expenses including administration expenses incurred by the Responsible Entity and its associated entities, which are reimbursed in accordance with the provisions of the Constitution.	-	-	-
• Expenses including administration expenses incurred by LM Administration Pty Ltd, which are reimbursed in accordance with the provisions of the Constitution.	960,259	826,743	826,743
• Loan origination fees received by borrowers within the Scheme that were reimbursed to the Responsible Entity for the administration of loan origination services	2,194,460	9,410,607	3,381,487
Custodian's remuneration			
• Custodian's fees paid by the Scheme	123,356	157,876	157,876
Balance with related parties			
Aggregate amounts receivable from related parties by the Scheme were as follows:			
• LM Administration Pty Ltd (management fees prepaid by the Scheme)*(i)*	6,000,000	6,716,960	6,716,960
• Australian International Investments Pty Limited *(ii)*	7,669,589	7,780,093	7,780,093
• LM Managed Performance Fund *(iii)*	41,745,359	5,100,000	5,100,000
• LM Currency Protected Australian Income Fund *(iv)*	100,000	-	-

i). These amounts are included in prepayments of $6,269,970 at 30 June 2009. No amounts are payable to related parties by the Scheme. The average monthly balance of prepayments during the year was $7,973,684 (2008: $6,632,631) which was non-interest bearing. Interest foregone on the above amount if calculated at the weighted average cash rate of 4.75% (2008: 5.94%) would have been $378,750 (2008: $393,978). If this revenue had been collected, the sum foregone would have been paid to LM Administration Pty Ltd as management fees during the year.

This prepaid management fee will be recovered through LM Administration Pty Ltd's Agreement to offset future payable management fees.

LM FIRST MORTGAGE INCOME FUND

Notes to the Financial Statements for the year ended 30 June 2010

11. RELATED PARTIES (Continued)

Other transactions with the Scheme (Continued)

Balance with related parties	2010	2009
Aggregate amounts receivable from related parties by the Scheme were as follows:		
• LM Administration Pty Limited (management fees prepaid by the Scheme)*(i)*	8,200,000	6,000,000
• Australian International Investments Pty Limited *(ii)*	7,849,604	7,669,589
• LM Managed Performance Fund *(iii)*	31,357,590	41,745,359
• LM Currency Protected Australian Income Fund *(iv)*	-	100,000
Aggregate amounts payable to related parties from the Scheme were as follows:		
• John O'Sullivan *(v)*	66,984	17,794

i). These amounts are included in prepayments of $8,401,148 at 30 June 2010 (2009: $6,269,970). No amounts are payable to related parties by the Scheme. The average monthly balance of prepayments during the year was $6,183,333(2009: $7,973,684) which was non-interest bearing. Interest foregone on the above amount if calculated at the weighted average cash rate of 3.57% (2009: 4.75%) would have been $220,745 (2009: $378,750). If this revenue had been collected, the sum foregone would have been paid to LM Administration Pty Limited as management fees or reduction in change in net assets attributable to unitholders during the year.

The prepaid management fee increased due to the directors resolving to absorb an additional provision for impairment loss through a reduction of management fee charged, this resulted in an increase in prepaid management fee. This prepaid management fee will be recovered through LM Administration Pty Limited's Agreement to offset future payable management fees or through guarantee from Peter Charles Drake.

ii). Peter Charles Drake is a director and guarantor of Australian International Investment Services Pty Limited which is a joint borrower in a secured loan facility outstanding to the Scheme as at 30 June 2010 for $7,849,604 (2009: $7,669,589). This transaction was approved on an arm's length basis and is on normal terms and conditions.

iii). This amount relates to the assignment of debt of $1,829,700 (2009: $5,100,000) from LM Administration Pty Limited to LM MPF which was originally a prepayment of management fees from the Scheme to LM Administration Pty Limited. Plus the loans and receivable balance at 30 June 2010 of $29,527,890 (2009: $36,645,359).

iv). This amount relates to payments for margin calls on behalf of LM Currency Protected Australian Income Fund. This transaction was paid on normal terms and at arm's length.

v). John O'Sullivan is the beneficial owner of O'Sullivan Capital Management Limited, which has been engaged by LM Investment Management Limited to provide marketing services in New Zealand. For the year ended 30 June 2010, $121,541 (2009: $112,134) in adviser marketing commission has been earned, with $66,984 (2009:17,794) remaining payable. This engagement is on normal commercial terms and at arm's length.

LM FIRST MORTGAGE INCOME FUND

Notes to the Financial Statements for the year ended 30 June 2011

11. RELATED PARTIES (Continued)

Other transactions with the Scheme (Continued)

Balance with related parties

	2011	2010
Aggregate amounts receivable from related parties by the Scheme were as follows:		
• LM Administration Pty Limited (management fees prepaid by the Scheme)*(i)*	8,200,000	8,200,000
• Australian International Investments Pty Limited *(ii)*	7,849,604	7,849,604
• LM Managed Performance Fund *(iii)*	-	31,357,590
Aggregate amounts payable to related parties from the Scheme were as follows:		
• John O'Sullivan *(iv)*	162,609	66,984

i). These amounts are included in prepayments of $8,200,000 at 30 June 2011 (2010: $8,200,000). No amounts are payable to related parties by the Scheme. The average monthly balance of prepayments during the year was $8,200,000 (2010: $6,183,333) which was non-interest bearing. Interest foregone on the above amount if calculated at the weighted average cash rate of 4.02% (2010: 3.57%) would have been $329,640 (2010: $220,745). If this revenue had been collected, the sum foregone would have been paid to LM Administration Pty Limited as management fees or reduction in change in net assets attributable to unitholders during the year.

This prepaid management fee will be recovered through LM Administration Pty Limited's Agreement to offset future payable management fees or through guarantee from a director, Peter Charles Drake.

ii). Peter Charles Drake is a director and guarantor of Australian International Investment Services Pty Limited which is a joint borrower in a secured loan facility outstanding to the Scheme as at 30 June 2011 for $7,849,604 (2010: $7,849,604). This transaction was approved on an arm's length basis and is on normal terms and conditions.

iii). During August 2008, three mortgage loans were assigned from the Scheme to LM Managed Performance Fund ('LM MPF') as LM MPF's mandate was more appropriate to take over the future development on behalf of the original borrowers. This assignment was done on commercial terms and conditions on an arm's length basis. This loan between the Scheme and LM MPF is interest bearing at 7%. The amount of interest being charged on the loan during the period was $1,030,712.

LM MPF has successfully settled the full value of these loans as at 30 June 2011 (2010: $29,527,890).

LM MPF has settled the amount, including interest charged during the period through:

1) Cash settlement of $1,251,039;

2) payments of the Scheme's fund expenses, management fees and net settlements on foreign currency trades on behalf of the Scheme totalling $13,166,399;

3) payments on behalf of the feeder funds have been settled by the feeder funds through redemption of their investment in the Scheme (see table below);

10. RELATED PARTIES (Continued)

Other transactions with the Scheme (Continued)

The LM Managed Performance Fund (LM MPF) has second mortgages on loans that are first mortgages of the Scheme totalling $60,281,381 (2011: $46,158,276). LM MPF may on occasion pay development and construction costs on those related loans. As part of its role as second mortgagee, LM MPF will fund interest payments from time to time within approved loan facility limits. During the 30 June 2012 year, interest payments totalling $635,999 (2011: $915,954) were paid by LM MPF on behalf of borrowers.

	2012 $	2011 $
Responsible Entity remuneration received or due and receivable		
• Management fees for the year paid or payable directly from LM Administration Pty Limited	9,103,864	10,997,188
• Expenses including administration expenses incurred by the Responsible Entity and its associated entities, which are reimbursed in accordance with the provisions of the Constitution	28,983	791,164
• Expenses including administration expenses incurred by the Responsible Entity and its associated entities, which are not reimbursed	38,524	-
• Loan management fees paid to the Responsible Entity for loan management and controllership services provided by the Responsible Entity on behalf of the Scheme in replacement of appointing external receivers. These fees are charged directly to the borrowers to facilitate possible future recovery.	4,817,414	5,381,516
Custodian's remuneration		
• Custodian's fees paid by the Scheme	77,904	112,324
Balance with related parties		
Aggregate amounts receivable from related parties by the Scheme were as follows:		
• LM Administration Pty Limited (management fees prepaid by the Scheme)*(i)*	-	8,200,000
• Australian International Investments Pty Limited *(ii)*	8,209,841	7,849,604
• LM Managed Performance Fund *(iii)*	1,708,131	-
Aggregate amounts payable to related parties from the Scheme were as follows:		
• LM Administration Pty Limited (management fees payable by the Scheme) (i)	2,470,000	-
• John O'Sullivan (iv)	109,157	162,609

LM FIRST MORTGAGE INCOME FUND

Notes to the Financial Statements 30 June 2009

	30 June 2009	30 June 2008	
	Scheme	Consolidated	Scheme
	$	$	$
Movement in Default loans			
Gross default loans opening balance	101,159,653	83,826,384	83,826,384
New and increased default loans	268,567,327	59,907,804	59,907,804
Balances written off	(15,307)	(754,152)	(754,152)
Returned to performing or repaid	(38,237,959)	(41,820,383)	(41,820,383)
Gross default loans closing balance	331,473,714	101,159,653	101,159,653
Specific provision	(2,667,000)	(2,716,521)	(2,716,521)
Net default loans	328,806,714	98,443,132	98,443,132

At 30 June 2009, the balance of loans that were past due but not impaired was $304,553,260 (2008: $63,789,822). As per the Scheme's policy, loans are impaired once they exceed 90 days overdue.

At 30 June 2009, $26,920,454 of loans were individually impaired, with a total impairment loss of $2,667,000.

Loans are secured by land, development property or completed construction property. The fair value of security over loans that are past due but not impaired at 30 June 2009 was $389,017,914 (2008: $73,192,466).

As at 30 June 2009 the Scheme was mortgage in possession of security relating to loans in default of $331.5million (2008: $46.4million) and had taken possession of assets offered as collateral security valued at $415.4million (2008: $59.8million).

Interest on arrears loans is suspended and not brought to account if the Responsible Entity considered that the amounts are not ultimately recoverable from the sale proceeds of the property. The amount of suspended interest at 30 June 2009 totalled $6,532,157 (2008: $3,078,983).