

**SUPREME COURT OF QUEENSLAND**

**REGISTRY: Brisbane**  
**NUMBER: 3508 of 2015**

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

First Applicants: **JOHN RICHARD PARK AND GINETTE DAWN MULLER AS LIQUIDATORS OF LM INVESTMENT MANAGEMENT LIMITED (IN LIQUIDATION) (RECEIVERS APPOINTED) ACN 077 208 461 THE RESPONSIBLE ENTITY OF THE LM FIRST MORTGAGE INCOME FUND ARSN 089 343 288**

AND

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

AND

Respondent: **DAVID WHYTE AS THE PERSON APPOINTED TO SUPERVISE THE WINDING UP OF THE LM FIRST MORTGAGE INCOME FUND ARSN 089 343 288 PURSUANT TO SECTION 601NF OF THE CORPORATIONS ACT 2001**

**JOHN RICHARD PARK** of 22 Market Street, Brisbane, Queensland, Official

Liquidator and Chartered Accountant states on oath:-

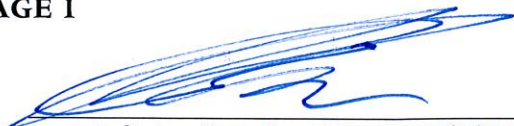
1. I am an official liquidator and chartered accountant. I am the first named First Applicant in this proceeding.

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**PAGE 1**



Signed



Solicitor/Barrister/Justice of the Peace

**AFFIDAVIT OF JOHN RICHARD PARK**

Filed on behalf of the Applicants

Form 46 Rule 431

**Russells**  
Level 18  
300 Queen Street  
**BRISBANE 4000**  
Phone: 07 3004 8888  
Fax: 07 3004 8899

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2. I refer to:-
- (a) my earlier affidavit in respect of this application, filed in this proceeding on 28 January, 2016 (“**my Earlier Affidavit**”); and
  - (b) the affidavit of Mr Whyte in respect of this application, filed in this proceeding on 19 February, 2016 (“**Mr Whyte’s Affidavit**”).
3. Save as where otherwise indicated, capitalised terms in this affidavit have the same meaning as in my Earlier Affidavit.
4. Now produced and shown to me and marked “**JRP-2**” is an indexed, paginated bundle of documents to which I shall refer in this affidavit. References to page numbers in [ ] are references to the page numbers of JRP-2.
5. Having reviewed my Earlier Affidavit and Mr Whyte’s Affidavit:-
- (a) there are some matters in my Earlier Affidavit which I wish to clarify or correct;
  - (b) there are some matters in Mr Whyte’s Affidavit to which I wish to respond (and to which I can respond in the short time that has passed since receiving Mr Whyte’s Affidavit).

#### **The Purpose of LMIM/LMA**

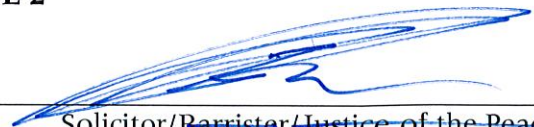
6. Based on my investigations as administrator and liquidator of LMIM and as administrator of LMA, it is my view that it would be appropriate to characterise both LMIM and LMA as ‘professional trustees’. That is, the predominant purpose of those companies was to act as responsible entity and trustee (and, in LMA’s case, to perform

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the services one would expect of a responsible entity and trustee, although it did not hold that position) of the Funds.

7. It was a requirement of the Australian Financial Services Licence, a copy of which appears at [1] to [26], that (subject to certain exceptions) LMIM hold net tangible assets of at least \$5 million.

8. At the time of my appointment, LMIM had:-

- (a) cash at bank of approximately \$1,059,892;
- (b) related party loans due to it in the books of the company at \$779,510;
- (c) shares in related entities valued in the books of the company at \$667,227;
- (d) interests in real property, valued by the directors at \$5,401,427:-
  - (i) at 20 Albatross Avenue, Mermaid Beach, to the extent of 57% of the equity in that property; and
  - (ii) at 38 Cavill Avenue, being the premises from which LMIM's and LMA's business was conducted, to the extent of 66% of the equity in that property.
- (e) liabilities in its own right of approximately \$1,065,045.

#### **Issues raised by Mr Whyte's Affidavit**

9. My solicitors, Russells, received Mr Whyte's Affidavit in three emails at 3.23 pm, 3.26 pm and 3.27 pm on Friday 19 February, 2016. Copies of the emails attaching Mr Whyte's Affidavit, which were sent to me, appear at [27] to [29].

#### *Category 1 Remuneration*

10. All of the work claimed as Category 1 remuneration for the FMIF is for work which is directly associated with the external controllership of the FMIF. Some,

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although I cannot presently say what proportion, is directly connected with the identification, recovery, realisation, protection or distribution (or attempts thereto) of the assets of the FMIF.

11. If this Honourable Court is of the view that proportion ought to be calculated and hence a different analysis of the remuneration sought by this application would be necessary, I would seek to have that analysis performed by an independent expert or assessor.

*Other Remuneration*

12. Paragraphs 6 to 9 of Mr Whyte's Affidavit deposes to other remuneration which Ms Muller and I have received in the course of our appointment as administrators and liquidators of LMIM and LMA.

13. At [30] is a table showing how the sum of \$1,220,159.88 referred to in Mr Whyte's Affidavit was calculated, which is drawn from the records maintained by my firm for the purpose of accounting for our remuneration.

14. The sum of \$1,220,159.88 is made up of:-

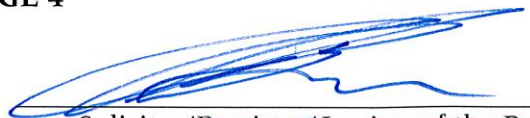
- (a) remuneration for work relating to LMIM in its own right (and not concerning the Funds), undertaken by the voluntary administrators and which is included in the amounts referred to in paragraphs 54 and 55 of my Earlier Affidavit for the period between 19 March, 2013 to 30 June, 2013 in the amount of \$575,823.93 (inclusive of GST);
- (b) remuneration for work relating to the AIF, being Category 1 remuneration, for the period between 19 March, 2013 to 31 July, 2013 in the amount of \$121,854.00 (inclusive of GST);

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- (c) remuneration for work relating to the MPF, being Category 1 remuneration, for the period between 19 March, 2013 to 30 June, 2013 in the amount of \$280,489.35 (inclusive of GST);
- (d) remuneration for work relating to the CPF, being Category 1 remuneration, for the period between 19 March, 2013 to 31 July, 2013 in the amount of \$4,320.25 (inclusive of GST);
- (e) remuneration for work relating to the FMIF, being Category 1 remuneration, for the period between 19 March, 2013 to 31 July, 2013 in the amount of \$32,005.60 (inclusive of GST);
- (f) the portions of the Category 2 remuneration claimed in this application, which have been paid in the proportions set out in the Category 2 Schedule ([592] to [593] of the exhibits to my Earlier Affidavit) by the AIF and the CPF in the amount of \$83,523.85; and
- (g) the Category 3 remuneration, being the remuneration referred to in paragraph 39 of my Earlier Affidavit, in the amount of \$122,142.90. This amount was reviewed and approved for payment out of the assets of the FMIF by McGrath Nichol. The amounts were allocated to the specific loan accounts of the relevant controllership.

15. There is a difference between the amounts in paragraph 14(e) above and paragraph 88 of my Earlier Affidavit. The amount of \$36,092.50 (which excludes GST) was initially claimed as Category 3 remuneration. That allocation was questioned by McGrath Nichol with the result that it was re-allocated to Category 1 and subsequently approved for payment by McGrath Nichol.

16. The sum of \$32,005.60 referred to in paragraph 14(e) above relates to the period of the voluntary administration, for which there is creditor approval. That



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amount is the sum of \$29,096 (excluding GST). The balance of \$6,996.50 (excluding GST), while paid by the FMIF to LMIM, has not been drawn by Ms Muller and I because it is the subject of a claim for approval in this application.

17. The remuneration which was approved by the meetings referred to in paragraphs 54 and 55 of my Earlier Affidavit and is the subject of this application is the Category 2 remuneration for the period from 19 March, 2013 to 1 August, 2013.

18. The application does not seek the Court's approval of those amounts (which have already been approved by creditors) but rather, seeks a direction pursuant to section 96 of the *Trusts Act 1973* as to how such remuneration (which relates to all Funds) is to be apportioned across all Funds.

*MPF Remuneration*

19. The initial claim made by Ms Muller and I for indemnity (which included remuneration, costs and expenses) against the MPF totalled approximately \$2.2 million. That claim resulted in a commercial resolution approved by this Honourable Court in the amount of approximately \$1.679 million.

20. That difference (herein referred to as "**the MPF Shortfall**") has been allocated to the costs of the winding up of LMIM, in its own right. No part of the MPF Shortfall is included in the Category 1 or Category 2 remuneration claimed in this application.

21. As I deposed in paragraphs 34 and 35 of my Earlier Affidavit, I have always understood the need to ensure that the only work charged to a Fund was work undertaken for the benefit of that Fund.

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*'Corporate' Remuneration*

22. This application does not seek the approval of any remuneration related to the company in its own right or which would be required in any winding up. There is no committee of inspection in the liquidation of LMIM (though there was one in the voluntary administration of LMIM).

23. No time entries recorded on the time code referred to in paragraph 36(b) of my Earlier Affidavit (being LMIM in its own right) are included in this application. The time code referred to in paragraph 36(a) of my Earlier Affidavit relates to Category 2 remuneration, that is, remuneration relevant to LMIM's position as responsible entity of the Funds.

24. Approval of the remuneration relevant to LMIM in its own right may, subject to whatever legal advice I may receive, be sought at a meeting of creditors.

*The Order of Dalton J*

25. The order of this Honourable Court as to the costs of the proceedings in which Mr Whyte was appointed, was made on LMIM's undertaking that it will not seek from the FMIF any remuneration, costs or expenses (including legal fees) of or incidental to the meeting convened by the notice dated 26 April, 2013 (including the adjournment thereof). A copy of the reasons of Her Honour Justice Dalton appears in *Re Bruce & Anor v LM Investment Management Limited & Ors (No 2)* [2013] QSC 347 appears at [31] to [42].

26. Ms Muller and I have not claimed, by this application, any remuneration for the meeting referred to in Her Honour's orders. I confirm that time entries to the

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value of \$113,162.50 incurred in relation to that meeting have not (and will not) be sought from the FMIF.

*The position of LMIM*

27. Paragraphs 57 to 58 of Mr Whyte's Affidavit seem to infer that LMIM has some substantial assets in its own right.

28. At [43] to [44] is an estimated statement of the position of LMIM as at 31 January, 2016. The statement is a document which is maintained by my staff and updated from time to time as required, based of the records maintained by my firm for the purposes of administering the winding up of LMIM.

29. LMIM has assets in its own right of between \$508,790 to \$1,391,941 (the difference being attributable to a pessimistic and optimistic view of the assets which Ms Muller and I may recover for the benefit of LMIM).

30. LMIM has incurred liabilities which have a priority to be paid out of the above sum pursuant to section 556 of the Act, of between \$2,862,737 to \$2,942,206.

31. Accordingly, my best estimate of the position of LMIM in its own right is that there will be a deficit of assets over priority liabilities of between \$1,470,796 to \$2,433,416.

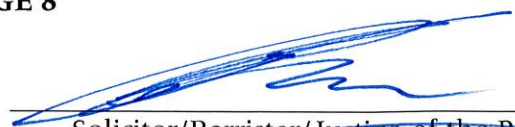
32. Since his appointment, Mr Whyte (in consultation with McGrath Nichol) has caused to be paid several costs and expenses of LMIM pursuant to LMIM's right of indemnity.

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33. A schedule of those payments appears at [45] to [46]. There are 56 such transactions totalling \$1,105,932.15 (including GST). At [47] to [56] is some correspondence passing between the parties' solicitors relevant to some of those transactions.

*The Management Fee Issue*

34. I refer to the letter from Russells to Tucker and Cowen dated 19 February, 2016, which appears as exhibit DW-17 to Mr Whyte's Affidavit.

35. In the period immediately following Ms Muller's and my appointment as voluntary administrators, it was not clear to us what the actual operating costs of LMIM and LMA were. We could see from the books of those companies what had historically been drawn pursuant to the services agreement with LMA, referred to in paragraph 16 of my Earlier Affidavit.

36. While we undertook an analysis of those operating costs, Ms Muller and I needed to draw money from the Funds to meet the ongoing 'hard costs' of the business. We decided to do so by continuing the historical practice of drawing management fees.

37. That method was intended (and, in fact, did) serve as an interim method of meeting the costs of staff salaries, utilities, rent and the like while Ms Muller and I investigated and ascertained the actual funding requirements of the business.


38. Those costs were allocated across the Funds on the FUM basis.

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39. The entries in the ledger transaction list at exhibit DW-32 to Mr Whyte's Affidavit, to the extent they reveal a management fee, are management fees drawn in accordance with that interim practice.

40. Ms Muller and I on behalf of LMIM have never, and will not, draw a management fee from any Fund as previously drawn by LMIM prior to the appointment of administrators.

41. The ledger account code 1400 is for the payment (relevantly, prepayment) which existed at the time of my appointment. The final entry in the ledger account reflects an offset in the amount of \$1,103,596.21 against that account. That is a transaction necessary to return the internal ledgers to the state they were in upon my and Ms Muller's appointment, once the operating costs of the business became clearer.

42. That transaction is reflected in invoice '8974inv1' which appears at page 474 of exhibit DW-25 to Mr Whyte's Affidavit. That invoice reflects the portion charged by LMIM to the FMIF for operational expenses of the funds management business on a FUM basis. It credits the 'management fees' drawn to that time.

43. The entire operational cost of the business for the period from 19 March, 2013 to 30 June, 2013 is reflected in an invoice from LMA to LMIM pursuant to the LMA Services Agreement (and therefore described as a 'Resource Fee'), which appears at page 475 of exhibit DW-25 to Mr Whyte's Affidavit.

44. I refer to paragraphs 100 and 101 of my Earlier Affidavit. I wish to correct the statements made therein as follows:-

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- (a) I wish to delete the words 'and Expenses' from the third line of paragraph 100; and
- (b) to the extent that the expression 'pursuant to the LMA Services Agreement' could be viewed as implying that I consider that my and Ms Muller's remuneration as administrators of LMA is authorised or approved by the LMA Services Agreement, that is not the case.

45. The remuneration of Ms Muller and I as administrators of LMA is embodied in the invoices from LMA to LMIM which are referred to in sub-paragraphs 101(a) and 101(b) of my Earlier Affidavit and appear at [834] and [835] of the exhibits to my Earlier Affidavit respectively.

46. To the extent those invoices describe my and Ms Muller's remuneration as administrators of LMA as an 'Additional Resources Fee' or suggest that Ms Muller and I consider the LMA Services Agreement authorises or somehow otherwise approves that remuneration, it is a misnomer.

*Net Fund Value*

47. I understand from paragraphs 62 to 79 of Mr Whyte's Affidavit that he contends that, if there is any Category 2 remuneration to be charged to the Funds, it ought to be done on the basis of the proportionate amount of Net Fund Value.

48. While I consider that FUM is the most appropriate method of allocating remuneration, costs and expenses across the Funds, if this Honourable Court were to take a different view, I would not object to that course.



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49. That said, I have some concerns about whether relative Net Fund Value is the appropriate methodology. While Mr Whyte deposes to having had the assets of the FMIF valued following his appointment:-

- (a) it is not clear whether that has been done for the financial reporting periods since 30 June, 2013; and
- (b) the assets of the Other Funds have not all been the subject of a formal valuation.

50. In my view, if relative Net Fund Value is to be the method by which Category 2 remuneration is to be allocated, it must be done on a comparable basis, such that no Fund is disadvantaged in having had or not had a formal valuation of its assets undertaken.

51. In my experience as a professional liquidator, obtaining formal valuations can be quite expensive relative to the value of the particular asset to be assessed. There are undoubtedly occasions where it would be appropriate to obtain such a valuation, for example, when considering the sale of the asset.

52. However, in my professional judgement, I would not consider the allocation of the costs of a winding up to be an appropriate occasion to incur such an expense, particularly if there was an ongoing requirement to have such costs allocated in that fashion and hence an ongoing need for valuations to be obtained.

*Miscellaneous matters*

53. At [57] to [59] are schedules showing the scale of rates charged by BDO, which are exhibited to Mr Whyte's various affidavits in support of the approval he has obtained in this Honourable Court of his remuneration.



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54. The secured creditor, Deutsche Bank, was paid in full on or about 13 January, 2014.

55. Some previous orders have been made by this Honourable Court allocating costs in a particular way. They appear at [60] to [96].

56. On 22 September, 2014, I received correspondence from McGrath Nichol regarding the way in which they proposed FMIF and the Other Funds would pay for the operational costs of LMA. That correspondence, and its enclosures, appears at [97] to [130].

57. In preparing for this application, I have noticed two further errors in the material exhibited to my Earlier Affidavit, as follows:-

- (a) Exhibit 21, being the bundle of invoices and ARITA Tables for the Category 2 claim is missing the invoice, ARITA table and allocation table for the month of September, 2013. Those documents were inadvertently excluded from the exhibits to my Earlier Affidavit and appear at [131] to [147];
- (b) The invoice which appears at [850] of the exhibits to my Earlier Affidavit is the invoice to the FMIF for Category 2 remuneration for the month of December, 2013. The invoice erroneously lists the entire amount of Category 2 remuneration for that month as payable by the FMIF. Instead, consistently with the Category 2 Schedule, the FMIF ought only have been invoiced its proportionate amount for that month, being the sum of \$11,313.73 (excluding GST).



Signed



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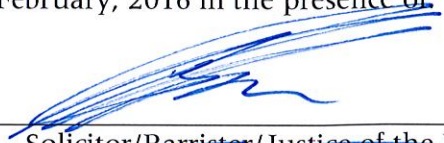
That invoicing error has not been replicated in the Category 2 Schedule or Schedule 6 to the Further Amended Originating Application filed 16 December, 2015. Therefore, the invoicing error does not effect the total amount claimed against the FMIF for Category 2 remuneration.

58. All the facts and circumstances deposed to are within my own knowledge save such as are deposed to from information only and my means of knowledge and sources of information appear on the face of this my Affidavit.

**SWORN** by **JOHN RICHARD PARK** on 22 February, 2016 in the presence of:



Deponent



Solicitor/Barrister/Justice of the Peace

**Sean Charles Russell**  
Solicitor

SUPREME COURT OF QUEENSLAND

REGISTRY: Brisbane  
NUMBER: 3508 of 2015

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

First Applicants: **JOHN RICHARD PARK AND GINETTE DAWN MULLER AS LIQUIDATORS OF LM INVESTMENT MANAGEMENT LIMITED (IN LIQUIDATION) (RECEIVERS APPOINTED) ACN 077 208 461 THE RESPONSIBLE ENTITY OF THE LM FIRST MORTGAGE INCOME FUND ARSN 089 343 288**

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Respondent: **DAVID WHYTE AS THE PERSON APPOINTED TO SUPERVISE THE WINDING UP OF THE LM FIRST MORTGAGE INCOME FUND ARSN 089 343 288 PURSUANT TO SECTION 601NF OF THE CORPORATIONS ACT 2001**

Bound and marked JRP-2 are the exhibits to the Affidavit of **JOHN RICHARD PARK** sworn 22 February, 2016:



Deponent



Solicitor/~~Barrister~~/Justice of the Peace

**Sean Charles Russell**  
Solicitor

**CERTIFICATE OF EXHIBIT**

Filed on behalf of the Applicants

Form 47 Rule 435

**Russells**  
Level 18  
300 Queen Street  
**BRISBANE 4000**  
Phone: 07 3004 8888  
Fax: 07 3004 8899

SUPREME COURT OF QUEENSLAND

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Signed



Solicitor/Barrister/Justice of the Peace

# 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 2010

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;

(B) 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  
Australian Securities and Investments Commission

# 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 Securities & Investments Commission



# Australian Financial Services Licence

LM INVESTMENT MANAGEMENT LIMITED

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Effective 7 September 2012

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- (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



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- (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



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- (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.



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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:
- 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
  - 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:
    - the licensee and the licensee has \$500,000 NTA; or
    - the custodian or sub-custodian and the custodian has \$500,000 NTA or is an eligible custodian; or
  - 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:
    - the licensee; or
    - an eligible custodian; or
    - a custodian that has the same level of NTA as the licensee is required to have under the remainder of this condition; or
    - 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:

- assets (including mortgages held by members of a mortgage scheme and managed as part of the scheme); plus
  - 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:
- has custody of client assets other than incidentally to another financial service provided by the licensee or a related body corporate; or
  - holds IDPS property or other assets of an IDPS.



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## 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



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- (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



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(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;



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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:



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- (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



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- (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



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- 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.



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## 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



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- (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



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- (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 licensee; 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.



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**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



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- (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



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- (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



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- (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.



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**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



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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



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- (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; 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



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- (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 Securities & Investments Commission



# 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



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- (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  
Australian Securities & Investments Commission

## Sean Russell

---

**From:** Mitch Ziebell [MZiebell@tuckercowen.com.au]  
**Sent:** Friday, 19 February 2016 3:22 PM  
**To:** Sean Russell; Ashley Tiplady  
**Cc:** David Schwarz  
**Subject:** LM Investment Management Limited (In Liquidation) (Receivers & Managers Appointed); Park & Muller & Anor v Whyte (Supreme Court Proceeding 3508/15)  
**Attachments:** Affidavit of David Whyte sworn 19 February 2016 (TCS01125390).pdf  
**Saved:** 0

Email 1 of 3

Dear Colleagues

Please see **attached** by way of service, the affidavit of David Whyte sworn 19 February 2016.

The affidavit will be filed this afternoon.

Due to the size of the exhibits, these will follow in two separate emails.

Regards

**Mitch Ziebell**

Solicitor

E: [mziebell@tuckercowen.com.au](mailto:mziebell@tuckercowen.com.au)

T: 07 300 300 00 | F: 07 300 300 33

Level 15, 15 Adelaide Street, Brisbane | GPO Box 345, Brisbane Qld 4001

**Tucker&CowenSolicitors.**

**First Tier for Insolvency - Doyle's Guide to the Australian Legal Profession 2015 – and ranked for Litigation and Dispute Resolution** with the most ranked litigators - David Tucker, Richard Cowen, David Schwarz and Justin Marschke (also recognised again as one of Australia's Best Lawyers for Litigation by **Best Lawyers® International 2016**)

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**Sean Russell**

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**Sent:** Friday, 19 February 2016 3:23 PM  
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**Attachments:** Exhibits (DW-2 to DW-11) to Affidavit of David Whyte sworn 19 February 2....pdf  
**Saved:** 0

**Email 2 of 3**

Dear Colleagues

Please see **attached** the first volume of exhibits to the affidavit of David Whyte sworn 19 February 2016.

Regards

**Mitch Ziebell**  
Solicitor

E: [mziebell@tuckercowen.com.au](mailto:mziebell@tuckercowen.com.au)

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## Sean Russell

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**Sent:** Friday, 19 February 2016 3:23 PM  
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**Subject:** LM Investment Management Limited (In Liquidation) (Receivers & Managers Appointed); Park & Muller & Anor v Whyte (Supreme Court Proceeding 3508/15)  
**Attachments:** Exhibits (DW-12 to DW-34) to Affidavit of David Whyte sworn 19 February ....pdf  
**Saved:** 0

Email 3 of 3

Dear Colleagues

Please see **attached** the second volume of exhibits to the affidavit of David Whyte sworn 19 February 2016.

Regards

**Mitch Ziebell**  
Solicitor

E: [mziebell@tuckercowen.com.au](mailto:mziebell@tuckercowen.com.au)

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## Remuneration Drawn (Administrators Remuneration approved)

Allocation of Remuneration Drawn	Period to which drawings relate	Date Drawn	Exclusive	GST	Inclusive
LMIM Corporate Remuneration	19 March 2013 to 30 June 2013	27-Mar-14	(523,476.30)	(52,347.63)	(575,823.93)
AIF Category 1 Remuneration	19 March 2013 to 31 July 2013	27-Mar-14	(110,776.36)	(11,077.64)	(121,854.00)
MPF Category 1 Remuneration	19 March 2013 to 30 June 2013	27-Mar-14	(254,990.32)	(25,499.03)	(280,489.35)
CPF Category 1 Remuneration	19 March 2013 to 31 July 2013	26-Jun-14	(3,927.50)	(392.75)	(4,320.25)
FMIF Category 3 Controllership Remuneration	19 March 2013 to 31 July 2013	26-Jun-14	(111,039.00)	(11,103.90)	(122,142.90)
LMIM as RE Category 2 Remuneration AIF and CPF allocations	19 March 2013 to 31 July 2013	03-Jul-14	(75,930.77)	(7,593.08)	(83,523.85)
FMIF Category 1 Remuneration	19 March 2013 to 31 July 2013	25-Mar-15	(29,096.00)	(2,909.60)	(32,005.60)
			<b>(1,109,236.25)</b>	<b>(110,923.63)</b>	<b>(1,220,159.88)</b>



# SUPREME COURT OF QUEENSLAND

CITATION: *RE Bruce & Anor v LM Investment Management Limited & Ors (No 2)* [2013] QSC 347

PARTIES: **RAYMOND EDWARD BRUCE AND VICKI PATRICIA BRUCE**  
(Applicants)  
v  
**LM INVESTMENT MANAGEMENT LIMITED**  
(ADMINISTRATORS APPOINTED)  
ACN 077 208 461 IN ITS CAPACITY AS  
**RESPONSIBLE ENTITY OF THE LM FIRST MORTGAGE INCOME FUND**  
(First Respondent)  
and  
**THE MEMBERS OF THE LM FIRST MORTGAGE INCOME FUND ARSN 089 343 288**  
(Second Respondent)  
and  
**ROGER SHOTTON**  
(Third Respondent)  
and  
**AUSTRALIAN SECURITIES & INVESTMENTS COMMISSION**  
(Intervener)

FILE NO/S: BS 3383 of 2013

DIVISION: Trial

PROCEEDING: Application

ORIGINATING COURT: Supreme Court at Brisbane

DELIVERED ON: 20 December 2013

DELIVERED AT: Brisbane

HEARING DATE: 6 September 2013

JUDGE: Dalton J

ORDER: **UPON THE UNDERTAKING of the first respondent that it will not seek from the FMIF any remuneration, costs or expenses (including legal fees) of or incidental to the meeting convened by notice dated 26 April 2013 (including the adjournment thereof):**

**1. I vacate the order made at paragraph 2 of the orders of Justice P Lyons of 7 May 2013.**

2. **Trilogy Funds Management Ltd is to pay 7 per cent of the first respondent's costs (excluding reserved costs) of this proceeding on a standard basis to be assessed or agreed.**
3. **The first respondent is to be indemnified from the FMIF only to the extent of 20 per cent of its costs of and incidental to this proceeding, excluding any reserved costs.**

COUNSEL: B O'Donnell QC, with P Ahern, for the applicants  
 D Savage QC, with S Cooper, for the first respondent  
 GJ Litster (Solicitor) for a member of the second respondent  
 DR Tucker (Solicitor) for the third respondent  
 SJ Forrest for the intervener

SOLICITORS: Piper Alderman for the applicants  
 Russells for the first respondent  
 Synkronos Legal for a member of the second respondent  
 Tucker & Cowen for the third respondent  
 Australian Securities and Investments Commission for the intervener

- [1] This is a decision on applications for costs made consequent on a judgment I delivered on 8 August 2013 in this matter. The substantive proceedings were three applications together over three days in the civil list. Each concerned who ought to manage the affairs of the financially stricken first respondent. The contest was between (i) the then administrators of the first respondent; (ii) Trilogy Funds Management Ltd (Trilogy), and (iii) a member, Shotton, and ASIC, intervening, who both contended for an independent liquidator. There were no pleadings, but the various issues were well enough defined, and success on them was somewhat scattered amongst the various parties.
- [2] The normal rule is that costs follow the event – r 681. Even before the introduction of r 684, the approach of the Courts was, in appropriate cases, to make costs orders which reflected parties' success or failure on various parts of litigation.<sup>1</sup> The fairest way of determining the costs issues falling out of this litigation seems to me to make orders in accordance with r 684 as to particular parts of the litigation. In doing so the Court takes an impressionistic and pragmatic view as to what were the real heads of controversy in the litigation, and strives to avoid assessment in a complicated form according to issues in the technical sense.<sup>2</sup> The general purpose of an award of costs – indemnity to the successful party – and the effect of the costs orders made, as compared to the extent of the parties' success in litigation, must be borne in mind.
- [3] In litigation of any complexity, there will be various alternative possible ways to divide the litigation into units for the purpose of allocating costs – see eg., the various alternatives discussed in *Thiess*, a defamation case: imputations found

<sup>1</sup> *Thiess v TCN Channel Nine Pty Ltd (No 5)* [1994] 1 Qd R 156, 207-208.

<sup>2</sup> *Thiess* (above) pp 208-210; *Coomera Resort Pty Ltd v Kolback Securities Ltd & Ors* [1998] QSC 296; *BHP Coal Pty Ltd v O & K Orenstein & Koppel AG (No 2)* [2009] QSC 64.

proved; occasions of publication, etc. Following the approach in *Thiess*, I have looked to find a division which fairly represents “the true emphases of the litigation” or “discrete areas of dispute” (p 208). In substance, there were three heads of controversy<sup>3</sup> in the substantive hearing before me:

- (a) The legal point as to the competence of the originating application filed 15 April 2013. This was an application for Trilogy to be appointed as temporary responsible entity of a managed investment scheme, FMIF, with a view to its appointment as the responsible entity in the long term. Under the *Corporations Act 2001* (the Act), such an application was not available to anyone but ASIC or a member of the scheme, so the Bruces were named as applicants, but took on the litigation with an indemnity from Trilogy, and Trilogy’s counsel at the hearing told me that he expressed Trilogy’s views to the Court.<sup>4</sup>

There was a legal argument as to the competence of this application pursuant to s 601FA of the Act or reg 5C.2.02 of the *Corporations Regulations*. I found that the application was not competent – see my judgment [9]-[20]. This legal point was a distinct part of the hearing. I think it is fair to assume that while it may have accounted for say 15 per cent of the hearing time, it accounted for a significantly less percentage of overall costs incurred, for it was not the subject of factual dispute and did not require lengthy affidavits or cross-examination of witnesses. In terms of estimating what percentage of costs of the first respondent attached to this separate part of the application, I put it at 7 per cent.

- (b) On the assumption that the application referred to at (a) was competent in law, there were discretionary arguments as to whether or not Trilogy ought be appointed temporary responsible entity. These arguments were factual and based on the suitability of Trilogy to have conduct of the affairs of FMIF, and the unsuitability of the first respondent.

Associated with, and very similar to, the factual matters raised in support of this discretionary argument, were arguments advanced by Trilogy resisting both a winding-up order in relation to the first respondent and an order to appoint an independent liquidator to supervise the winding-up and as receiver of FMIF. These orders were sought by Shotton and ASIC by separate applications filed 29 April 2013 and 3 May 2013 respectively. Trilogy’s arguments were based on the asserted superiority of Trilogy as a manager of the affairs of FMIF over a liquidator and receiver.

These two associated points were substantial factual disputes which took Court time and involved considerable affidavit material and cross-examination.

My judgment was that even if the application by Trilogy were competent, I would not, for discretionary reasons, appoint it as temporary responsible entity – [21]-[31] of my judgment. The applicant (Trilogy) was the only party before me who contended that a winding-up order ought not be made. It lost on that point. Trilogy and the first respondent both lost on the issue about independent supervision by a liquidator and receiver.

<sup>3</sup> This term is used in *Thiess* (above), p 208.

<sup>4</sup> In my judgment of 8 August I call this the Trilogy application. I continue that reference here, and refer to the applicants as Trilogy, rather than the Bruces.

- (c) The issue raised on the Shotton and ASIC applications was the subject of considerable factual dispute entailing the need for affidavit material and cross-examination of witnesses, as ASIC and Shotton demonstrated that the then current administrators of the first respondent, Ms Muller and Mr Park, were unsuitable to wind-up the managed investment scheme without independent supervision. On this issue ASIC and Shotton were successful and the first respondent unsuccessful.

As noted, Trilogy opposed any one other than itself controlling the affairs of the first respondent. However, factual material and argument by Trilogy as to why the first respondent was unsuitable to control the affairs of the FMIF was substantial. It coincided with the interests ASIC and Shotton had in demonstrating that same unsuitability.

- [4] Dealing with costs according to the above division means that I will not deal with the three separate applications *qua* application. But the above division better reflects the reality of the way the litigation was conducted.<sup>5</sup> Because Trilogy was wholly unsuccessful on its application, there is an attraction in dealing with it separately, and dealing with the ASIC and Shotton applications as representing the remainder of the litigation. Like the approach taken by the primary judge in *Thiess* (division according to occasions of publication), division of this litigation along the lines of Trilogy application on the one hand, and ASIC/Shotton applications on the other, has an initial simplicity and attraction but does not allow an allocation of costs which fairly reflects the emphases and successes in the litigation.
- [5] Dealing with the three heads of controversy identified at paragraph [3] above allows a more nuanced approach which reflects the reality that much of the factual material led by Trilogy was relevant to the questions on the ASIC and Shotton applications and was important to my understanding of the conduct of the then administrators appointed to the first respondent, and thus my decision. In particular, the issue as to the propriety of those administrators' actions in relation to the meeting of 13 June 2013 was one carried largely, although not exclusively, by Trilogy. A smaller, but significant issue, about which the same observation can be made, is the behaviour of the administrators in the conduct of the litigation about Trilogy's financial worth and the propriety of Trilogy's conduct during the period of contention between it and the first respondent surrounding this litigation.
- [6] There were three uncontroversial matters. ASIC did not seek an order for its costs. All parties agreed that Shotton should have his costs out of the managed investment scheme, and I have already made an order in his favour. The first respondent offered an undertaking not to charge FMIF with the costs of a meeting which it held on 13 June 2013 and which I found was invalid. These were not strictly litigation costs. The undertaking should nonetheless be recorded in the order.
- [7] It seems to me that Trilogy ought to pay the costs of the first respondent of and incidental to the legal point I identify at paragraph [3](a) above. I fix these at 7 per cent of the first respondent's costs of the proceeding. There were reserved costs; it is not appropriate that they are included in this order.
- [8] Next, as to the factual matters raised by the two associated points at [3](b) above, Trilogy's exposition of the conduct of the first respondent had a significant bearing

<sup>5</sup> cf *West & Ors v Blackgrove & Anor* [2012] QCA 321 [52].

on the making of the orders sought by ASIC and Shotton. Not only that, but as far as the hearing was concerned, there was certainly an economy as, by and large, counsel sensibly adopted an approach whereby Trilogy had primary carriage of the 13 June meeting issue; ASIC had primary carriage of points about conduct of the litigation and interaction with ASIC, and Shotton of the conflict points. Trilogy was ultimately unsuccessful on both its argument that it was the most suitable candidate to take charge of the first respondent, and its argument that a liquidator and receiver ought not be appointed to the first respondent. And there was no mistaking that any support it had for an independent liquidator and receiver was a distant alternative to its main position.<sup>6</sup>

- [9] All things considered, it would be fairest to both Trilogy and the first respondent to make no costs order as to this second head of controversy. Trilogy will bear its own costs of that part of the litigation, but given the importance of the matters ventilated to the orders I made, I do not think it should bear the first respondent's costs as well. The first respondent did succeed so far as the result of the Trilogy application was concerned. However, in substance it lost the factual battle: the matters demonstrated by Trilogy went a significant way to persuading me that the conduct of the administrators of the first respondent was such that I ought to make the orders sought by ASIC and Shotton.
- [10] I turn to the third head of controversy, the ASIC/Shotton applications. As noted, they were made individually some four or five days apart. They sought very similar relief. In terms of both submissions at the hearing, and in affidavit material filed in support of their applications, there was a difference in emphasis. ASIC relied particularly on the conduct of the administrators of the first respondent in dealing with ASIC, and in the litigation, whereas the Shotton interests put more emphasis on the potential financial conflicts which the administrators of the first respondent would face, were they to continue in control of the affairs of the first respondent.
- [11] ASIC relied upon s 1101B of the Act to support its application. I did not act pursuant to that section and did not think it appropriate to do so. Nonetheless, I had power to act otherwise, and argument as to that legal point formed a very small part of the hearing and, I would have thought, almost no part of the preparation. It is not a point substantial enough to affect the costs orders I make. ASIC and Shotton contended for different persons to be appointed as liquidator and receiver to the first respondent. There was little in this point. Again, only a small fraction of the material and the hearing time could be said to have been taken up with this issue. The main controversy was whether or not someone independent ought to be appointed.
- [12] The first respondent was unsuccessful in relation to the substance of both applications. ASIC does not seek its costs and Shotton's costs are not opposed. The only issue is that the first respondent contends it ought to have its costs of the ASIC application. This was put on four different bases. The first was that ASIC's application was unnecessary because Mr Shotton had filed his some four or five days earlier. As noted, there was a great similarity between the relief sought in the applications. Nonetheless, in circumstances where the regulator had intervened to revoke almost entirely the first respondent's Australian Financial Services Licence; had tried unsuccessfully to engage the administrators of the first respondent in a

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<sup>6</sup> See tt 3-16.30-3-18.10.

co-operative effort to resolve the issues facing the first respondent short of litigation and failed, and in circumstances where ASIC had intervened in this litigation, it seems to me appropriate that ASIC made its own application. As discussed, Shotton was a very small percentage unit-holder. He acted no doubt in his own interests, rather than the public interest, and ASIC could have no assurance as to how he might choose to conduct his application.

- [13] The second point put forward by the first respondent as to why it should have its costs of the ASIC application was that I appointed the liquidator advocated for by Mr Shotton, rather than the liquidator advocated for by ASIC. As explained, there was not sufficient in this point to warrant any effect on the costs orders I make. The third point was the s 1101B point, again, I am not persuaded that ought to influence my costs orders.
- [14] The last point made by the first respondent was that ASIC did not identify the fact that it relied on the first respondent's conduct of these proceedings as a reason to demonstrate that the administrators of the first respondent could not be relied upon to act properly. The point was raised in submissions which were delivered in a timely way. There were no pleadings. I think the point was a fair one and fairly taken in a timely enough fashion. There is no suggestion that the first respondent would have acted any differently had the point been taken earlier. It seemed oblivious to the very clear warning it was given by P Lyons J on 7 May 2013 (see below).
- [15] I am not persuaded that the first respondent should have its costs of the ASIC application.

### **Second Respondent**

- [16] I make no orders as to the costs of the second respondent. The second respondent took the position that it supported the first respondent. It was clear enough on the material that there was some historical connection between the second respondent and the first respondent, and while I would not go so far as to say the second respondent was not independent of the first respondent, there was something of that flavour about the relationship. In any event, the submissions of the second respondent added nothing, except to indicate the view of a tiny percentage unit-holder in the FMIF. This could just as readily have been achieved by the second respondent's swearing an affidavit for the first respondent to read. The views of unit-holders are relevant to issues such as those before me. The unit-holder Shotton played a very significant role in the litigation, notwithstanding his tiny percentage holding. But I would not encourage participation as a party when there was no purpose but to indicate support for another party. For the same reasons the second respondent should not have its costs from the FMIF.

### **Trilogy**

- [17] Trilogy was in substance, if not in name, a party to the litigation. As discussed, senior counsel for the Bruce applicants made submissions to the Court in which he expressed Trilogy's views. A great deal of the Bruces' evidence was sworn by officers of Trilogy, and it was clear throughout the entire hearing, and indeed it has been clear on the submissions made on this costs hearing, that the moving party on the originating application is Trilogy, rather than the Bruces. I was told that Trilogy



had given an indemnity to the Bruces as to their costs. At one point it became controversial in the proceedings as to what the terms of this indemnity were. So far as I am aware, it was never produced.

- [18] Trilogy had a clear commercial interest in the relief sought in the Bruces' name. Had it been successful it would have been appointed as temporary responsible entity of the first respondent with a view to becoming the responsible entity of the first respondent. Its position was that a formal liquidation was not necessary; that it would not operate the first respondent as a going concern, but wind its affairs up in an orderly and commercial manner as possible. No doubt it would have charged substantial fees for doing so.
- [19] I note that the Bruces are residents of New Zealand and there is no evidence at all that they have the means to pay any costs order made against them in this litigation.
- [20] It is true that Trilogy was, via one of the three wholesale funds, a unit-holder of about 20 per cent of the FMIF and thus its views were relevant and important to what ought to happen to the first respondent. And indeed I took them into account where appropriate. However, it would be wrong to characterise Trilogy's participation in the litigation as simply that of a concerned unit-holder expressing its views. Counsel acting for ASIC described Trilogy as conducting the Trilogy application as part of "an entrepreneurial frolic". I do not think that there was anything improper about Trilogy's conduct of the application and would thus reject the term "frolic". However, I do think that Trilogy, like the administrators of the first respondent, was engaged in this litigation in its own commercial interests, it participated in a partisan and robust way.
- [21] It seems to me that in accordance with the principles laid down in *Knight v FP Special Assets Ltd*,<sup>7</sup> the order I make as to payment of these costs should be made against Trilogy. The first respondent made a formal application to this effect – Court document 113. There was no submission to the contrary. Trilogy appeared at the costs hearing, by the same counsel as the Bruces.<sup>8</sup>
- [22] It is not appropriate that any of Trilogy's costs be borne by the FMIF. It was unsuccessful, and indeed its own application was not competent at law. Further, as noted, it engaged in the litigation in its own commercial interests in my view.

#### **First Respondent's Right to be Indemnified from FMIF**

- [23] Rule 700 applies to a party who sues or is sued as a trustee. Rule 700(2) provides, "Unless the court orders otherwise, the party is entitled to have costs of the proceeding, that are not paid by someone else, paid out of the fund held by the trustee." The *Trusts Act* 1973, s 72, provides: "A trustee may reimburse himself or herself for or pay or discharge out of the trust property all expenses reasonably incurred in or about the execution of the trusts or powers."
- [24] This is in line with the common law rule that a trustee is entitled to be indemnified from the trust estate when acting properly for the purposes of the trust. The rule is stated by King CJ in *In re Suco Gold Pty Ltd (in liq)*:<sup>9</sup>

<sup>7</sup> (1992) 174 CLR 178.

<sup>8</sup> See p 8-9 of the written submissions for the applicants and t 1-2.

<sup>9</sup> (1983) 7 ACLR 873, 878-879.

“The right of indemnity which a trustee possesses is therefore in essence a right to resort to the trust property for the protection and preservation of his personal estate against liabilities which he has incurred in the proper performance of the trust.

... A trustee, however, has no legal right to use or apply the trust property other than for the authorized purposes of the trust. In particular he has no legal right to apply the trust property for his own benefit or for the benefit of third parties, *Keech v Sandford* (1726) Eq Cas Abr 741.”

- [25] Bearing on the first respondent’s rights here are the terms of the constitution of FMIF. At cl 18.5 it provides a right to be indemnified for liabilities or expenses in relation to the performance of the responsible entity’s duties including legal fees, and at cl 19:

“19.1 The following clauses apply to the extent permitted by law:

...

- (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.”

- [26] Bearing on the interpretation of cl 19.1 is s 601GA of the Act which makes provision for the contents of the constitution of a registered scheme and provides:

“(2) [Responsible entity rights in constitution] If the responsible entity is to have any rights to be paid fees out of scheme property, or to be indemnified out of scheme property for liabilities or expenses incurred in relation to the performance of its duties, those rights:

- (a) must be specified in the scheme’s constitution; and  
 (b) must be available only in relation to the proper performance of those duties;

and any other agreement or arrangement has no effect to the extent that it purports to confer such a right.”

- [27] If, and in so far as cl 19.1 purports to allow the responsible entity of the FMIF an indemnity in circumstances where, short of negligence, fraud or breach of trust, it has acted improperly, or not for the purpose of the trust,<sup>10</sup> then my view is that clause of the constitution does not so operate by reason of the provision at s 601GA(2)(b).

- [28] The words of s 601GA(2)(b) very much reflect the common law formulation of costs being recovered when they are “proper”, or “not improper” – see Lindley LJ in *Re Beddoe*.<sup>11</sup> Costs will be improperly incurred if they are in furtherance of the trustee’s own interests rather than in furtherance of the interests of the members: *Miller v Cameron*.<sup>12</sup> In *Adsett v Berlouis*<sup>13</sup> the Full Court of the Federal Court said, “In this context, [of a trustee’s indemnity] ‘properly’ means work reasonably and

<sup>10</sup> As seemed to be implied by the written submissions on behalf of the first respondent at paragraph 21ff.

<sup>11</sup> [1893] 1 Ch 547, 558.

<sup>12</sup> (1936) 54 CLR 572.

<sup>13</sup> (1992) 37 FCR 201.

bona fide undertaken for the purpose of administering the estate or performing any public duty imposed by the [*Bankruptcy Act*], conformably with the trustee's duty to perform the work with reasonable care and skill and in an efficient and economic way."

- [29] In examining the propriety or otherwise of a trustee's conduct it is relevant to have regard to the nature of the trust, and trustee, in question. See for example the Full Court in *Adsett* at the paragraph beginning, "A number of observations must be made about these submissions." The Court examined the nature and obligations attaching to a trustee appointed to a bankrupt estate, contrasting that, for example, with the duties of a gratuitous trustee, and referring to the public nature of the duty of a trustee in bankruptcy.
- [30] In my opinion, the administrators of the first respondent occupied a position of trust which was distinct from a traditional trustee at general law because first, the trust of which the responsible entity was trustee was established by the *Corporations Act* in respect of a managed investment scheme that was essentially a vehicle for commercial investment; second, because the responsible entity was well-remunerated for its skill in performing the duties which amounted to performing the trust, and thirdly, because the administrators appointed to this responsible entity trustee were appointed to a fund which was financially stricken and which is now being wound up. In *Adsett* the Court referred to the general law duty that a trustee has to exercise judgment so as to save the estate unnecessary expenditure of money and, in terms of the role of a trustee in bankruptcy, emphasised that that duty was one to administer the estate in such a manner as to maximise the return from estate assets. In my view that is very much applicable to the current case. The FMIF differs from many other failed investment schemes in that there does remain a large surplus of assets to be administered. The administrators of the trustee responsible entity here should have squarely understood that their role was to maximise the amount of assets available to investors and creditors. Instead I found that, "the conduct of the first respondent in this litigation was combative and partisan in a way which I see as reflective of the administrators acting in their own interests to keep control of the winding-up of the FMIF, rather than acting in the interests of the members." – [89] and see also [82], [86], [88], [92], [93], [94], [95], [114], [117] of my judgment.
- [31] It was said on behalf of the first respondent that it acted on legal advice, but if costs are otherwise improper, that is no excuse – see the statements in *Re Beddoe* at p 562, extracted at *Adsett*.
- [32] Counsel for Trilogy submitted that the first respondent's resistance of the Trilogy application (and I would add the ASIC and Shotton applications) went above and beyond what would have been required had the administrators been acting solely in the interests of the fund. I accept this submission. However, it entails a proposition that some level of expenditure, and some level of representation in the litigation, was justifiable and proper within the meaning of the cases. It seems to me that what was reasonable and proper was well less than half of the costs incurred. I have in mind matters such as the issuance of subpoenas and the applications and antagonism between the first respondent and Trilogy concerning these; the expert report of Mr Hellen; the extensive material that seemed irrelevant (or almost so) at the hearing – for example [93]-[96] of my reasons for judgment; the unusual and partisan attack on Trilogy's solicitors both in correspondence and in affidavit

material; challenges to Trilogy's solvency; the refusal to co-operate with ASIC which is detailed at [57] ff of my judgment in circumstances where ASIC was trying to limit costs to the FMIF, and the linking of the 13 June 2013 meeting with the litigation and the refusal to meaningfully respond to serious (and ultimately well-founded) complaints that this meeting was invalid.

- [33] That some costs incurred by the first respondent might have been reasonable and proper was acknowledged in the submissions of ASIC. ASIC proposed that I order that the first respondent not be indemnified from the assets of FMIF save with the consent of the unit-holders. The difficulty with that is that the unit-holders are never going to be informed in appropriate detail of the facts relevant to such an apportionment. I think that a fair percentage of the first respondent's own costs to be paid out of the FMIF is 20 per cent, bearing in mind 7 per cent of its costs will be paid by Trilogy, albeit on a standard basis. On the costs application the first respondent pointed to its undertaking not to claim costs of the 13 June 2013 meeting from the funds of the FMIF. That concession is appropriate, but does not go far enough in my opinion.
- [34] There were reserved costs from 7 May 2013. The matter was adjourned on that date at the behest of the first respondent who sought an adjournment principally so that the proceeding could be determined after the meeting of 13 May 2013. As I explain in my reasons for judgment on the substantive matter, the first respondent's thinking in relation to that meeting was quite wrong-headed. For this reason I do not think that the first respondent is entitled to any reserved costs and this is reflected in the order I make as to indemnity from the FMIF.

#### **Order Justice P Lyons 7 May 2013**

- [35] This matter came before Justice Peter Lyons on 7 May 2013. He was asked to adjourn the matter to the civil list. There was discussion before Justice Lyons as to the propriety of the administrators' conduct of the litigation to that point and Justice Lyons made an order that the "administrators not seek to exercise any right to be indemnified out of the assets of [FMIF] for costs in relation to these proceedings without leave of the Court, to be sought at the hearing." The transcript shows that his concerns were along the lines which came to be realised in my judgment after the hearing. Justice Lyons said:
- "I have a bit of a general impression that at this stage, that your fight is about who's going to control the fund after orders are made at this hearing and who will earn the fees from it. Now, I could be wrong about that. The judge who hears the matter may have a clearer view about what's really behind all this. That person may think my suspicion is well-grounded and that might be a reason why the ordinary right [to indemnity from the trust fund] shouldn't be exercised. In other words, the actions of the administrators aren't really to further the interests of the members of the fund but for some other reason."
- [36] I will vacate Justice Lyons' order as part of my orders dealing with costs.

- [37] The orders I make are:

UPON THE UNDERTAKING of the first respondent that it will not seek from the FMIF any remuneration, costs or expenses (including legal fees) of or incidental to

the meeting convened by notice dated 26 April 2013 (including the adjournment thereof):

1. I vacate the order made at paragraph 2 of the orders of Justice P Lyons of 7 May 2013.
2. Trilogy Funds Management Ltd is to pay 7 per cent of the first respondent's costs (excluding reserved costs) of this proceeding on a standard basis to be assessed or agreed.
3. The first respondent is to be indemnified from the FMIF only to the extent of 20 per cent of its costs of and incidental to this proceeding, excluding any reserved costs.





Estimated Statement of Position of LMIM 31/01/2016		Liquidation	
Corporate Entity position only - potential recoveries/costs pursuant to fund indemnities not included		Not	
		Optimistic	Pessimistic
<b>Assets</b>			
<b>Cash</b>			
Cash - LMIM Account		409,707	409,707
<b>TOTAL</b>		<b>409,707</b>	<b>409,707</b>
<b>Other Assets</b>			
Receivable - LMIM Operation costs reimbursement		50,000	50,000
Reimbursement from insurer/Scheme for legal costs paid LMIM		310,000	nil
Reimbursement from insurance Scheme for legal costs Incurred Unpaid LMIM		192,341	nil
Fund Receivable Service fees - LMA remuneration		378,060	nil
Other legal and fund costs paid by LMIM in advance - recoverable from funds		21,833	19,083
Trilogy - Cost Order for FMIF disbursements paid by LMIM in advance		30,000	30,000
<b>Other Actions Available</b>			
Insurance - recoveries LMIM		Unknown	Nil
Preference recoveries and uncommercial transactions		Nil	Nil
Insolvent trading actions		Nil	Nil
		<b>1,391,941</b>	<b>508,790</b>
<b>Liabilities</b>			
<b>Trading Liabilities</b>			
LMA Service Fees - OP Costs owing		286,103	286,103
LMA Service Fees - LMA category 2 claims		378,060	457,529
GST Current		(12,000)	(12,000)
<b>Professional Fees</b>			
Liquidators remuneration - LMIM corporate		1,347,025	1,347,025
Liquidators Disbursements - LMIM Corporate		33,466	33,466
Russells Legal Costs - LMIM as RE FMIF - original litigation matter		545,934	545,934
Russells Legal Costs - LMIM as Trustee MPF		72,248	72,248
Legal Costs - LMIM Corporate - insurance matters		192,341	192,341
Legal Costs - LMIM Corporate - other		19,560	19,560
<b>Total liabilities</b>		<b>2,862,737</b>	<b>2,942,206</b>
Surplus available to priority creditors		(1,470,796)	(2,433,416)
<b>Priority creditors</b>			
Entitlements		32,181	32,181
<b>Total priority claims</b>		<b>32,181</b>	<b>32,181</b>
<b>Surplus available to Unsecured creditors</b>			
		(1,502,977)	(2,465,597)
<b>Unsecured creditors</b>			
Trade creditors		561,720	561,720
Australian Taxation Office		107,558	107,558
MPF Creditors		865,425	865,425
MPF Advisors		2,195,000	2,195,000
Other Fund Creditors		Nil	634,137
Investor Claims/BOT claims/Advisors		To be determined	To be determined
<b>Total unsecured creditors</b>		<b>3,729,703</b>	<b>4,363,840</b>
<b>Distribution to unsecured creditors (cents in \$)</b>		<b>nil</b>	<b>Nil</b>

notes

LMIM Corporate account

est - Operational cost reimbursement. ASPF unpaid

estimate

estimate

Billed to Funds as part of LMIM Category 2 claims - ASPF and FMIF portions unpaid

Legal and consultant costs paid on behalf of ASPF as at 31/1

Outstanding to LMA (VA period).

Billed to Funds as part of LMIM Category 2 claims - ASPF and FMIF portions unpaid

GST refund due

Outstanding Remuneration LMIM Corporate to 31 Dec 15. Amounts not included where we are seeking indemnity for remuneration from Funds

Outstanding OOPS LMIM Corporate to 31 Dec 15

Russells invoices owing - no expected indemnity from FMIF.

Russells invoices owing where no indemnity expected from MPF

Insurance/defence matters owing clayton Utz and Russells

Other LMIM legal costs where no indemnity expected

LMIM corp claim

LMIM corp claim

MPF trade creditors/ato

MPF advisors per list provided on appointment. Expect to claim against LMIM in full

Claims against other funds. No shortfall expected. Advisors claims not included at this time.

Estimated Statement of Position of LMIM 31/01/2016	Note	Liquidation	
		Optimistic	Pessimistic
<b>Assets</b>			
<b>Cash</b>			
Cash - LMIM Account		409,707	409,707
<b>TOTAL</b>		<b>409,707</b>	<b>409,707</b>
<b>Other Assets</b>			
Fund Receivable - LMIM Operation costs reimbursement		50,000	50,000
Reimbursement FMIF Legal costs paid by LMIM		285,569	nil
Indemnity FMIF Legal costs incurred not paid by LMIM		613,953	nil
Reimbursement from insurer/Scheme for legal costs paid LMIM		310,000	nil
Reimbursement from insurance Scheme for legal costs incurred Unpaid LMIM		192,341	nil
Other legal and fund costs paid by LMIM in advance - recoverable from funds		21,833	19,083
Fund Receivable Service fees - LMA remuneration		378,060	nil
Trilogy - Cost Order for FMIF disbursements paid by LMIM in advance		30,000	30,000
<b>Other Actions Available</b>			
Insurance - loss recovery LMIM		Unknown	Nil
Preference recoveries and uncommercial transactions		Nil	Nil
Insolvent trading actions		Unknown	Nil
		<b>2,291,463</b>	<b>508,790</b>
<b>Liabilities</b>			
<b>Trading Liabilities</b>			
LMA Service Fees - OP Costs		286,103	286,103
LMA Service Fees - LMA category 2 claims		378,060	457,529
GST Current		(12,000)	(12,000)
<b>Professional Fees</b>			
Liquidators remuneration - LMIM corporate		1,347,025	1,347,025
Liquidators Disbursements - LMIM Corporate		33,466	33,466
Shortfall on indemnity for claimed FMIF FTI professional fees/Disb		Nil	3,437,486
Shortfall on indemnity for Other Funds professional fees/costs		Nil	594,072
Russells Legal Costs - LMIM as RE FMIF - original litigation matter		545,934	545,934
Russells Legal Costs - LMIM as RE FMIF indemnity		508,586	508,586
Clayton Utz Legal Costs - LMIM as RE FMIF indemnity		105,367	105,367
Russells Legal Costs - LMIM as Trustee MPF		72,248	72,248
Legal Costs - LMIM Corporate insurance matters		192,341	192,341
Legal Costs - LMIM Corporate - other		19,560	19,560
<b>Total liabilities</b>		<b>3,476,690</b>	<b>7,587,717</b>
Surplus available to priority creditors		(1,185,226)	(7,078,927)
<b>Priority creditors</b>			
Entitlements		32,181	32,181
<b>Total priority claims</b>		<b>32,181</b>	<b>32,181</b>
<b>Surplus available to Unsecured creditors</b>			
		(1,217,407)	(7,111,108)
<b>Unsecured creditors</b>			
Trade creditors		561,720	561,720
Australian Taxation Office		107,558	107,558
MPF Creditors		865,425	865,425
MPF Advisors		2,195,000	2,195,000
Other Fund Creditors		Nil	634,137
Investor Claims/BOT claims/Advisors		To be determined	be determined
<b>Total unsecured creditors</b>		<b>3,729,703</b>	<b>4,363,840</b>
Distribution to unsecured creditors (cents in \$)		nil	Nil

notes

LMIM Corporate account

est - Operational cost reimbursement, ASPF unpaid  
 Indemnity claim FMIF for costs paid by LMIM  
 Indemnity claim FMIF for costs unpaid  
 estimate  
 estimate  
 Legal and consultant costs paid on behalf of ASPF as at 31/1  
 Billed to Funds as part of LMIM Category 2 claims - ASPF and FMIF portions unpaid  
 estimate

Outstanding to LMA (VA period).  
 Billed to Funds as part of LMIM Category 2 claims - ASPF and FMIF portions unpaid  
 GST refund due

Outstanding Remuneration LMIM Corporate to 31 Dec 15. Amounts not included where we are seeking indemnity for remuneration from Funds  
 Outstanding OOPS LMIM Corporate to 31 Dec 15  
 to 31 December 2015  
 to 31 December 2015  
 Russells invoices owing - no expected indemnity from FMIF.  
 Russells outstanding FMIF invoices seeking indemnity  
 Clayton Utz Bills owing - seeking indemnity  
 Russells invoices owing where no indemnity expected from MPF  
 Insurance/defence matters owing clayton Utz and Russells  
 Other LMIM legal costs where no indemnity expected

LMIM corp claim  
 LMIM corp claim  
 MPF trade creditors/ato  
 MPF advisors per list provided on appointment. Expect to claim against LMIM in full  
 Claims against other funds. No shortfall expected. Advisors claims not included at this time.

## Costs paid by FMIF post 8 August 2013

Payee	Invoice Date	Invoice Number	Amount	GST Exc	GST	Status	Date Paid	Amount Paid	Current Liability
Allens Linklaters	30-Jul-13	90829770	\$ 10,058.40	\$ 9,144.00	\$ 914.40	Paid	28-Aug-13	10,058.40	0.00
Clayton Utz	20-Aug-13	3776900	\$ 5,696.59	\$ 5,178.72	\$ 517.87	Paid	28-Aug-13	5,696.59	0.00
Allens Linklaters	15-Aug-13	90831767	\$ 635.80	\$ 578.00	\$ 57.80	Paid	28-Aug-13	635.80	0.00
Castle partners Finance	21-Jun-13	Invoice	\$ 10,986.25	\$ 9,987.50	\$ 998.75	Paid	04-Sep-13	10,986.25	0.00
Clayton Utz	28-Jun-13	3770919	\$ 41,015.37	\$ 37,286.70	\$ 3,728.67	Paid	04-Sep-13	41,015.37	0.00
Clayton Utz	31-Jul-13	3773065	\$ 18,595.90	\$ 16,905.36	\$ 1,690.54	Paid	04-Sep-13	18,595.90	0.00
Allens Linklaters	30-Jul-13	90830006	\$ 2,523.40	\$ 2,294.00	\$ 229.40	Paid	17-Sep-13	2,523.40	0.00
LM Investment Management Ltd (operational Costs)	26-Jul-13	8974inv5	\$ 354,673.42	\$ 322,430.38	\$ 32,243.04	Paid	30-Sep-15	354,673.42	0.00
Clayton Utz	30-Aug-13	3779117	\$ 4,444.39	\$ 4,040.35	\$ 404.04	Paid	04-Oct-13	4,444.39	-0.01
LM Investment Management Ltd (operational Costs)	11-Sep-13	8974inv8	\$ 160,913.67	\$ 146,285.15	\$ 14,628.52	Paid	01-Oct-13	160,913.67	0.00
King & Wood Mallesons	27-Sep-13	1548788	\$ 715.00	\$ 650.00	\$ 65.00	Paid	24-Oct-13	715.00	0.00
LM Investment Management Ltd (operational Costs)	10-Oct-13	8974inv10	\$ 8,940.87	\$ 8,128.06	\$ 812.81	Paid	24-Oct-13	8,940.87	0.00
King & Wood Mallesons	30-Jul-13	1541485	\$ 20,759.04	\$ 18,871.85	\$ 1,887.19	Paid	11-Nov-13	20,759.04	-0.01
King & Wood Mallesons	29-Aug-13	1545993	\$ 1,126.95	\$ 1,024.50	\$ 102.45	Paid	11-Nov-13	1,126.95	0.00
Clayton Utz	27-Sep-13	3782734	\$ 7,646.10	\$ 6,951.00	\$ 695.10	Paid	11-Nov-13	7,646.10	0.00
Pikes & Verekers	24-Sep-13	6239	\$ 14,066.00	\$ 12,787.27	\$ 1,278.73	Paid	13-Nov-13	14,066.00	0.00
LM Investment Management Ltd (operational Costs)	31-Oct-13	8974inv12	\$ 11,373.97	\$ 10,339.97	\$ 1,034.00	Paid	25-Nov-13	11,373.97	0.00
Clayton Utz	30-Oct-13	3786899	\$ 2,002.54	\$ 1,820.49	\$ 182.05	Paid	25-Nov-13	2,002.54	0.00
Pikes & Verekers	08-Nov-13	6497	\$ 6,955.27	\$ 6,322.97	\$ 632.30	Paid	19-Dec-13	6,955.27	0.00
Pikes & Verekers	13-Aug-13	6093	\$ 6,712.61	\$ 6,102.37	\$ 610.24	Paid	19-Dec-13	6,712.61	0.00
King & Wood Mallesons	26-Nov-13	1554216	\$ 125.40	\$ 114.00	\$ 11.40	Paid	19-Dec-13	125.40	0.00
LM Investment Management Ltd (operational Costs)	31-Dec-13	8974inv16	\$ 8,031.66	\$ 7,301.51	\$ 730.15	Paid	21-Jan-14	8,031.66	0.00
Clayton Utz	29-Nov-13	3793241	\$ 3,376.08	\$ 3,069.16	\$ 306.92	Paid	21-Jan-14	3,376.08	0.00
LM Investment Management Ltd (operational Costs)	31-Jan-14	8974inv18	\$ 7,770.91	\$ 7,064.46	\$ 706.45	Paid	28-Apr-14	7,770.91	0.00
LM Investment Management Ltd (operational Costs)	28-Feb-14	8974inv20	\$ 12,688.51	\$ 11,535.01	\$ 1,153.50	Paid	28-Apr-14	12,688.51	0.00
Russells	28-Nov-13	B16379	\$ 9,044.59	\$ 8,222.35	\$ 822.24	Paid	01-May-14	9,044.59	0.00
Russells	20-Dec-13	B16658	\$ 1,848.78	\$ 1,680.71	\$ 168.07	Paid	01-May-14	1,848.78	0.00
Russells	30-Nov-13	B16524	\$ 25,554.68	\$ 23,231.53	\$ 2,323.15	Paid	01-May-14	25,554.68	0.00
Russells	29-Jan-14	B16909	\$ 1,906.54	\$ 1,733.22	\$ 173.32	Paid	01-May-14	1,906.54	0.00
Russells	28-Feb-14	B17205	\$ 5,133.83	\$ 4,667.12	\$ 466.71	Paid	01-May-14	5,133.83	0.00
LM Investment Management Ltd (operational Costs)	01-May-14	8974inv22	\$ 260.77	\$ 237.06	\$ 23.71	Paid	26-Jun-14	260.77	0.00
Clayton Utz	30-Sep-14	3833611	\$ 6,360.20	\$ 5,782.00	\$ 578.20	paid	24-Nov-14	6,360.20	0.00
LM Investment Management Ltd (operational Costs)	30-Sep-14	8974inv24	\$ 1,817.60	\$ 1,652.36	\$ 165.24	Paid	03-Dec-14	1,817.60	0.00
Clayton Utz	07-Nov-14	3837445	\$ 6,410.80	\$ 5,828.00	\$ 582.80	Paid	11-Dec-14	6,410.80	0.00
Clayton Utz	30-Apr-14	3812038	\$ 999.35	\$ 908.50	\$ 90.85	Paid	12-Dec-14	999.35	0.00
Clayton Utz	30-May-14	3816989	\$ 1,100.28	\$ 1,000.25	\$ 100.03	Paid	12-Dec-14	1,100.28	0.00
Clayton Utz	30-Jun-14	3821364	\$ 4,077.92	\$ 3,707.20	\$ 370.72	Paid	12-Dec-14	4,077.92	0.00
Clayton Utz	31-Jul-14	3825099	\$ 10,361.73	\$ 9,419.75	\$ 941.98	Paid	12-Dec-14	10,361.73	0.00
Clayton Utz	29-Aug-14	3829493	\$ 3,616.80	\$ 3,288.00	\$ 328.80	Paid	12-Dec-14	3,616.80	0.00
LM Investment Management Ltd (Insurance)	31-Dec-14	8974inv29	\$ 62,129.50	\$ 62,096.15	\$ 33.35	Paid	04-Feb-15	62,129.50	0.00
Russells	31-Aug-15	B22835	\$ 7,826.92	\$ 7,115.38	\$ 711.54	Paid	15-Feb-15	7,826.92	0.00
Russells	30-Sep-15	B23062	\$ 3,506.23	\$ 3,187.48	\$ 318.75	Paid	15-Feb-15	3,506.23	0.00
Russells	11-Sep-14	B19123	\$ 1,221.73	\$ 1,110.66	\$ 111.07	Paid	27-Feb-15	1,221.73	0.00
Clayton Utz	28-Nov-14	3841346	\$ 12,063.98	\$ 10,967.25	\$ 1,096.73	Paid	27-Feb-15	12,063.98	0.00
Russells	22-Dec-14	B20196	\$ 427.85	\$ 388.95	\$ 38.90	Paid	27-Feb-15	427.85	0.00

Clayton Utz	19-Dec-14	3843904	\$ 9,689.35	\$ 8,808.50	\$ 880.85	Paid	27-Feb-15	9,689.35	0.00
Clayton Utz	30-Jan-15	3848708	\$ 14,872.00	\$ 13,520.00	\$ 1,352.00	Paid	27-Feb-15	14,872.00	0.00
Clayton Utz	30-Jan-15	3848676	\$ 15,125.00	\$ 13,750.00	\$ 1,375.00	Paid	27-Feb-15	15,125.00	0.00
Russells	29-Sep-14	B19408	\$ 10,075.07	\$ 9,159.15	\$ 915.92	Paid	17-Apr-15	10,075.07	0.00
Russells	27-Oct-14	B19606	\$ 1,922.24	\$ 1,747.50	\$ 174.74	Paid	17-Apr-15	1,922.24	0.00
Russells	22-Dec-14	B20186	\$ 799.35	\$ 726.68	\$ 72.67	Paid	17-Apr-15	799.35	0.00
Shotton Costs of Appeal	27-May-15	Cost Order	\$ 87,841.20	\$ 79,855.64	\$ 7,985.56	Paid	Unknown	87,841.20	0.00
Clayton Utz	27-Feb-15	3852707	\$ 34,769.28	\$ 31,608.44	\$ 3,160.84	Paid	18-Jun-15	34,769.28	0.00
Clayton Utz	13-Apr-15	3856494	\$ 13,150.89	\$ 11,955.35	\$ 1,195.54	Paid	18-Jun-15	13,150.89	0.00
Clayton Utz	30-Apr-15	3859943	\$ 16,422.84	\$ 14,929.85	\$ 1,492.99	Paid	18-Jun-15	16,422.84	0.00
Clayton Utz	29-Jun-15	3867870	\$ 13,760.75	\$ 12,509.77	\$ 1,250.98	Paid	12-Aug-15	13,760.75	0.00

## Sean Russell

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**From:** Trenfield, Kelly [Kelly.Trenfield@fticonsulting.com]  
**Sent:** Friday, 17 April 2015 10:43 AM  
**To:** David Whyte  
**Cc:** Park, John; Joanne Garcia nee Kedney; John Somerville  
**Subject:** RE: LM First Mortgage Income Fund (Receivers and Managers Appointed) (Receiver Appointed)

Thanks David

On the basis of the information provided I am happy with the offset of costs in regards to the hearing of 31 July 2014 and 15 September 2014. Accordingly, I will make arrangements to deal with Russells costs in the vicinity of \$13,846.07 and leave you to deal with the costs of Tucker & Cowen/Counsel.

Regards  
Kelly

**Kelly Trenfield**  
Senior Managing Director, Corporate Finance/Restructuring

**FTI Consulting**  
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[kelly.trenfield@fticonsulting.com](mailto:kelly.trenfield@fticonsulting.com)

*Liability limited by a scheme approved under Professional Standards Legislation*

---

**From:** David Whyte [mailto:David.Whyte@bdo.com.au]  
**Sent:** Thursday, 16 April 2015 4:40 PM  
**To:** Trenfield, Kelly  
**Cc:** Park, John; Joanne Garcia nee Kedney; John Somerville  
**Subject:** LM First Mortgage Income Fund (Receivers and Managers Appointed) (Receiver Appointed)

Kelly

I refer to previous correspondence in relation to set off costs owing to our respective firms of solicitors and your request for further details in relation to the costs incurred by our solicitors.

For ease of reference, I summarise the position, as follows:

### **The Proposed Arrangement**

The Order of Atkinson J made on 31 July 2014 provided for LMIM to pay my costs "of and incidental to the application filed 24 July 2014", in my first remuneration application. Those costs would ordinarily be assessed on the standard basis.

FTI has claimed the legal costs incurred with Russells in relation to my application filed on 4 September 2014 for directions in relation to the proposed removal of LMIM as controller of the retirement villages, and the appointment instead of Andrew Fielding and I as agents for PTAL - that application was heard and determined by Jackson J on 15 September 2014. The Order of Jackson J did not mention any costs of LMIM, and did not provide for any payment of LMIM's costs - LMIM claims its costs pursuant to the Deeds of Indemnity in LMIM's favour, in connection with its appointment as controller of those retirement villages.

The proposal is for my costs payable by LMIM under the Order of Atkinson J to be set off against the Russells costs (relating to the application filed 4 September 2014) claimed by LMIM under its controller indemnity from the FMIF.

## Quantum of Costs

### *Russells costs claimed by FTI*

On 16 October 2014, Russells wrote to Tucker & Cowen claiming \$13,846.07 (inclusive of GST) as the Russells' costs connected with the application heard by Justice Jackson on 15 September 2014. Of that amount, \$2,000 was an estimated future amount to conclude the matter (which we do not understand the basis for).

We have not been provided with any invoices raised by Russells. We have, instead, received a "fee ledger" identifying the work performed, for which the claim was made.

### *Tucker & Cowen costs - claimed under Order Atkinson J*

As regards the costs to which I am entitled from LMIM under the Order of Atkinson J:

1. Those costs would ordinarily be assessed on the standard basis - in other words, there is no requirement for production of the invoices actually issued, and the assessment takes place on the basis of the court scale.
2. That said, Tucker & Cowen have extracted from their records a summary of work performed which is attached. Those items total about \$15,280 (exclusive of GST).

Please note that, by providing this schedule, I will not be bound to this schedule in any assessment, and reserve the right to claim such further or other amounts on assessment as are considered appropriate, without reference to that schedule. This is because, as noted above, the preparation of a costs statement and the subsequent assessment is undertaken on the basis of the court scale, not on the basis of work charged under a client agreement.

3. In addition to Tucker & Cowen's professional costs, Sue Brown QC was briefed to appear at the hearing of 31 July 2014, and her fees for preparation and her appearance on 31 July 2014 totalled \$3,150 plus GST. An extract of her invoice with the relevant entries is attached.
4. The total costs actually incurred in relation to that application were therefore, we calculate, \$18,431.35 (plus GST) - an amount of \$20,274.49 inclusive of GST.
5. As a "rule of thumb", approximately 50% to two thirds of the actual costs incurred, would be recoverable on the standard basis on assessment. In other words, the amount of the recoverable costs is probably of a similar order to that claimed by Russells, although we cannot be precise about that.

## Conclusion

The above information is provided on the basis I reserve the right to claim further or other amounts by reference to the applicable Court scale on assessment, and without reference to this schedule.

Finally, I should note - the costs claimed by Russells are inclusive of GST, although if a set-off is agreed as set out above then there will not be any tax invoice issued to the FMIF, for which the FMIF could claim an input tax credit. Accordingly, it should be the amount net of GST which is set off.

Could you please confirm that the liquidators are willing to set off the costs without the incurrance of any further costs.

Regards

David

DAVID WHYTE

Partner

Direct: +61 7 3237 5887

Mobile: +61 413 491 490

[David.Whyte@bdo.com.au](mailto:David.Whyte@bdo.com.au)

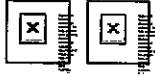


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# Tucker & Cowen Solicitors.

Level 15, 15 Adelaide St. Brisbane, Qld. 4000 / GPO Box 345, Brisbane, Qld. 4001.  
Telephone. 07 300 300 00 / Facsimile. 07 300 300 33 / [www.tuckercowen.com.au](http://www.tuckercowen.com.au)

Partners.  
David Tucker.  
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Special Counsel.  
Geoff Hancock.

Associates.  
Dan Ryan.  
Sylvia Lopez.  
Marcelle Webster.  
Alex Nase.  
Emily Anderson.  
Daniel Davey.  
Nicole Withers.  
Dugald Hamilton.  
Olivia Roberts.  
Ashley Moore.

Our reference: Mr Tucker / Ms Scherer  
Your reference: Mr Tiplady/Mr Sean Russell

1 May 2015

Russells  
Level 18  
300 Queen Street  
Brisbane QLD 4000

By Email: [atiplady@russellslaw.com.au](mailto:atiplady@russellslaw.com.au)  
[seanrussell@russellslaw.com.au](mailto:seanrussell@russellslaw.com.au)

Dear Colleagues

Shotton & Ors. –ats- LM Investment Management Limited (In Liquidation) (Receivers & Managers Appointed) -  
CA8895 of 2013

We refer to your letter to us of 23 April 2015.

## Relevant Facts

The relevant facts of this matter are:-

1. On 20 December 2013, the Supreme Court of Queensland (by Justice Dalton) delivered judgment in the principal proceeding;
2. On 23 September 2013, your client filed a Notice of Appeal;
3. On 28 November 2013, the appeal was heard by the Court of Appeal;
4. On 6 June 2014, the judgment of the Court of Appeal was delivered and the appeal was dismissed together with an order that the Appellant pay the Respondent's costs of the appeal;
5. On 30 June 2014, we delivered a Costs Statement to you;
6. On 21 July 2014, you delivered to us comprehensive objections to that Costs Statement;
7. Thereafter, on 22 July 2014, we filed an application for costs assessment, which included with it our Costs Statement, the Notice of Objection that we had received from you and the costs assessor's Consent;
8. On 1 August 2014, your client made an offer to settle your client's costs liability for the sum of \$75,000;
9. On 5 August 2014, your firm, on behalf of your client, consented to the appointment of the costs assessor, Mr Skuse;
10. On 5 September 2014, the costs assessor delivered his costs assessor's Certificate;

11. On 29 September 2014, the Court of Appeal made an order for the costs assessed in the sum of \$87,841.20;
12. On 8 October 2014, you wrote to us and asserted that LMIM was only to pay a certain sum to our client and you would pay the costs assessor separately. We had already paid him. There was never any mention then that these costs would not be paid;
13. Thereafter, we wrote pressing for payment of the costs on 8 October, 15 October, 29 October and then 10 March 2015. We had not heard from you in the interim. It is only after that time has elapsed that enforcement proceedings have commenced.

#### Leave to Proceed

Now, after having instituted the appeal, prosecuted it, lost and then participated in the costs assessment process, and written to us telling us our client would be paid, your client now belatedly seeks to rely upon section 500 of the *Corporations Act 2001* (Cth) and suggests that leave to proceed is necessary.

Section 556(1) does not apply. First, we do not understand that contention, because in order for the costs order to be an expense incurred by a 'relevant authority' under subsections 556(1)(a) or (dd), your client must consider Ms Muller and/or Mr Park to be personally liable for the costs order in their capacity as liquidators. Second, our client is clearly not a relevant authority for the purpose of the section. Third, we do not see how the costs order could be categorised as another type of expense which is captured by section 556(1). Please direct us to the relevant subsection your client relies upon. For those reasons, we do not consider that there is any basis for your client to continue to delay payment by virtue of this section.

Accordingly, given that your client seems to have not actively pursued the matter and we have allowed substantive time for your client to do so, we do intend to proceed with the enforcement hearing unless we receive a constructive response to this letter within 7 days. We will seek leave to do so and seek our client's costs of doing so on an indemnity basis, given there is no basis for your client not to attend to payment of the costs order.

#### Indemnity

It seems to us that these costs are plainly within the terms of the indemnity in the Constitution of the FMIF. You would be familiar with the Constitution of the LM First Mortgage Income Fund. In particular, clause 18.5(jj) expressly provides that the Responsible Entity shall be indemnified out of scheme property for all liability and expenses incurred in the performance of its duties including "Costs and disbursements incurred by the RE in the initiation, conduct and settlement of any court proceedings;"

The commencement and prosecution of the appeal and the subsequent costs order seems to plainly fall within the terms of that indemnity. Moreover, the costs order would also fall within the indemnity at general law.

The only manner in which the LM First Mortgage Fund could deny liability is if the provisions of clause 19.1(c) applied, such that your client acted negligently, fraudulently or in breach of trust. We are unaware of any circumstances to suggest that. Nor are we aware of anyone so contending.

Therefore, it seems to us that your client ought to immediately ask Mr David Whyte of BDO, on behalf of the LMFIMIF for indemnity to pay the moneys due to our client, or alternatively, make payment and seek reimbursement. The updated sum is \$92,280.19, in accordance with the attached calculation.

If Mr Whyte declines to grant indemnity, he should be asked to provide reasons and then after consideration of those reasons it may be that proceedings to enforce the right of indemnity ought to be commenced.

We invite you and your client to give this matter your earnest and full consideration and address these matters to see this costs order paid. It would be a most disappointing state of affairs that your client would not do so, and this matter would then be productive of further litigation and expense, when it seems as if by reason of these simple steps, that could be avoided.

Yours faithfully



David Tucker  
**Tucker & Cowen**   
Accredited Specialist Commercial Litigation

Direct Email: dtucker@tuckercowen.com.au  
Direct Line: (07) 3210 3507

Encl.

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Interest Calculations

Principal	Date From	Date To	Cash Rate	Default Rate	Days	Interest
\$87,841.20	26/9/2014	31/12/2014	2.5	6	97	\$1,984.25
\$87,841.20	1/1/2015	30/4/2015	2.5	6	120	\$2,454.74
Interest payable:						\$4,438.99
Totals						
Total days:						217
Remaining debt:						\$87,841.20
Interest payable:						\$4,438.99
Amount payable (remaining debt + interest payable):						\$92,280.19

# RUSSELLS

20 May, 2015

Our Ref: Mr Russell  
Your Ref: Mr Couper/Ms Ogden

**EMAIL TRANSMISSION**

Gadens Lawyers  
**BRISBANE QLD 4000**

email: [Jacqueline.Ogden@gadens.com](mailto:Jacqueline.Ogden@gadens.com)

---

Dear Colleagues

**LM Investment Management Limited (in liquidation) (Receivers and Managers Appointed) ("LMIM") -v- Shotton & Ors  
LM First Mortgage Income Fund ("FMIF")  
CA 8895 of 2013**

We refer to your email dated 16 April 2015.

There has been a change in circumstances since we first made our demand for reimbursement of the costs due to Mr Shotton under the order of the Court of Appeal.

First, Mr Whyte's other solicitors have written to us on Mr Shotton's behalf, contending, quite correctly, that LMIM is entitled to indemnity for the appeal costs. We attach their letter dated 1 May, 2015.

We refer to what Tucker & Cowen have had to say about LMIM's right to indemnity. We respectfully agree with them.

We respectfully commend Mr Whyte's attention to those matters.

Secondly, those solicitors had earlier purported to commence enforcement proceedings against LMIM to recover the award of costs in Mr Shotton's favour. Although that was, because LMIM is being wound up, incompetent, it does illustrate the fact that Mr Whyte's sitting on the fence is starting to cause more than trouble and inconvenience – it is causing financial embarrassment, and costs, quite unnecessarily.

We therefore repeat LMIM's demand for a cheque drawn on the FMIF, or whatever account Mr Whyte is keeping for FMIF, in the sum of \$87,841.20 to Tucker & Cowen Trust Account for Mr Shotton's assessed costs of the appeal.

---

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As to your email under reply, we repeat that, aside from what we have said in our letter dated 31 January, 2015, and what Tucker & Cowen have said in their letter dated 1 May, 2015, we have nothing to add in support of the right of LMIM to indemnity in support of Mr Shotton's costs of the appeal.

In the circumstances, we think the matter is beyond any sensible argument. Hence, if it becomes necessary to sue to recover these monies, we propose to seek an order personally against Mr Whyte, on the indemnity basis (including for the interest that is mounting up in favour of Mr Shotton).

Please let us have Mr Whyte's cheque by 25 May, 2015 or, failing that, his reasons for not paying the liability.

Yours faithfully



**Stephen Russell**  
*Managing Partner*

Direct (07) 3004 8810  
Mobile 0418 392 015  
*SRussell@RussellsLaw.com.au*



Our Reference      Jacqueline Ogden 201401822  
Direct Line        3231 1688  
Email                jacqueline.ogden@gadens.com  
Partner Responsible   Scott Couper

**gadens**

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22 May 2015

Russells Law  
Level 18, 300 Queen Street  
Brisbane QLD 4000

Attention: Stephen Russell

By email: [srussell@russellsllaw.com.au](mailto:srussell@russellsllaw.com.au)

Dear Colleagues

**LM Investment Management Limited (In Liquidation) (Receivers and Managers Appointed) ("LMIM") as responsible entity of the LM First Mortgage Income Fund ("Fund") -v- Bruce & Ors Supreme Court of Queensland proceeding no. 3383 of 2013 ("Supreme Court Proceeding") Court of Appeal proceeding no. 8895 of 2013 ("Appeal Proceeding")**

We refer to your letter of 19 September 2014, our letter of 26 November 2014, your response of 31 January 2015 as well as our letter of 10 February 2015 and our subsequent emails of 19 February 2015, 12 March 2015 and 16 April 2015.

We further refer to your recent letter of 20 May 2015.

At the outset, it is not accurate to say that our client has been "sitting on the fence" in respect of this matter. That statement is not supported by the history of correspondence in this matter (referred to above). We have been awaiting your response to our letter of 10 February 2015. On that basis, our client cannot be said to be the cause of any "financial embarrassment" (as you put it).

Our client has now had an opportunity to properly consider your client's position and the position of Mr Shotton (as set out in a letter of 1 May 2015 from the solicitors for Mr Shotton to our client). We are instructed that our client will arrange for the amount to be drawn from the Fund in payment of the costs awarded to Mr Shotton pursuant to the order for costs made in the Appeal Proceeding and as assessed pursuant to the order of the Registrar dated 29 September 2014. We will write to Tucker & Cowen separately to arrange for payment.

For the avoidance of doubt, we note that the fact Mr Shotton's costs are being paid from the Fund should not be taken as an indication or agreement that any other costs incurred in respect of the Appeal Proceeding will be paid from the Fund.

We reserve our client's rights in this regard.

Yours faithfully,



Jacqueline Ogden  
Associate

"DW-17"

**BDO Business Recovery & Insolvency (Qld)**

**SCALE OF INSOLVENCY**  
**HOURLY CHARGE OUT RATES**

<i>FEES</i>	\$ (Exc GST)	\$ (Inc GST)
Partner	560	616
Associate Director	480	528
Senior Manager	425	467.50
Manager	390	429
Supervisor	350	385
Senior Accountant I	310	341
Senior Accountant II	270	297
Accountant I	220	242
Accountant II	190	209
Financial Assistant	180	198
Undergraduate	155	170.50
Practice Assistant	150	165
Administration Assistant	75	82.50
<b><i>OUTLAYS</i></b>		
Postage	At cost	At cost
Phone	At cost	At cost
Photocopying	30c a copy	33c a copy
Fax	\$1 per page	\$1.10 per page
Company Search	At cost	At cost
File Setup & Document Storage	60	66

These rates are current from 1 July 2013.

The Partners of BDO Business Recovery & Insolvency (Qld) are members of the Australian Restructuring Insolvency & Turnaround Association ("ARITA") and follow ARITA's Statement of Best Practice - Remuneration.

A copy of this statement may be found on the ARITA website ([www.arita.com.au](http://www.arita.com.au)).

It is considered appropriate to keep and maintain a number of different staff levels. This is a reflection of the different levels of staff required and experience necessary in order to undertake the various tasks in an insolvency appointment.

**BDO Business Recovery & Insolvency (Qld)**

**SCALE OF INSOLVENCY**  
**HOURLY CHARGE OUT RATES**

<b>FEES</b>	<b>\$ (Exc GST)</b>	<b>\$ (Inc GST)</b>
Partner	560	616
Associate Director	495	545
Senior Manager	440	484
Manager	400	440
Supervisor	360	396
Senior Accountant I	320	352
Senior Accountant II	280	308
Accountant I	225	248
Accountant II	195	215
Financial Assistant	195	204
Undergraduate	160	176
Practice Assistant	155	171
Administration Assistant	80	88
<b>OUTLAYS</b>		
Postage	At cost	At cost
Phone	At cost	At cost
Photocopying	30c a copy	33c a copy
Fax	\$1 per page	\$1.10 per page
Company Search	At cost	At cost
File Setup & Document Storage	60	66

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It is considered appropriate to keep and maintain a number of different staff levels. This is a reflection of the different levels of staff required and experience necessary in order to undertake the various tasks in an insolvency appointment.

BDO (Qld) Charge Out Rates - FY 2015/16

POSITIONS			AUDIT		PRIVATE CLIENT		TAX		BRI		CORPORATE FINANCE	
Audit/ PC / BRI	Tax	Corporate Finance	2015	2016	2015	2016	2015	2016	2015	2016	2015	2016
Partner	Partner	Partner	\$485	\$485	\$475	\$490	\$560	\$560	\$560	\$560	\$545	\$545
Executive Director	Executive Director	Executive Director	\$390	\$390	\$390	\$410	\$495	\$495	\$495	\$495	\$470	\$480
Associate Director	Associate Director	Associate Director	\$365	\$365	\$360	\$370	\$440	\$440	\$440	\$440	\$470	\$480
Senior Manager	Senior Manager	Senior Manager	\$310	\$310	\$320	\$330	\$400	\$400	\$400	\$400	\$400	\$400
Manager	Manager	Manager	\$275	\$275	\$280	\$290	\$340	\$350	\$360	\$360	\$310	\$320
Supervisor	Supervisor	Supervisor	\$240	\$240	\$245	\$250	\$320	\$320	\$320	\$320	275	285
Senior Accountant I	Senior Consultant I	Senior Accountant I	\$215	\$215	\$215	\$220	\$240	\$250	\$280	\$280	235	\$250
Senior Accountant II	Senior Consultant II	Senior Analyst II			\$215	\$185						
Para Professional	Para Professional	Para Professional	\$185	\$185	\$185	\$185	\$210	\$215	\$225	\$225	\$200	\$210
Accountant I	Consultant I	Analyst I	\$155	\$155	\$145	\$190	\$165	\$170	\$195	\$185	\$185	\$195
Accountant II	Consultant II	Analyst II			\$145	\$145						
Practice Assistant	Practice Assistant	Analyst III	\$130	\$130	\$125	\$125	\$135	\$140	\$155	\$155	\$130	\$140
Undergraduate	Undergraduate	Undergraduate	\$95	\$95	\$125	\$135	\$110	\$120	\$160	\$160	\$160	\$185
Junior Team Assistant	Junior Team Assistant	Junior Team Assistant	\$115	\$115	\$115	\$120			\$80	\$80		

SUPREME COURT OF QUEENSLAND

*Duplicate*

REGISTRY: Brisbane  
NUMBER: 3383 of 2013

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

AND

First Respondent: **LM INVESTMENT MANAGEMENT LIMITED (IN LIQUIDATION)  
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**

AND

Third Respondent: **ROGER SHOTTON**

AND

Intervener: **AUSTRALIAN SECURITIES & INVESTMENTS COMMISSION**

**ORDER**

Before: Justice Daubney  
Date: 29 January, 2015  
Initiating document: Application filed 11 December, 2014

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

1. Pursuant to section 96 of the *Trusts Act 1973*, a direction that the Applicants are not under any obligation to review each and every document in their possession



Filed on behalf of the First Defendant

Form 59 Rule 661

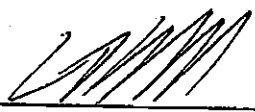
**Russells**  
Level 18  
300 Queen Street  
**BRISBANE 4000**  
Phone: 07 3004 8888  
Fax: 07 3004 8899

SCPR\_20141637\_043.docm

or in the possession of LM Administration Pty Ltd (In Liquidation) in order to identify any document which might compromise the interests of members of the Other Funds.

2. Pursuant to section 96 of the *Trusts Act 1973*, a direction that the applicants are justified in not opposing the orders, in the form attached as annexures A and B.
3. Pursuant to section 96(2) of the *Trusts Act 1973* and on the basis it is inexpedient to serve all of the members of all of the Other Funds, the need for service of this application and any supporting affidavit material on members is dispensed with.
4. The First Respondent's costs of the Application be payable from the corpus of Other Funds.



  
\_\_\_\_\_  
Registrar

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**SUPREME COURT OF QUEENSLAND**

**REGISTRY: Brisbane  
NUMBER: 3691/2013**

**Applicants**

**KORDAMENTHA PTY LTD (ACN 100  
169 391) AND CALIBRE CAPITAL  
LTD (ABN 66 108 318 985) IN THEIR  
CAPACITY AS TRUSTEES FOR THE  
LM MANAGED PERFORMANCE  
FUND**

**AND**

**First Respondents**

**JOHN RICHARD PARK AND  
GINETTE MULLER IN THEIR  
CAPACITY AS JOINT AND SEVERAL  
LIQUIDATORS OF LM INVESTMENT  
MANAGEMENT LIMITED (IN  
LIQUIDATION) ACN 077 208 461**

**AND**

**Second Respondent**

**LM INVESTMENT MANAGEMENT  
LIMITED (IN LIQUIDATION) ACN  
077 208 461**

**ORDER**

**Before:**

**Daubney J**

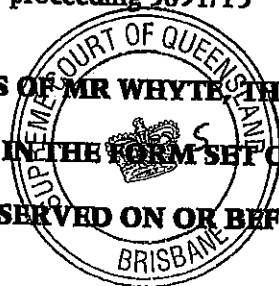
**Date:**

**29 January, 2015**

**Initiating documents:**

**Applications filed 2 and 11 December 2014 in  
proceeding 3383/13 and 15 December 2014 in  
proceeding 3691/13**

**UPON THE UNDERTAKINGS OF MR WHYTE, THE MPF TRUSTEES, LMIM  
AND THE FMIF RECEIVERS IN THE FORM SET OUT IN ANNEXURE "A" TO  
BE EXECUTED, FILED AND SERVED ON OR BEFORE 5 FEBRUARY 2015,**



---

**ORDER**

Form 59 Rule 661

12288674\_2



**THE ORDER OF THE COURT IN PROCEEDINGS NUMBERED 3383/13 AND  
3691/13 IS THAT:-**

1. In this Order:
  - (a) the terms **LM Group Books and Records, Mr Whyte, MPF Trustees, LMIM, Receiver, FMIF, LMA, LMIM Funds, MPF and Funds** have the same meaning as in the Order made in this application on 18 December 2014 ("**Previous Order**");
  - (b) the term **LM Group Minutes** means the minutes of the meetings of the LMIM board of directors and the credit committees of LMIM and the Funds as saved in the soft copy LM Group Books and Records on the storage drive labelled "G" in subdirectories "G:\LM Data\Office General\LM Board", "G:\LM Data\Office General\LM Executive Meetings\2013\February 2013", "G:\LM Data\Finance\Financial Accounting and Audit\Audit matters\Accounts 2013\FMIF 31 Dec 2012 - Half-Yr Review\Meeting Minutes\Credit Committee", "G:\LM Data\Clients\Borrowers\G\Green Square Property Development Corp Pty Ltd\1. MIF\1. Loan Control\3. Credit Synopsis" and "G:\LM Data\LM Property Asset Management ex Commercial Lending\Credit Committee" and as identified by the Receiver; and
  - (c) the term **FMIF Receivers** means Anthony Connelly and Joseph Hayes in their capacity as receivers and managers of FMIF appointed by Deutsche Bank AG.
  
2. By 4:00pm on 26 February 2015, the Receiver is to provide each of Mr Whyte, the MPF Trustees, LMIM and the FMIF Receivers with the following:
  - (a) an image of the server ("**Server**") (including an extract of the email and drive data) which stores and hosts the soft copy LM Group Books and Records except the LM Group Minutes; and

- (b) a final account in relation to the receivership pursuant to rule 270 of the Uniform Civil Procedure Rules.
3. By 4:00pm on 12 March 2015 or such later date agreed in writing between Mr Whyte, the MPF Trustees, LMIM and the FMIF Receivers, the Receiver is to:
- (a) provide each of Mr Whyte, the MPF Trustees, LMIM and the FMIF Receivers with an extract of the LM Group Minutes, redacted as set out in paragraph 4 below; and
  - (b) file in the Court in this application as a sealed confidential exhibit to an affidavit sworn by the Receiver an unredacted copy of the LM Group Minutes.
- 4 (a) The Receiver will redact the extract of the LM Group Minutes provided to each of Mr Whyte, the MPF Trustees, LMIM and the FMIF Receivers in accordance with paragraph 3(a) above so that the extract provided to each relevant party contains only:
- (i) minutes of the meetings of the LMIM board of directors and the credit committees of LMIM; or
  - (ii) minutes of the meetings of the credit committees, of the Fund or Funds pursuant to which that party has been appointed to.
- (b) For the avoidance of doubt, the effect of paragraph 4(a) above is that the extract provided to:
- (i) Mr Whyte will contain only information directly relating to the FMIF;
  - (ii) the MPF Trustees will contain only information directly relating to the MPF;
  - (iii) LMIM will contain only information directly relating to the LMIM Funds; and
  - (iv) the FMIF Receivers will contain only information directly relating to the FMIF;

- (c) The Receiver must undertake the task of redacting the extracts personally with the assistance of his staff and solicitors subject to further order.
5. By 4:00pm on 12 March 2015 or such later date agreed in writing between Mr Whyte, the MPF Trustees, LMIM and the FMIF Receivers, the Receiver is to provide to LMA the hard copy LM Group Books and Records to store and permit access to those documents by Mr Whyte, the MPF Trustees, LMIM, LMA and the FMIF Receivers subject to further order and payment of the storage and access costs as follows:
- (a) Mr Whyte (as Court receiver of the FMIF and as a proper expense of the FMIF Court receivership): 59%;
  - (b) the MPF Trustees: 23%; and
  - (c) LMIM (in its own capacity and as responsible entity for the LMIM Funds excluding the FMIF): 18%.
6. Unless within 14 days of provision by the Receiver of the final receivership accounts under paragraph 2(b) above a notice of objection is filed in this Court and served on the Receiver, then the appointment of the Receiver is terminated and the Receiver is released and discharged from all liability in respect of the receivership of the LM Group Books and Records.
7. In the event that the termination, release and discharge takes effect in accordance with paragraph 6 above:
- (a) the Receiver shall promptly, after deducting any remuneration and legal costs approved pursuant to paragraph 9 below and any other expenses incurred by the Receiver, pay the balance of funds remaining in the receivership to Mr Whyte, the MPF Trustees and LMIM in the proportions set out in paragraph 6(a) of the Previous Order; and
  - (b) the Receiver shall be at liberty to cease all arrangements relating to the storage of the LM Group Books and Records and the hosting of the Server

and to delete all soft copy LM Group Books and Records remaining in his possession.

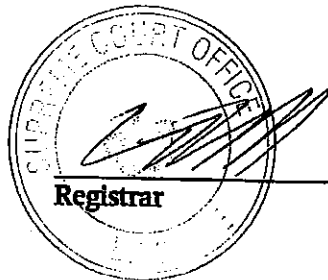
8. The Receiver's termination by this Order is without prejudice to, and does not derogate from, the rights, powers and obligations of Mr David Clout arising from or connected with his appointment as liquidator of LMA.
9. The Receivers' remuneration and legal costs as Court appointed receiver of the LM Group Books and Records be approved as follows:
  - (a) for the period up to 22 January 2015, remuneration for the Receiver and employees of Clout & Associates in the amount of \$29,193.45 (inclusive of GST) and legal costs of King & Wood Mallesons in the amount of \$33,170.50 (inclusive of GST); and
  - (b) for the period 23 January 2015 up to the termination of the receivership, in an amount for remuneration for the Receiver and employees of Clout & Associates not exceeding \$48,150 (including GST) and legal costs of King & Wood Mallesons in an amount not exceeding \$35,500 (including GST).
10. On account of the liability set out in paragraph 6 of the Previous Order, each of the following is ordered to pay to the Receiver on or before 5 February 2015 the following amounts:-
  - (a) LMIM – [18% of \$170,244.25] being \$30,643.97;
  - (b) Mr Whyte (as Court receiver of the FMIF and as a proper expense of the FMIF Court receivership) – [59% of \$170,244.25] being \$100,444.11; and
  - (c) MPF Trustees– [23% of \$170,244.25] being \$39,156.18
11. In the event the funds received in accordance with paragraph 10 above and paragraph 8 of the Previous Order are insufficient to meet the Receiver's costs, fees and expenses of the receivership, LMIM, Mr Whyte and the MPF Trustees agree to contribute within 7 days such further sum as requested by the Receiver

on account of the liability set out in paragraph 6 of the Previous Order in the proportions set out in paragraph 6 of the Previous Order.

12. The Receiver and LMA are not obliged to provide access to the LM Group Books and Records or perform the functions of the receivership unless they have sufficient funds to do so.
13. The Receiver is entitled to pay from the funds received in accordance with paragraphs 10 and 11 above and paragraph 8 of the Previous Order:
  - (a) subject to 13(b), expenses incurred by the Receiver;
  - (b) his remuneration and legal costs, as approved by the Court in paragraph 9 above.
14. The appointment of the Receiver to take possession and preserve the LM Group Books and Records and permit access to the LM Group Books and Records in accordance with paragraphs 2(c), 3(b)(vii) and 3(b)(ix) of the Previous Order shall continue except that any references to 'LMIM, the MPF trustees and Mr Whyte' in the abovementioned paragraphs of the Previous Order shall be deemed to be deleted and replaced with 'LMIM, the MPF trustees, Anthony Connelly and Joseph Hayes in their capacity as receivers and managers of FMIF appointed by Deutsche Bank AG and Mr Whyte' until termination of the receivership in accordance with paragraph 6 above or further or earlier order and the reference to "29 January 2015" in paragraph 2(c) of the Previous Order being deleted and replaced with "the date of termination of the receivership".
15. Mr Whyte is to be indemnified from the assets of the FMIF in respect of amounts paid by Mr Whyte pursuant to this Order, such amounts being amounts to which the indemnity provided by paragraph 3(b) of the Order of Justice Dalton of this Honourable Court dated 21 August 2013 applies.

16. Nothing in this order affects or applies to any information, record or document which has been produced in consequence of the order of the Honourable Justice Jackson of 29 November 2013 in proceedings BS 11112 of 2013 ("**Justice Jackson's Order**").
17. Nothing in Justice Jackson's Order affects or applies to the Server referred to in this order or to any information, record or document stored in that Server.
18. Any party affected by this Order, including LMIM, the MPF Trustees, Mr Whyte, the FMIF Receivers, the Receiver and LMA, have liberty to apply.
19. Costs of all parties to this application be their respective costs in the Funds to which they are respectively responsible entity, trustee or receiver.
20. The costs of Mr Clout of and incidental to this application will form part of the costs of the receivership.

Signed:



**UNDERTAKING TO THE SUPREME COURT OF QUEENSLAND**

I, Jarrod Villani, of 12 Creek Street, Brisbane, Queensland give the following undertaking to the Supreme Court of Queensland:

1. Not to interrogate the Server or hard copy LM Group Books and Records mentioned in paragraphs 2 and 5 respectively of the Order of the Supreme Court of Queensland of 29 January, 2015 in proceeding no. BS. 3383 of 2013 for any purpose other than to obtain information about or concerning the affairs of:
  - (a) the LM Managed Performance Fund, and
  - (b) LM Investment Management Limited (in liquidation) while acting as the former trustee of that fund, (collectively, "**Fund Information**".)
  
2. In the event that any interrogation of the information mentioned in paragraph 1 above by me produces a response which contains, in addition to Fund Information, information about or concerning another fund or entity (collectively, "**Non-Fund Information**"), not to:
  - (a) make use of any such Non-Fund Information in any way whatsoever, save for considering, with any other person who has given an undertaking to the Supreme Court in this form, whether approval for



the use of the Non-Fund Information should be sought in one of the ways set out below; and

- (b) provide a copy of, or otherwise disclose, such Non-Fund Information to any other person,

without:

- (i) the approval of the Supreme Court of Queensland upon notice given to the person(s) or entity responsible for the administration of the particular fund to which the Non-Fund information relates; or
- (ii) the approval of the person(s) or entity responsible for the administration of the particular fund to which the Non-Fund Information relates.

3. To ensure that no servant or agent of KordaMentha Pty Ltd or Calibre Capital Ltd will interrogate the above-mentioned Server or hard copy LM Group Books and Records unless that person has first signed an undertaking in the same form as this undertaking (save for this paragraph 3 and paragraph 4 following).

4. To pay the MPF trustees' share of the costs of Grace Records Management for the storage of, and access to,

the hard copy LM Group Books and Records pending further order of the Supreme Court of Queensland.

5. Not to alter or destroy the hard copy LM Group Books and Records.

Signed: \_\_\_\_\_

Dated:

**UNDERTAKING TO THE SUPREME COURT OF QUEENSLAND**

We, John Park and Ginette Muller, both of 12 Market Street, Brisbane, Queensland, jointly and severally give the following undertaking to the Supreme Court of Queensland:

1. Not to interrogate the Server or hard copy LM Group Books and records mentioned in paragraphs 2 and 5 respectively of the Order of the Supreme Court of Queensland of 29 January, 2015 in proceeding no. BS. 3383 of 2013 for any purpose other than to obtain information about or concerning the affairs of:

(a) the LM Australian Income Fund, the LM Australian Structured Products Fund, the LM Cash Performance Fund, the LM Currency Protected Australian Income Fund, the LM Institutional Currency Protected Australian Income Fund and the LM First Mortgage Income Fund;

(b) the LM Managed Performance Fund, in respect of the period during which LM Investment Management Limited (in liquidation) was the trustee of that fund;

(c) LM Investment Management Limited (in liquidation) in its own right and as responsible entity or

trustee for each of those funds, as the case may be,

(collectively, "Fund Information".)

2. In the event that any interrogation of the information mentioned in paragraph 1 above by me produces a response which contains, in addition to Fund Information, information about or concerning another fund or entity (collectively, "Non-Fund Information"), not to:

- (a) make use of any such Non-Fund Information in any way whatsoever, save for considering, with any other person who has given an undertaking to the Supreme Court in this form, whether approval for the use of the Non-Fund Information should be sought in one of the ways set out below; and
- (b) provide a copy of, or otherwise disclose, such Non-Fund Information to any other person,

without:

- (i) the approval of the Supreme Court of Queensland upon notice given to the person(s) or entity responsible for the administration of the particular fund to which the Non-Fund information relates; or

(ii) the approval of the person(s) or entity responsible for the administration of the particular fund to which the Non-Fund Information relates.

3. To ensure that no servant or agent of FTI Consulting Ltd will interrogate the above-mentioned Server or hard copy LM Group Books and Records unless that person has first signed an undertaking in the same form as this undertaking (save for this paragraph 3 and paragraph 4 following).
4. To pay our agreed share of the costs of Grace Records Management for the storage of, and access to, the hard copy LM Group Books and records pending further order of the Supreme Court of Queensland.
5. Not to alter or destroy the hard copy LM Group Books and Records.

Signed:

Signed:

Dated: 29 January, 2015

Dated: 29 January, 2015

**UNDERTAKING TO THE SUPREME COURT OF QUEENSLAND**

I, David Whyte, of 10 Eagle Street, Brisbane, Queensland give the following undertaking to the Supreme Court of Queensland:

1. Not to interrogate the Server or the hard copy LM Group Books and Records mentioned in paragraphs 2 and 5 respectively of the Order of the Supreme Court of Queensland of 29 January, 2015 in proceeding no. BS. 3383 of 2013 for any purpose other than to obtain information about or concerning the affairs of:
  - (a) the LM First Mortgage Income Fund, and
  - (b) LM Investment Management Limited (in liquidation) as responsible entity for that fund,  
(collectively, "**Fund Information**".)
  
2. In the event that any interrogation of the information mentioned in paragraph 1 above by me produces a response which contains, in addition to Fund Information, information about or concerning another fund or entity (collectively, "**Non-Fund Information**"), not to:
  - (a) make use of any such Non-Fund Information in any way whatsoever, save for considering, with any other person who has given an undertaking to the Supreme Court in this form, whether approval for

the use of the Non-Fund Information should be sought in one of the ways set out below; and

- (b) provide a copy of, or otherwise disclose, such Non-Fund Information to any other person,

without:

- (i) the approval of the Supreme Court of Queensland upon notice given to the person(s) or entity responsible for the administration of the particular fund to which the Non-Fund information relates; or
- (ii) the approval of the person(s) or entity responsible for the administration of the particular fund to which the Non-Fund Information relates.

3. To ensure that no servant or agent of BDO will interrogate the above-mentioned Server or hard copy LM Group Books and Records unless that person has first signed an undertaking in the same form as this undertaking (save for this paragraph 3).
4. To pay my agreed share of the costs of Grace Records Management for the storage of, and access to, the hard copy LM Group Books and Records pending further order of the Supreme Court of Queensland.



5. Not to alter or destroy the hard copy LM Group Books and Records.

Signed: \_\_\_\_\_

Dated: 29 January, 2015

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P  
SUPREME COURT OF QUEENSLAND

REGISTRY: Brisbane  
NUMBER: 3383 of 2013

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

**AND**

**First Respondent:** **LM INVESTMENT MANAGEMENT  
LIMITED (IN LIQUIDATION)  
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**

**AND**

**Third Respondent:** **ROGER SHOTTON**

**AND**

**Intervener:** **AUSTRALIAN SECURITIES &  
INVESTMENTS COMMISSION**

**ORDER**

**Before:** Daubney J

**Date:** 29 January, 2015

**Initiating documents:** Applications filed 2 and 11 December 2014 in  
proceeding 3383/13 and 15 December 2014 in  
proceeding 3691/13

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**ORDER**

Filed on behalf of the Applicant, David Whyte

Form 59 Rule 661

**TUCKER & COWEN**  
Solicitors  
Level 15  
15 Adelaide Street  
**BRISBANE QLD**  
4000  
Phone: (07) 300 300 00  
Fax: (07) 300 300 33

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**UPON THE UNDERTAKINGS OF MR WHYTE, THE MPF TRUSTEES, LMIM AND THE FMIF RECEIVERS IN THE FORM SET OUT IN ANNEXURE "A" TO BE EXECUTED, FILED AND SERVED ON OR BEFORE 5 FEBRUARY 2015, THE ORDER OF THE COURT IN PROCEEDINGS NUMBERED 3383/13 AND 3691/13 IS THAT:-**

1. In this Order:
  - (a) the terms **LM Group Books and Records, Mr Whyte, MPF Trustees, LMIM, Receiver, FMIF, LMA, LMIM Funds, MPF and Funds** have the same meaning as in the Order made in this application on 18 December 2014 ("**Previous Order**");
  - (b) the term **LM Group Minutes** means the minutes of the meetings of the LMIM board of directors and the credit committees of LMIM and the Funds as saved in the soft copy LM Group Books and Records on the storage drive labelled "G" in subdirectories "G:\LM Data\Office General\LM Board", "G:\LM Data\Office General\LM Executive Meetings\2013\February 2013", "G:\LM Data\Finance\Financial Accounting and Audit\Audit matters\Accounts 2013\FMIF 31 Dec 2012 - Half-Yr Review\Meeting Minutes\Credit Committee", "G:\LM Data\Clients\Borrowers\G\Green Square Property Development Corp Pty Ltd\1. MIF\1. Loan Control\3. Credit Synopsis" and "G:\LM Data\LM Property Asset Management ex Commercial Lending\Credit Committee" and as identified by the Receiver; and
  - (c) the term **FMIF Receivers** means Anthony Connelly and Joseph Hayes in their capacity as receivers and managers of FMIF appointed by Deutsche Bank AG.
2. By 4:00pm on 26 February 2015, the Receiver is to provide each of Mr Whyte, the MPF Trustees, LMIM and the FMIF Receivers with the following:

- (a) an image of the server ("Server") (including an extract of the email and drive data) which stores and hosts the soft copy LM Group Books and Records except the LM Group Minutes; and
  - (b) a final account in relation to the receivership pursuant to rule 270 of the Uniform Civil Procedure Rules.
3. By 4:00pm on 12 March 2015 or such later date agreed in writing between Mr Whyte, the MPF Trustees, LMIM and the FMIF Receivers, the Receiver is to:
- (a) provide each of Mr Whyte, the MPF Trustees, LMIM and the FMIF Receivers with an extract of the LM Group Minutes, redacted as set out in paragraph 4 below; and
  - (b) file in the Court in this application as a sealed confidential exhibit to an affidavit sworn by the Receiver an unredacted copy of the LM Group Minutes.
- 4 (a) The Receiver will redact the extract of the LM Group Minutes provided to each of Mr Whyte, the MPF Trustees, LMIM and the FMIF Receivers in accordance with paragraph 3(a) above so that the extract provided to each relevant party contains only:
- (i) minutes of the meetings of the LMIM board of directors and the credit committees of LMIM; or
  - (ii) minutes of the meetings of the credit committees, of the Fund or Funds pursuant to which that party has been appointed to.
- (b) For the avoidance of doubt, the effect of paragraph 4(a) above is that the extract provided to:
- (i) Mr Whyte will contain only information directly relating to the FMIF;
  - (ii) the MPF Trustees will contain only information directly relating to the MPF;
  - (iii) LMIM will contain only information directly relating to the LMIM Funds; and

- (iv) the FMIF Receivers will contain only information directly relating to the FMIF;
  - (c) The Receiver must undertake the task of redacting the extracts personally with the assistance of his staff and solicitors subject to further order.
- 5. By 4:00pm on 12 March 2015 or such later date agreed in writing between Mr Whyte, the MPF Trustees, LMIM and the FMIF Receivers, the Receiver is to provide to LMA the hard copy LM Group Books and Records to store and permit access to those documents by Mr Whyte, the MPF Trustees, LMIM, LMA and the FMIF Receivers subject to further order and payment of the storage and access costs as follows:
  - (a) Mr Whyte (as Court receiver of the FMIF and as a proper expense of the FMIF Court receivership): 59%;
  - (b) the MPF Trustees: 23%; and
  - (c) LMIM (in its own capacity and as responsible entity for the LMIM Funds excluding the FMIF): 18%.
- 6. Unless within 14 days of provision by the Receiver of the final receivership accounts under paragraph 2(b) above a notice of objection is filed in this Court and served on the Receiver, then the appointment of the Receiver is terminated and the Receiver is released and discharged from all liability in respect of the receivership of the LM Group Books and Records.
- 7. In the event that the termination, release and discharge takes effect in accordance with paragraph 6 above:
  - (a) the Receiver shall promptly, after deducting any remuneration and legal costs approved pursuant to paragraph 9 below and any other expenses incurred by the Receiver, pay the balance of funds remaining in the receivership to Mr Whyte, the MPF Trustees and LMIM in the proportions set out in paragraph 6(a) of the Previous Order; and

- (b) the Receiver shall be at liberty to cease all arrangements relating to the storage of the LM Group Books and Records and the hosting of the Server and to delete all soft copy LM Group Books and Records remaining in his possession.
8. The Receiver's termination by this Order is without prejudice to, and does not derogate from, the rights, powers and obligations of Mr David Clout arising from or connected with his appointment as liquidator of LMA.
9. The Receivers' remuneration and legal costs as Court appointed receiver of the LM Group Books and Records be approved as follows:
- (a) for the period up to 22 January 2015, remuneration for the Receiver and employees of Clout & Associates in the amount of \$29,193.45 (inclusive of GST) and legal costs of King & Wood Mallesons in the amount of \$33,170.50 (inclusive of GST); and
- (b) for the period 23 January 2015 up to the termination of the receivership, in an amount for remuneration for the Receiver and employees of Clout & Associates not exceeding \$48,150 (including GST) and legal costs of King & Wood Mallesons in an amount not exceeding \$35,500 (including GST).
10. On account of the liability set out in paragraph 6 of the Previous Order, each of the following is ordered to pay to the Receiver on or before 5 February 2015 the following amounts:-
- (a) LMIM – [18% of \$170,244.25] being \$30,643.97;
- (b) Mr Whyte (as Court receiver of the FMIF and as a proper expense of the FMIF Court receivership) – [59% of \$170,244.25] being \$100,444.11; and
- (c) MPF Trustees– [23% of \$170,244.25] being \$39,156.18
11. In the event the funds received in accordance with paragraph 10 above and paragraph 8 of the Previous Order are insufficient to meet the Receiver's costs,

fees and expenses of the receivership, LMIM, Mr Whyte and the MPF Trustees agree to contribute within 7 days such further sum as requested by the Receiver on account of the liability set out in paragraph 6 of the Previous Order in the proportions set out in paragraph 6 of the Previous Order.

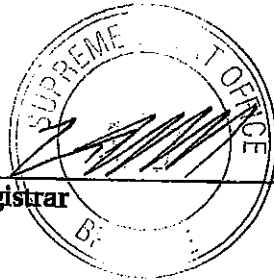
12. The Receiver and LMA are not obliged to provide access to the LM Group Books and Records or perform the functions of the receivership unless they have sufficient funds to do so.
13. The Receiver is entitled to pay from the funds received in accordance with paragraphs 10 and 11 above and paragraph 8 of the Previous Order:
  - (a) subject to 13(b), expenses incurred by the Receiver;
  - (b) his remuneration and legal costs, as approved by the Court in paragraph 9 above.
14. The appointment of the Receiver to take possession and preserve the LM Group Books and Records and permit access to the LM Group Books and Records in accordance with paragraphs 2(c), 3(b)(vii) and 3(b)(ix) of the Previous Order shall continue except that any references to "LMIM, the MPF trustees and Mr Whyte" in the abovementioned paragraphs of the Previous Order shall be deemed to be deleted and replaced with "LMIM, the MPF trustees, Anthony Connelly and Joseph Hayes in their capacity as receivers and managers of FMIF appointed by Deutsche Bank AG and Mr Whyte" until termination of the receivership in accordance with paragraph 6 above or further or earlier order and the reference to "29 January 2015" in paragraph 2(c) of the Previous Order being deleted and replaced with "the date of termination of the receivership".
15. Mr Whyte is to be indemnified from the assets of the FMIF in respect of amounts paid by Mr Whyte pursuant to this Order, such amounts being amounts to

which the indemnity provided by paragraph 3(b) of the Order of Justice Dalton of this Honourable Court dated 21 August 2013 applies.

16. Nothing in this order affects or applies to any information, record or document which has been produced in consequence of the order of the Honourable Justice Jackson of 29 November 2013 in proceedings BS 11112 of 2013 ("**Justice Jackson's Order**").
17. Nothing in Justice Jackson's Order affects or applies to the Server referred to in this order or to any information, record or document stored in that Server.
18. Any party affected by this Order, including LMIM, the MPF Trustees, Mr Whyte, the FMIF Receivers, the Receiver and LMA, have liberty to apply.
19. Costs of all parties to this application be their respective costs in the Funds to which they are respectively responsible entity, trustee or receiver.
20. The costs of Mr Clout of and incidental to this application will form part of the costs of the receivership.

Signed:

Registrar





**UNDERTAKING TO THE SUPREME COURT OF QUEENSLAND**

I, Jarrod Villani, of 12 Creek Street, Brisbane, Queensland give the following undertaking to the Supreme Court of Queensland:

1. Not to interrogate the Server or hard copy LM Group Books and Records mentioned in paragraphs 2 and 5 respectively of the Order of the Supreme Court of Queensland of 29 January, 2015 in proceeding no. BS. 3383 of 2013 for any purpose other than to obtain information about or concerning the affairs of:
  - (a) the LM Managed Performance Fund, and
  - (b) LM Investment Management Limited (in liquidation) while acting as the former trustee of that fund,  
(collectively, "**Fund Information**".)
  
2. In the event that any interrogation of the information mentioned in paragraph 1 above by me produces a response which contains, in addition to Fund Information, information about or concerning another fund or entity (collectively, "**Non-Fund Information**"), not to:
  - (a) make use of any such Non-Fund Information in any way whatsoever, save for considering, with any other person who has given an undertaking to the Supreme Court in this form, whether approval for

the use of the Non-Fund Information should be sought in one of the ways set out below; and

- (b) provide a copy of, or otherwise disclose, such Non-Fund Information to any other person,

without:

- (i) the approval of the Supreme Court of Queensland upon notice given to the person(s) or entity responsible for the administration of the particular fund to which the Non-Fund information relates; or
- (ii) the approval of the person(s) or entity responsible for the administration of the particular fund to which the Non-Fund Information relates.

3. To ensure that no servant or agent of KordaMentha Pty Ltd or Calibre Capital Ltd will interrogate the above-mentioned Server or hard copy LM Group Books and Records unless that person has first signed an undertaking in the same form as this undertaking (save for this paragraph 3 and paragraph 4 following).

4. To pay the MPF trustees' share of the costs of Grace Records Management for the storage of, and access to,

the hard copy LM Group Books and Records pending further order of the Supreme Court of Queensland.

5. Not to alter or destroy the hard copy LM Group Books and Records.

Signed: \_\_\_\_\_

Dated:

**UNDERTAKING TO THE SUPREME COURT OF QUEENSLAND**

We, John Park and Ginette Muller, both of 12 Market Street, Brisbane, Queensland, jointly and severally give the following undertaking to the Supreme Court of Queensland:

1. Not to interrogate the Server or hard copy LM Group Books and records mentioned in paragraphs 2 and 5 respectively of the Order of the Supreme Court of Queensland of 29 January, 2015 in proceeding no. BS. 3383 of 2013 for any purpose other than to obtain information about or concerning the affairs of:

(a) the LM Australian Income Fund, the LM Australian Structured Products Fund, the LM Cash Performance Fund, the LM Currency Protected Australian Income Fund, the LM Institutional Currency Protected Australian Income Fund and the LM First Mortgage Income Fund;

(b) the LM Managed Performance Fund, in respect of the period during which LM Investment Management Limited (in liquidation) was the trustee of that fund;

(c) LM Investment Management Limited (in liquidation) in its own right and as responsible entity or

trustee for each of those funds, as the case may be,

(collectively, "**Fund Information**".)

2. In the event that any interrogation of the information mentioned in paragraph 1 above by me produces a response which contains, in addition to Fund Information, information about or concerning another fund or entity (collectively, "**Non-Fund Information**"), not to:

- (a) make use of any such Non-Fund Information in any way whatsoever, save for considering, with any other person who has given an undertaking to the Supreme Court in this form, whether approval for the use of the Non-Fund Information should be sought in one of the ways set out below; and
- (b) provide a copy of, or otherwise disclose, such Non-Fund Information to any other person,

without:

- (i) the approval of the Supreme Court of Queensland upon notice given to the person(s) or entity responsible for the administration of the particular fund to which the Non-Fund information relates; or

(ii) the approval of the person(s) or entity responsible for the administration of the particular fund to which the Non-Fund Information relates.

3. To ensure that no servant or agent of FTI Consulting Ltd will interrogate the above-mentioned Server or hard copy LM Group Books and Records unless that person has first signed an undertaking in the same form as this undertaking (save for this paragraph 3 and paragraph 4 following).
4. To pay our agreed share of the costs of Grace Records Management for the storage of, and access to, the hard copy LM Group Books and records pending further order of the Supreme Court of Queensland.
5. Not to alter or destroy the hard copy LM Group Books and Records.

Signed:

\_\_\_\_\_

Signed:

\_\_\_\_\_

Dated: 29 January, 2015

Dated: 29 January, 2015

**UNDERTAKING TO THE SUPREME COURT OF QUEENSLAND**

I, David Whyte, of 10 Eagle Street, Brisbane, Queensland give the following undertaking to the Supreme Court of Queensland:

1. Not to interrogate the Server or the hard copy LM Group Books and Records mentioned in paragraphs 2 and 5 respectively of the Order of the Supreme Court of Queensland of 29 January, 2015 in proceeding no. BS. 3383 of 2013 for any purpose other than to obtain information about or concerning the affairs of:
  - (a) the LM First Mortgage Income Fund, and
  - (b) LM Investment Management Limited (in liquidation) as responsible entity for that fund,  
(collectively, "**Fund Information**".)
  
2. In the event that any interrogation of the information mentioned in paragraph 1 above by me produces a response which contains, in addition to Fund Information, information about or concerning another fund or entity (collectively, "**Non-Fund Information**"), not to:
  - (a) make use of any such Non-Fund Information in any way whatsoever, save for considering, with any other person who has given an undertaking to the Supreme Court in this form, whether approval for

the use of the Non-Fund Information should be sought in one of the ways set out below; and

- (b) provide a copy of, or otherwise disclose, such Non-Fund Information to any other person,

without:

- (i) the approval of the Supreme Court of Queensland upon notice given to the person(s) or entity responsible for the administration of the particular fund to which the Non-Fund information relates; or
- (ii) the approval of the person(s) or entity responsible for the administration of the particular fund to which the Non-Fund Information relates.

- 3. To ensure that no servant or agent of BDO will interrogate the above-mentioned Server or hard copy LM Group Books and Records unless that person has first signed an undertaking in the same form as this undertaking (save for this paragraph 3).
- 4. To pay my agreed share of the costs of Grace Records Management for the storage of, and access to, the hard copy LM Group Books and Records pending further order of the Supreme Court of Queensland.



5. Not to alter or destroy the hard copy LM Group Books and Records.

Signed: \_\_\_\_\_

Dated: 29 January, 2015

*Duplicate*

SUPREME COURT OF QUEENSLAND

REGISTRY: Brisbane  
NUMBER: 4526 of 2015

First Applicants: JOHN RICHARD PARK AND GINETTE DAWN MULLER IN THEIR CAPACITY AS LIQUIDATORS OF LM INVESTMENT MANAGEMENT LIMITED ACN 077 208 461 (IN LIQUIDATION)

AND

Second Applicant: LM INVESTMENT MANAGEMENT LIMITED ACN 077 208 461 (IN LIQUIDATION)

**ORDER**

Before: Justice Jackson  
Date: 14 May, 2015  
Initiating document: Application filed 7 May, 2015

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

1. Pursuant to s 96 of the *Trusts Act* 1973 (Qld), the applicants are advised and directed that they are not under any obligation to review each and every document in their possession in order to identify any document which might compromise the interests of members of the following funds:

- (a) LM Investment Management Limited (Receivers and Managers Appointed) (In Liquidation) ACN 077 208 461 as the responsible entity of the:
- (i) LM First Mortgage Income Fund;
  - (ii) LM Australian Income Fund;
  - (iii) LM Australian Structured Products Fund;



Form 59 Rule 661

**FINAL ORDER**

Russells  
Level 18  
300 Queen Street  
BRISBANE 4000  
Phone: 07 3004 8888  
Fax: 07 3004 8899

Final Draft Order 14-5-15 (2)

- 
- (iv) LM Cash Performance Fund;
  - (v) LM Currency Protected Australian Income Fund;
  - (vi) LM Institutional Currency Protected Income Fund; and
  - (b) LM Investment Management Limited (Receivers and Managers Appointed) (In Liquidation) ACN 077 208 461 as the former trustee of the LM Managed Performance Fund; and
  - (c) Trilogy Funds Management Limited as Responsible Entity of the LM Wholesale First Mortgage Income Fund.

2. Pursuant to section 96 of the *Trusts Act 1973*, the Applicants are advised and directed that they are justified in granting the First to Sixth Defendants in the Supreme Court of Queensland Proceeding number 12317 of 2014, including their agent(s), access to, and copies to be made of, the books and records of the Second Applicant by:

- (a) providing a copy of the image of the server which stores and hosts the soft copy books and records of the Second Applicant; and
- (b) allowing access to, and copies to be made of, the hard and soft copy books and records of the Second Applicant,

conditional upon those persons first providing undertakings to this Honourable Court in the form set out in Annexure A of the Amended Statement of Facts filed 14 May 2015.

3. Nothing in this order, or by any party's compliance with it, in and of itself amounts to a waiver of any legal professional privilege which may exist in a document referred to in paragraph 2.

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4. The applicants' costs of this application be payable from the assets of the funds in the following proportions:-

- (a) from the LM First Mortgage Income Fund – 59%;
- (b) from the LM Managed Performance Fund – 23%; and
- (c) from the funds referred to in paragraphs 1(a)(ii) to 1(a)(vi) of this Order – 18%.

5. The costs of KordaMentha Pty Ltd as trustee of the LM Managed Performance Fund be paid out of that fund.

Signed:

*OBuxon*  
of Registrar





McGrathNicol

22 September 2014

McGrathNicol  
Partnership  
ABN 41 945 982 761  
Level 31, 60 Margaret Street  
Sydney NSW 2000, Australia  
GPO Box 9986  
Sydney NSW 2001, Australia  
T +61 2 9338 2600  
F +61 2 9338 2699  
mcgrathnicol.com

LM Investment Management Limited (Receivers and Managers Appointed)  
(In Liquidation)  
Ginette Muller  
John Park  
Joint and Several Liquidators

By email: [ginette.muller@fticonsulting.com](mailto:ginette.muller@fticonsulting.com)  
[john.park@fticonsulting.com](mailto:john.park@fticonsulting.com)

Dear Sir / Madam

By Email

**LM Investment Management Limited (In Liquidation) (Receivers and Managers Appointed) as responsible entity for the LM First Mortgage Income Fund ACN 077 208 461 ("FMIF")**  
**RE: FMIF reimbursement of payments made on behalf of other funds**

I refer to my appointment as Joint and Several Receiver and Manager of FMIF and to your appointment as Liquidators of LM Investment Management Limited (Receivers and Managers Appointed) (In Liquidation) ("LMIM").

As you are aware, LMA requires funding to ensure all operating costs, including LMA employees and contracts with suppliers are paid to continue the operations of LMIM as the responsible entity of the funds within the LMIM Group.

At present, FMIF currently funds all of the costs on behalf of the other funds. This was agreed with David Clout as Liquidator of LMA to prevent any adverse impact to operations. Given the above, FMIF requires the reimbursement for expenses incurred on behalf of other funds.

#### Analysis

Given various payments are often for the benefit of multiple funds (for example employee costs, building and utility payments) it is prudent to split these on a "user pays" basis.

We have based our analysis on employee timesheets split by each fund for the period October 2013 to June 2014. These timesheets have been prepared by the employees of LMA and are maintained by the Liquidator of LMA. This is an accurate reflection of how LMA expenses should be proportionately attributed to each of the funds for the period October 2013 to June 2014.

Attached and marked Annexures "A to I" represents the time charged by employee as a percentage multiplied against the LMA funding provided for that month. The material to support the monthly LMA funding is also attached as Annexures "A to I".

With respect to the months where no timesheets have been recorded (26 July 2013 and 31 September), we have applied the average of the months available and applied those to the LMA costs incurred during that period. Also included in the summary is the LMA service fee, which represents 10% of the funds incurred in

A8-140922-LMINMAN01-FMIF reimbursement LMIM - MH

in association  
with



Liability limited by a scheme  
approved under Professional  
Standards Legislation

Advisory  
Forensic  
Transactions  
Restructuring  
Insolvency



any given month as a result of LMA maintaining operations and answering your queries as required. This summary is attached and marked Annexure J.

The attached analysis reflects the amount of employees' time being utilised in other funds by various practitioners.

**Conclusion**

For the period 26 July 2013 to 30 June 2014, LMA incurred \$3.7m in expenses (refer to attached monthly breakdown). Based on the above figure, we have calculated the amount of costs FMIF is reasonably entitled to be reimbursed for. This is set out below per fund and per practitioner firm:

Summary of LMA reimbursement for the period 26 July 2013 to 30 June 2014														
Month	FMIF	FMIF	FMIF	CPAIF	ICPAIF	CPF	AIFCP	ASPF	MPF	W/Sale	LMIM	LMA	Total	
	McN	BDO	FTI	FTI	FTI	FTI	FTI	FTI	KM	Trilogy	FTI			
July 2013 to Sept 2013	464,738	341,814	13,301	36,210	5,904	5,684	74,080	27,781	6,009	715	2,955	27,986	1,007,177	
Oct-13	141,954	109,592	5,349	7,966	3,374	2,483	55,000	15,576	8,605	397	-	20,787	371,083	
Nov-13	114,558	93,167	9,217	23,274	1,985	3,687	30,502	12,092	4,085	621	-	-	293,188	
Dec-13	158,699	129,656	2,700	13,702	1,803	1,226	43,287	5,859	945	-	-	-	357,878	
Jan-14	134,505	97,229	3,655	15,111	999	2,686	30,077	7,467	631	269	-	-	292,628	
Feb-14	108,163	94,049	3,623	16,942	1,773	1,237	23,601	8,468	491	763	7,607	5,778	272,495	
Mar-14	107,471	134,525	2,571	9,503	402	1,840	23,570	12,259	1,417	148	-	-	293,705	
Apr-14	157,736	108,216	2,327	10,578	2,753	472	9,014	11,514	148	-	66	8,123	310,946	
May-14	120,490	69,027	1,243	4,505	2,855	780	7,705	4,303	1,886	-	353	8,196	221,342	
Jun-14	146,138	89,218	2,551	3,270	301	708	8,585	2,949	699	-	98	20,012	274,529	
<b>Total</b>	<b>1,654,452</b>	<b>1,266,494</b>	<b>46,537</b>	<b>141,060</b>	<b>22,147</b>	<b>20,803</b>	<b>305,419</b>	<b>108,269</b>	<b>24,916</b>	<b>2,911</b>	<b>11,079</b>	<b>90,882</b>	<b>3,694,971</b>	

Accordingly, please find attached invoices for the funds and amounts as detailed in the above table.

Should you fail to pay the attached within 14 days, we will instruct LMA to cease access to all employees until such time as FMIF is reimbursed.

Should you have any queries regarding the above, please contact Ian Niccol on (02) 9248 9905.

Yours faithfully

*LM Investment Management Limited (Receivers and Managers Appointed) (In Liquidation) as responsible entity for the LM First Mortgage Income Fund*

Joseph Hayes  
Joint and Several Receiver and Manager

Enclosure(s):  
6 x invoices made out to the respective fund  
Annexures A to J



McGrathNicol

Annexure A - I

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**LM ADMINISTRATION PTY LTD (IN LIQUIDATION) (CONTROLLERS APPOINTED)**

Operational costs paid 26 July 2013 to 31 July 2013

<b>Description</b>	<b>Amount (\$)</b>
PAYG Control (Trading): PAYG Withheld	(13,276.00)
Subcontractors	(5,187.99)
Wages & Salaries	(47,418.28)
Bank Charges	(0.60)
	<u>(65,882.87)</u>



**LM ADMINISTRATION PTY LTD (IN LIQUIDATION) (CONTROLLERS APPOINTED)**

Operational costs paid 1 August 2013 to 31 August 2013

<b>Description</b>	<b>Amount (\$)</b>
Hire & Leasing	(22,443.87)
PAYG Control (Trading): PAYG Withheld	(50,697.00)
Printing & Stationery	(999.00)
Record Storage	(1,525.28)
Rent & Rates	(16,276.61)
Repairs & Maintenance	(84.65)
Stamp Duty	(18.58)
Subcontractors	(34,570.71)
Superannuation Control (Trading)	(4,374.36)
Utilities	(6,783.43)
Wages & Salaries	(183,392.20)
Bank Charges	(14.87)
Donation- Baby Hudson	(70.00)
Insurance	(371.52)
	<u>(321,622.08)</u>

**LM ADMINISTRATION PTY LTD (IN LIQUIDATION) (CONTROLLERS APPOINTED)**

Operational costs paid 1 September 2013 to 30 September 2013

<b>Description</b>	<b>Amount (\$)</b>
Freight	(65.22)
Hire & Leasing	(14,334.25)
PAYG Control (Trading): PAYG Withheld	(44,060.00)
Payroll Tax	(9,548.93)
Printing & Stationery	(3,533.42)
Record Storage	(1,556.73)
Rent & Rates	(14,610.75)
Subcontractors	(19,714.36)
Superannuation Control (Trading)	(17,102.60)
Utilities	(3,056.31)
Wages & Salaries	(156,118.81)
Bank Charges	(7.80)
Donation- Baby Hudson	(56.00)
	<u>(283,765.18)</u>

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**LM ADMINISTRATION PTY LTD (IN LIQUIDATION) (CONTROLLERS APPOINTED)**

Operational costs paid 1 October 2013 to 31 October 2013

<b>Description</b>	<b>Amount (\$)</b>
Freight	(133.72)
Hire & Leasing	(20,202.97)
Motor Vehicle Expenses	(390.95)
PAYG Control (Trading): PAYG Withheld	(61,084.00)
Payroll Tax	(4,678.94)
Printing & Stationery	(1,257.40)
Record Storage	(1,881.63)
Rent & Rates	(14,610.75)
Repairs & Maintenance	(5,617.32)
Stamp Duty	(156.76)
Subcontractors	(23,864.75)
Sundry Expenses	(1,303.03)
Superannuation Control (Trading)	(14,350.64)
Utilities	(8,354.52)
Wages & Salaries	(210,195.49)
Bank Charges	(14.65)
Donation- Baby Hudson	(70.00)
Insurance	(2,915.00)
	<u>(371,082.52)</u>

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**LM ADMINISTRATION PTY LTD (IN LIQUIDATION) (CONTROLLERS APPOINTED)**

Operational costs paid 1 November 2013 to 30 November 2013

<b>Description</b>	<b>Amount (\$)</b>
Bank Charges	(8.60)
Freight	(165.00)
Hire & Leasing	(18,297.77)
PAYG Control (Trading): PAYG Withheld	(43,241.00)
Payroll Tax	(8,141.88)
Printing & Stationery	(2,340.62)
Record Storage	(1,525.28)
Rent & Rates	(14,610.75)
Repairs & Maintenance	(332.98)
Subcontractors	(20,751.96)
Sundry Expenses	(5,091.46)
Superannuation Control (Trading)	(18,596.52)
Utilities	(4,073.01)
Wages & Salaries	(152,744.94)
Donation- Baby Hudson	(52.00)
Insurance	(3,214.70)
	<u><b>(293,188.47)</b></u>

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**LM ADMINISTRATION PTY LTD (IN LIQUIDATION) (CONTROLLERS APPOINTED)**

Operational costs paid 1 December 2013 to 31 December 2013

<b>Description</b>	<b>Amount (\$)</b>
Freight	(81.97)
Hire & Leasing	(20,230.77)
PAYG Control (Trading): PAYG Withheld	(57,492.00)
Payroll Tax	(4,456.12)
Printing & Stationery	(1,393.80)
Record Storage	(1,888.50)
Rent & Rates	(29,221.50)
Repairs & Maintenance	(651.00)
Subcontractors	(17,120.36)
Sundry Expenses	(97.04)
Superannuation Control (Trading)	(13,971.31)
Utilities	(9,599.22)
Wages & Salaries	(200,250.10)
Bank Charges	(58.95)
Donation- Baby Hudson	(70.00)
Insurance	(1,294.92)
	<u><b>(357,877.56)</b></u>

**LM ADMINISTRATION PTY LTD (IN LIQUIDATION) (CONTROLLERS APPOINTED)**

Operational costs paid 1 January 2014 to 31 January 2014

<b>Description</b>	<b>Amount (\$)</b>
Freight	(616.81)
Hire & Leasing	(20,230.36)
PAYG Control (Trading): PAYG Withheld	(45,061.70)
Payroll Tax	(7,508.56)
Printing & Stationery	(3,324.03)
Record Storage	(1,523.27)
Rent & Rates	(14,610.75)
Stamp Duty	(56.93)
Subcontractors	(12,451.17)
Sundry Expenses	(1,193.88)
Superannuation Control (Trading)	(17,876.01)
Utilities	(6,600.33)
Wages & Salaries	(160,783.57)
Donation- Baby Hudson	(54.00)
Insurance	(737.00)
	<u>(292,628.37)</u>

**LM ADMINISTRATION PTY LTD (IN LIQUIDATION) (CONTROLLERS APPOINTED)**

Operational costs paid 1 February 2014 to 28 February 2014

<b>Description</b>	<b>Amount (\$)</b>
Bank Charges	-9.55
Utilities	-3,058.98
Hire & Leasing	-12,694.06
Rent & Rates	-16,387.14
Stationery & Printing	-1,562.15
Sundry Expenses	-2,409.41
Transport / Courier	-213.69
Wages & Salaries	-157,545.16
Subcontractors	-13,488.77
Payroll Tax	-4,657.24
Record Storage	-1,615.92
Superannuation Control (Trading)	-14,115.76
Donation- Baby Hudson	-48.00
PAYG Withheld	-44,689.00
	<b><u>-272,494.83</u></b>
<b>10% Service Fee</b>	<b>27,249.48</b>
Plus GST	2,724.95
<b>Invoice Total</b>	<b><u>29,974.43</u></b>

**LM ADMINISTRATION PTY LTD (IN LIQUIDATION) (CONTROLLERS APPOINTED)**

Operational costs paid 1 March 2014 to 31 March 2014

<b>Description</b>	<b>Amount (\$)</b>
Hire & Leasing	-22,209.97
PAYG	-40,882.00
Payroll Tax	-8,628.78
Record Storage	-1,777.93
Rent & Rates	-14,610.75
Repairs & Maintenance	-6,179.57
Stationery & Printing	-1,955.36
Subcontractors	-20,751.96
Sundry Expenses	-1,017.64
Superannuation	-27,544.00
Transport / Courier	-55.01
Utilities	-4,593.24
Wages & Salaries	<u>-143,498.57</u>
	<u><b>-293,704.78</b></u>
<b>10% Service Fee</b>	<b>29,370.48</b>
<b>Plus GST</b>	<b>2,937.05</b>
<b>Invoice Total</b>	<u><u><b>32,307.53</b></u></u>



**LM ADMINISTRATION PTY LTD (IN LIQUIDATION) (CONTROLLERS APPOINTED)**

Operational costs paid 1 April 2014 to 30 April 2014

<b>Description</b>	<b>Amount (\$)</b>
Hire & Leasing	-10,885.93
Hire of Equipment	-615.50
Insurance	-19,093.89
PAYG	-50,149.00
Professional Fees	-9,660.75
Record Storage	-3,070.90
Rent & Rates	-13,208.40
Repairs & Maintenance	-155.00
Stationery & Printing	-1,919.11
Subcontractors	-20,751.95
Sundry Expenses	-807.71
Telephone & Fax	-2,132.17
Transport / Courier	-196.60
Utilities	-1,914.09
Wages & Salaries	-176,385.24
	<u><b>-310,946.24</b></u>
<b>10% Service Fee</b>	<b>31,094.62</b>
Plus GST	<u><b>3,109.46</b></u>
<b>Invoice Total</b>	<u><u><b>34,204.09</b></u></u>

**LM ADMINISTRATION PTY LTD (IN LIQUIDATION) (CONTROLLERS APPOINTED)**

Operational costs paid 1 May 2014 to 31 May 2014

<b>Description</b>	<b>Amount (\$)</b>
Bank Charges	-7.75
Gas	-423.59
Hire & Leasing	-12,078.56
PAYG Withheld	-35,282.00
Payroll Tax	-5,947.19
Record Storage	-177.84
Rent Paid (Commercial)	-402.35
Repairs & Maintenance	-55.00
Stationery & Printing	-1,307.37
Subcontractors	-20,233.12
Sundry Expenses	-2,499.91
Superannuation	-15,443.48
Transport / Courier	-110.00
Utilities	-1,008.27
Wages & Salaries	-126,365.97
	<u><b>-221,342.40</b></u>
<b>10% Service Fee</b>	22,134.24
Plus GST	<u>2,213.42</u>
<b>Invoice Total</b>	<u><b>24,347.66</b></u>

**LM ADMINISTRATION PTY LTD (IN LIQUIDATION) (CONTROLLERS APPOINTED)**

Operational costs paid 1 June 2014 to 30 June 2014

<b>Description</b>	<b>Amount (\$)</b>
Bank Charges	-11.00
Hire & Leasing	-18,694.82
Insurance	-43,600.00
PAYG Withheld	-30,660.30
Payroll Tax	-2,747.88
Rent Paid (Commercial)	-17,467.36
Repairs & Maintenance	-8,936.00
Stamp Duty	-3,325.00
Stationery & Printing	-446.49
Subcontractors	-18,676.76
Sundry Expenses	-1,745.05
Superannuation	-11,580.18
Transport / Courier	-226.44
Utilities	-5,913.74
Wages & Salaries	-110,497.84
	<u><b>-\$274,528.86</b></u>
<b>10% Service Fee</b>	27,452.89
Plus GST	2,745.29
<b>Invoice Total</b>	<u><b>30,198.17</b></u>

## Michael Halfhide

---

**From:** Kate Lucas <klucas@cloutsinsolvency.com.au>  
**Sent:** Tuesday, 2 September 2014 11:39 AM  
**To:** Michael Halfhide  
**Cc:** John Kennedy; Ian Niccol; Hannah Griffin  
**Subject:** RE: LMA 10% service fee

Hi Michael

The total service fee for the period 26 July 2013 to 30 June 2014 was \$335,906.41 (exc. GST). I note the June 2014 fee of \$27,452.88 (exc. GST) was paid in July 2014. Accordingly \$308,453.53 was paid during the 2014 financial year.

Should you require further information, please let me know.

Kind Regards

Kate Lucas || David Clout & Associates  
105A Bowen Street Spring Hill || GPO Box 7870 Brisbane QLD 4001  
P 07 3039 1516 || F 07 3041 0440

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**From:** Michael Halfhide [<mailto:mhalfhide@mcgrathnicol.com>]  
**Sent:** Tuesday, 2 September 2014 11:25 AM  
**To:** Kate Lucas  
**Cc:** John Kennedy; Ian Niccol; Hannah Griffin  
**Subject:** LMA 10% service fee

Hi Kate

Would you kindly please provide me with the total service fee (excl. GST) paid to LMA from **26 July 2014 to 30 June 2014**?

Thank you in advance.

Kind regards,

Michael

**Michael Halfhide**

Assistant Manager



Level 31, 60 Margaret Street, Sydney NSW 2000 Australia

T +61 2 9248 9957

**McGrathNicol** [mhalfhide@mcgrathnicol.com](mailto:mhalfhide@mcgrathnicol.com)

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Employee Monthly Costings for Comparison

Employee	Timesheet	Hourly Rate	On costs	Chargeable Rate	FMIF - MN	FMIF - BDO	FMIF - FTI	CPAIF - FTI	ICPAIF - FTI	CPF - FTI	AIFCP - FTI	ASPF - FTI	MPF - KM	W/SALE - Trilogy	LMIM (FTD)	LMA	Totals
Ann	Y	77	24		11,656	197	493	-	-	-	1,301	-	-	-	-	-	13,646
Shelley	Y	65	24		11,100	49	172	-	-	-	1,551	-	-	-	-	-	12,873
Sean	Y	53	24		-	10,441	-	-	-	-	1,618	-	-	-	-	-	12,059
Flora	Y	57	24		3,074	7	728	-	-	-	625	-	44	-	-	-	4,478
Zoran	Y	34	24		688	6,936	600	-	-	-	117	-	-	-	-	-	8,340
Carrenon	Y	74	24		11,640	125	33	-	-	-	21	-	-	-	-	-	11,819
Mathew	Y	102	24		6,219	1,416	-	-	-	-	3,475	-	-	-	-	-	11,110
Trevor	Y	130	24		11,070	246	-	-	-	-	3,872	-	-	-	-	-	15,188
Tony	Y	115	24		2,390	6,418	-	-	-	-	664	-	-	-	-	-	9,473
Simon	Y	126	24		10,500	3,088	93	62	154	-	3,274	-	896	-	-	-	18,066
Irene	Y	34	24		1,372	-	394	334	318	381	2,598	928	-	-	-	-	6,351
Maribel	Y	52	24		-	-	-	-	-	-	-	-	-	-	-	10,279	10,279
Lucy	Y	85	24		74	74	132	44	169	132	1,199	1,063	-	-	-	-	2,886
Steve	Y	93	24		294	2,132	-	1,349	412	313	632	3,346	643	-	-	-	9,176
Leanne	Y	43	24		44	3,014	-	322	-	-	3,526	1,273	88	-	-	-	8,326
Sharon	Y	65	24		79	5,878	-	357	471	-	330	-	35	-	-	-	7,205
Shauna	Y	57	24		-	8,666	-	1,410	82	31	173	785	79	-	-	-	11,253
Dave	N	51	24		-	5,479	-	-	-	-	-	-	-	-	-	-	5,479
Bert	Y	94	24		-	-	-	62	62	371	2,224	309	2,471	-	-	-	5,497
<b>Total</b>					<b>70,199</b>	<b>54,195</b>	<b>2,645</b>	<b>3,939</b>	<b>1,668</b>	<b>1,228</b>	<b>27,198</b>	<b>7,703</b>	<b>4,255</b>	<b>196</b>	<b>0%</b>	<b>10,279</b>	<b>183,507</b>
<b>Percentage</b>					<b>38%</b>	<b>30%</b>	<b>1%</b>	<b>2%</b>	<b>1%</b>	<b>1%</b>	<b>15%</b>	<b>4%</b>	<b>2%</b>	<b>0%</b>	<b>0%</b>	<b>6%</b>	<b>100%</b>
<b>LMA charge</b>					<b>141,954</b>	<b>109,592</b>	<b>5,349</b>	<b>7,966</b>	<b>3,374</b>	<b>2,483</b>	<b>55,000</b>	<b>15,576</b>	<b>8,605</b>	<b>397</b>	<b>0%</b>	<b>20,787</b>	<b>371,083</b>

Notes: All the above figures are based on the current rates and are subject to change. The above figures are for comparison only and do not represent actual costs. The above figures are for comparison only and do not represent actual costs.

LMA Consolidated Monthly Costing for November 2015

Employee	Timesheet	Hourly Rate	On cost	Chargeable Rate	FMEF - MN	FMEF - BDO	FMEF - FTI	CPRAF - FTI	ICPAIF - FTI	CPF - FTI	AHCP - FTI	ASPF - FTI	MPF - KM	W/SALE - Trilogy	LMDM (FTI)	LMA	Total
Ann	Y	77	24	60	13,696	443	355	-	-	-	305	-	-	-	-	-	14,799
Shelley	Y	65	24	60	10,700	-	-	-	-	-	3,892	-	-	-	-	-	14,592
Sean	N	53	24	4	4,384	8,429	-	-	-	-	956	-	-	-	-	-	13,769
Fiona	Y	57	24	1	2,868	199	610	-	-	-	713	-	-	-	-	-	4,390
Zoran	Y	34	24	1	919	7,524	337	-	-	-	-	-	-	-	-	-	8,779
Cameron	Y	74	24	61	12,283	21	-	-	-	-	188	-	38	-	-	-	12,529
Matthew	Y	102	24	2	-	-	-	-	-	-	1,948	-	-	-	-	-	1,948
Trevor	Y	130	24	66	13,001	542	1,724	-	-	-	1,948	-	-	-	-	-	15,267
Tony	Y	115	24	66	8,012	2,213	1,903	-	-	-	1,549	-	-	-	-	-	13,678
Simon	N	126	24	111	5,466	10,586	-	-	-	-	-	-	-	-	-	-	20,284
Irene	Y	34	24	11	175	5,162	222	-	-	-	2,128	143	-	-	-	-	8,688
Maribel	Y	52	24	1	-	5,568	-	-	2,604	-	34	-	-	-	-	-	8,206
Lucy	Y	85	24	1	-	221	74	-	-	-	809	-	37	-	-	-	1,412
Steve	Y	93	24	1	423	1,489	221	2,243	140	735	1,721	2,390	110	-	239	-	9,710
Leanne	Y	43	24	1	-	3,175	-	3,512	111	585	1,624	15	-	-	-	-	9,022
Sharon	Y	65	24	1	-	5,654	377	1,335	59	334	314	-	59	-	39	-	7,971
Shauna	Y	57	24	1	-	3,283	185	4,731	161	157	1,677	1,520	259	-	51	-	11,923
Dave	Y	51	24	1	-	4,288	-	-	-	-	-	-	-	-	-	-	4,288
Ben	Y	94	24	1	247	-	-	-	-	-	1,359	62	1,791	-	-	-	3,459
<b>Total</b>					<b>72,174</b>	<b>58,697</b>	<b>5,807</b>	<b>14,663</b>	<b>1,251</b>	<b>2,323</b>	<b>19,217</b>	<b>7,618</b>	<b>2,574</b>	<b>391</b>	<b>-</b>	<b>-</b>	<b>184,714</b>
<b>Percentage</b>					<b>39%</b>	<b>32%</b>	<b>3%</b>	<b>8%</b>	<b>1%</b>	<b>1%</b>	<b>10%</b>	<b>4%</b>	<b>1%</b>	<b>0%</b>	<b>0%</b>	<b>0%</b>	<b>100%</b>
<b>LMA charge</b>					<b>114,558</b>	<b>93,167</b>	<b>9,217</b>	<b>23,274</b>	<b>1,985</b>	<b>3,687</b>	<b>30,502</b>	<b>12,092</b>	<b>4,085</b>	<b>621</b>	<b>-</b>	<b>-</b>	<b>293,188</b>

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EMPLOYEE COSTS CHARGED TO JANUARY 2015

Employee	TimeSheet	Hourly Rate	On costs	Chargeable Rate	FMI - MN	FMI - BDO	FMI - FTI	CPAF - FTI	ICPAUF - FTI	CP - FTI	ALFCD - FTI	ASPF - FTI	MPF - KM	W/SALE - Trilogy	LMM (FTI)	LMA	Totals
Aren	Y	77	24	9,508	4,897	79	-	-	-	99	-	-	-	-	-	-	14,582
Shelby	Y	65	24	9,709	1,232	838	-	-	-	1,995	-	-	49	-	-	-	13,883
Sean	Y	53	24	13,015	-	-	-	-	-	1,765	-	-	-	-	-	-	14,779
Fiona	Y	57	24	1,625	463	471	-	-	-	1,471	-	-	-	-	-	-	4,029
Zoran	N	34	24	585	7,697	73	-	-	44	29	-	-	-	-	-	-	8,779
Cameron	Y	74	24	12,504	25	-	-	-	-	-	-	-	-	-	-	-	12,529
Matthew	Y	102	24	8,543	-	-	-	-	-	1,650	-	-	-	-	-	-	10,203
Trevor	Y	130	24	11,405	1,158	-	-	-	-	1,552	-	-	-	-	-	-	14,114
Tony	Y	115	24	10,314	2,833	-	-	-	-	266	-	-	-	-	-	-	13,412
Simon	N	126	24	4,015	8,863	-	-	-	185	-	-	2,162	-	-	-	-	15,287
Irene	Y	34	24	32	6,591	-	-	349	32	254	1,128	191	-	-	-	-	8,576
Maribel	Y	52	24	-	891	411	-	2,991	240	274	651	-	-	-	-	-	5,448
Lucy	Y	85	24	551	3,511	74	-	-	-	37	37	-	37	-	-	-	4,246
Sieve	Y	93	24	294	4,246	-	-	662	-	349	2,040	1,342	110	-	-	-	9,136
Leanne	Y	43	24	3,365	3,365	-	-	527	-	3,248	-	-	-	-	-	-	7,141
Sharon	Y	65	24	609	5,898	39	-	1,256	-	79	-	-	12	-	-	-	7,904
Shauna	Y	57	24	-	4,747	267	-	3,530	114	130	2,533	393	181	-	-	-	11,894
Ben	Y	94	24	62	3,459	-	-	-	615	618	-	124	-	-	-	-	4,262
<b>Total</b>				<b>82,831</b>	<b>59,876</b>	<b>2,251</b>	<b>9,305</b>	<b>615</b>	<b>1,654</b>	<b>18,522</b>	<b>4,598</b>	<b>389</b>	<b>165</b>	<b>180,206</b>			
<b>Percentage</b>				<b>46%</b>	<b>37%</b>	<b>1%</b>	<b>5%</b>	<b>0%</b>	<b>1%</b>	<b>10%</b>	<b>3%</b>	<b>0%</b>	<b>0%</b>	<b>100%</b>			
<b>LMA charge</b>				<b>134,505</b>	<b>97,229</b>	<b>3,655</b>	<b>15,111</b>	<b>999</b>	<b>2,686</b>	<b>30,077</b>	<b>7,467</b>	<b>631</b>	<b>289</b>	<b>292,628</b>			

LMA CONSOLIDATED FINANCIAL STATEMENTS OF EMPLOYEES' BENEFIT PLAN

Employee	Timesheet	Hourly Rate	On cost	Chargeable Rate	FMIF - MN	FMIF - BDO	FMIF - FTI	CPAIF - FTI	ICPAIF - FTI	CPF - FTI	AI/CP - FTI	ASPF - FTI	MIF - KM	W/SALE - Trilogy	LMIM (FTI)	LMA	Totals
Ann	Y	77	24	90	6,523	8,050	197	-	-	20	-	-	-	-	-	-	14,789
Shelley	Y	65	24	29	12,479	517	49	-	-	-	-	1,020	-	-	-	-	14,055
Sean	Y	53	24	74	-	8,750	-	-	-	-	-	3,309	-	-	-	-	12,059
Fiona	Y	57	24	71	4,757	228	1,154	-	-	-	-	360	-	-	-	-	6,500
Zoran	Y	34	24	99	1,580	6,994	117	-	-	-	-	-	-	-	-	-	8,779
Cameron	Y	74	24	83	12,433	96	-	-	-	-	-	-	-	-	-	-	12,529
Matthew	Y	102	24	99	10,513	66	-	-	-	-	-	575	-	-	-	-	11,155
Trevor	Y	130	24	109	9,158	4,089	-	-	-	-	-	1,754	-	-	-	-	15,001
Tony	Y	115	24	103	11,243	177	-	-	-	-	-	1,859	-	-	-	-	13,279
Simon	N	126	24	134	2,841	7,782	-	-	-	-	-	2,471	-	-	494	-	13,588
Irene	N	34	24	6	357	5,208	167	-	-	113	223	1,368	277	9	-	5,153	3,923
Maribel	Y	52	24	60	-	-	-	-	-	-	-	-	754	-	-	-	4,317
Lucy	Y	85	24	74	-	4,118	735	-	-	-	-	-	-	-	-	-	4,853
Steve	Y	93	24	70	1,544	3,493	-	-	-	-	-	-	-	-	-	-	10,551
Leanne	Y	43	24	40	-	3,453	-	-	-	117	-	1,452	1,838	202	-	-	8,779
Sharon	N	65	24	79	-	4,417	39	-	-	883	-	2,605	117	-	-	-	5,367
Shauna	Y	57	24	70	-	6,408	-	-	-	71	102	1,272	169	122	24	-	11,827
Ben	Y	94	24	102	-	-	-	-	-	-	-	432	124	-	-	-	556
<b>Total</b>					<b>73,429</b>	<b>63,847</b>	<b>2,460</b>	<b>11,502</b>	<b>1,204</b>	<b>840</b>	<b>16,022</b>	<b>5,749</b>	<b>333</b>	<b>518</b>	<b>5,164</b>	<b>3,923</b>	<b>184,990</b>
<b>Percentage</b>					<b>40%</b>	<b>35%</b>	<b>2%</b>	<b>6%</b>	<b>1%</b>	<b>0%</b>	<b>9%</b>	<b>3%</b>	<b>0%</b>	<b>0%</b>	<b>3%</b>	<b>2%</b>	<b>100%</b>
<b>LMA charge</b>					<b>108,163</b>	<b>94,049</b>	<b>3,623</b>	<b>16,942</b>	<b>1,773</b>	<b>1,237</b>	<b>23,601</b>	<b>8,468</b>	<b>491</b>	<b>763</b>	<b>7,607</b>	<b>5,778</b>	<b>272,495</b>

Notes: 1. The above information is based on the information provided by the employees and is subject to audit. 2. The above information is based on the information provided by the employees and is subject to audit.

EMPLOYEE TIME SHEET - 1991 (01/01 - 12/31)

Employee	TimeSheet	Hourly Rate	On costs	Chargeable Rate	FMF - MN	FMF - BDO	FMF - FTI	CPAIF - FTI	ICPAIF - FTI	CPF - FTI	ARCP - FTI	ASPF - FTI	MPE - KM	W/SALE - Trilogy	LMIM (FTI)	LMA Totals
Ann	Y	77	24	2,040	12,523	197	-	-	-	-	-	30	-	-	-	14,789
Shelley	Y	65	24	9,572	3,498	49	-	-	-	-	-	1,010	-	-	-	14,129
Sean	Y	53	24	-	7,059	-	-	-	-	-	-	-	-	-	-	7,059
Lona	Y	57	24	3,654	1,331	713	-	-	-	-	-	581	-	-	-	6,279
Zoran	Y	34	24	1,332	7,272	176	-	-	-	-	-	-	-	-	-	8,779
Carleton	Y	74	24	12,579	-	-	-	-	-	-	-	-	-	-	-	12,579
Mathew	Y	102	24	9,915	-	-	-	-	-	-	-	1,793	-	-	-	11,708
Trevor	Y	130	24	13,031	567	-	-	-	-	-	-	1,429	-	-	-	15,026
Tony	Y	115	24	12,040	-	-	-	-	-	-	-	1,903	-	-	-	13,943
Simon	Y	126	24	4,231	12,260	-	-	-	-	-	-	2,532	-	-	-	19,518
Jane	Y	34	24	556	6,289	334	-	-	-	-	-	401	-	-	-	9,291
Lucy	Y	85	24	-	74	37	-	-	-	-	-	1,912	-	-	-	2,757
Steve	Y	93	24	735	4,963	37	-	-	-	-	-	2,868	-	-	-	11,048
Leanne	Y	43	24	-	3,697	-	-	-	-	-	-	2,327	-	-	-	8,779
Sharon	Y	65	24	-	4,084	-	-	-	-	-	-	1,931	-	-	-	4,319
Shauna	Y	57	24	-	6,824	-	-	-	-	-	-	330	-	-	-	11,819
Ben	Y	94	24	-	16,924	124	-	-	-	-	-	620	-	-	-	18,529
<b>Total</b>				<b>69,635</b>	<b>87,164</b>	<b>1,666</b>	<b>6,157</b>	<b>260</b>	<b>1,192</b>	<b>15,272</b>	<b>371</b>	<b>7,943</b>	<b>918</b>	<b>96</b>	<b>190,303</b>	
Percentage				<b>3%</b>	<b>46%</b>	<b>1%</b>	<b>3%</b>	<b>0%</b>	<b>1%</b>	<b>8%</b>	<b>4%</b>	<b>0%</b>	<b>0%</b>	<b>0%</b>	<b>63%</b>	
LMA charge				<b>107,471</b>	<b>134,525</b>	<b>2,571</b>	<b>9,503</b>	<b>402</b>	<b>1,840</b>	<b>23,570</b>	<b>12,259</b>	<b>1,417</b>	<b>148</b>		<b>293,705</b>	

Consolidated Monthly Costings of April 2006

Employee	Timesheet	Hourly Rate	On costs	Chargeable Rate	FME - MN	FMAF - BDO	FME - FTI	CPAF - FTI	ICPAF - FTI	CPF - FTI	AFCP - FTI	ASPF - FTI	MPF - KM	W/SALE - Trilogy	LMIM (FTI)	LMA	Totals
Ann	Y	77	33		16,497												16,497
Shelley	Y	65	33		10,948		539					940					12,427
Sean	Y	53	33			14,594											14,594
Fiona	Y	57	33		4,105	252	486					99					4,943
Zoran	Y	34	33		2,455	5,819	50										8,324
Camron	Y	74	33		16,074	54											16,128
Matthew	Y	102	33		15,918						1,355						17,272
Trevor	Y	130	33		25,181					1,061							26,242
Tony	Y	115	33		20,689	74			1,483								22,246
Simon	N	126	33		4,134		437										20,390
Irene	Y	34	33		168	8,459				67		690			1,948		9,485
Lucy	N	85	33		125	1,599	210			34		453			67	15	3,231
Steve	Y	93	33		126	8,764				90		820			602	63	18,852
Leanne	Y	43	33		190	7,293				988		1,671			646		11,395
Sharon	Y	65	33		147	8,848				2,081		294					14,626
Shauna	Y	57	33			10,475				2,345		351			185	32	13,513
<b>Total</b>					<b>116,758</b>	<b>80,102</b>	<b>1,723</b>		<b>7,830</b>	<b>2,038</b>	<b>350</b>	<b>6,672</b>		<b>8,523</b>	<b>109</b>	<b>49</b>	<b>230,166</b>
<b>LMA charge</b>					<b>52%</b>	<b>33%</b>	<b>1%</b>		<b>3%</b>	<b>1%</b>	<b>0%</b>	<b>3%</b>		<b>4%</b>	<b>0%</b>	<b>0%</b>	<b>3%</b>
					<b>157,736</b>	<b>108,216</b>	<b>2,327</b>		<b>10,578</b>	<b>2,753</b>	<b>472</b>	<b>9,014</b>		<b>11,514</b>	<b>148</b>	<b>66</b>	<b>310,946</b>

Consolidated Monthly Costings of April 2006

MA - ST - Direct Monthly Costing for 2019/2020

Employee	Timsheet	Hourly Rate	On costs	Chargeable Rate	FMEF - MN	FMEF - BDO	FMEF - FTI	CPAIF - FTI	ICPAIF - FTI	CPE - FTI	AIFCP - FTI	ASPF - FTI	MPE - KM	W/SALE - Trilogy	LMNM (FTD)	LMA	Totals
Aun	Y	77	33	15.376	429	-	-	-	-	-	703	-	-	-	-	-	16,508
Shelley	Y	65	33	7.026	122	171	-	-	-	-	343	-	-	-	-	-	7,663
Sean	N	53	33	4.384	8429	-	-	-	-	-	956	-	-	-	-	-	13,769
Fiona	Y	57	33	5.393	279	684	-	-	-	-	414	-	-	1,179	-	-	7,950
Zorin	N	34	33	3.363	6,592	50	-	-	84	-	-	-	-	-	-	-	10,090
Cameron	Y	74	33	16,128	-	-	-	-	-	-	-	-	-	-	-	-	16,128
Matthew	Y	102	33	19,711	-	-	-	-	-	-	610	-	-	-	-	-	20,320
Trevor	N	130	33	24,283	408	-	-	-	-	-	-	-	-	-	-	-	24,691
Tony	Y	115	33	19,775	222	-	-	-	2,398	-	-	-	-	-	-	-	22,395
Simon	N	126	33	7,809	10,548	165	-	-	31	-	1,906	470	179	-	-	-	21,138
Irene	N	34	33	67	7,870	-	-	-	-	-	454	1,059	-	-	-	-	9,451
Lucy	N	85	33	125	1,599	210	-	90	37	109	453	602	15	-	-	-	3,231
Steve	Y	93	33	-	8,480	-	-	-	-	441	504	1,639	441	-	315	3,594	15,416
Leanne	Y	43	33	570	9,040	-	-	475	228	133	684	266	-	-	-	-	11,395
Sharon	Y	65	33	235	8,471	-	-	930	-	49	-	-	-	-	49	4,857	14,591
Shauna	Y	57	33	-	8,688	-	-	3,119	167	81	918	401	131	-	-	-	13,504
<b>Total</b>				<b>124,245</b>	<b>71,178</b>	<b>1,282</b>	<b>1%</b>	<b>4,645</b>	<b>2,944</b>	<b>804</b>	<b>7,945</b>	<b>4,437</b>	<b>1,945</b>	<b>1,945</b>	<b>364</b>	<b>8,451</b>	<b>228,241</b>
<b>Percentage</b>				<b>54%</b>	<b>31%</b>	<b>1%</b>	<b>2%</b>	<b>1%</b>	<b>0%</b>	<b>3%</b>	<b>2%</b>	<b>1%</b>	<b>0%</b>	<b>0%</b>	<b>4%</b>	<b>100%</b>	
<b>LMA charge</b>				<b>120,490</b>	<b>69,027</b>	<b>1,243</b>		<b>4,505</b>	<b>2,855</b>	<b>780</b>	<b>7,705</b>	<b>4,303</b>	<b>1,886</b>		<b>353</b>	<b>8,196</b>	<b>221,342</b>

Employee	Timesheet	Hourly Rate	On cost	Chargeable Rate	FMIF - MN	FMIF - BDO	FMIF - FTI	CPAIF - FTI	ICPAIF - FTI	CPF - FTI	ATPCP - FTI	ASPF - FTI	MPP - KM	W/SALE - T-LINUM (FTI)	LMA	Total
Aan	Y	77	43	15,434	841	-	-	-	-	-	-	745	-	-	-	18,019
Shelley	Y	65	43	9,247	108	865	-	-	-	-	-	54	-	-	-	10,274
Sean	Y	53	43	-	18,157	-	-	-	-	-	-	-	-	-	-	18,157
Fiona	Y	57	43	6,456	541	361	-	-	-	-	-	541	-	-	-	8,611
Zoran	N	34	43	6,800	1,046	213	-	-	-	-	-	-	-	-	-	8,059
Cameron	Y	74	43	17,013	-	-	-	-	-	-	-	-	-	-	-	17,013
Matthew	N	130	43	26,020	-	-	-	-	-	-	-	-	-	-	-	26,020
Trevor	N	130	43	26,020	-	-	-	-	-	-	-	-	-	-	-	26,020
Tony	N	130	43	26,020	-	-	-	-	-	-	-	-	-	-	-	26,020
Simon	Y	126	43	17,217	3,215	127	-	-	-	-	-	1,354	-	-	-	21,913
Yvonne	N	34	43	697	9,570	-	-	-	-	77	-	39	349	-	-	11,430
Lucy	N	85	43	125	1,599	210	-	-	90	100	453	602	15	-	-	3,231
Steve	Y	93	43	477	12,337	-	-	-	204	273	545	613	-	-	-	18,686
Leanne	Y	43	43	1,120	9,244	-	-	-	431	43	1,896	86	-	-	-	12,885
Sharon	Y	65	43	1,62	5,472	-	-	-	1,552	108	351	54	114	-	-	8,409
Shauna	N	57	43	-	-	-	-	-	-	-	-	-	-	-	-	16,222
<b>Total</b>				<b>101,769</b>	<b>62,131</b>	<b>1,776</b>	<b>2,277</b>	<b>210</b>	<b>489</b>	<b>5,979</b>	<b>2,053</b>	<b>487</b>	<b>68</b>	<b>13,936</b>	<b>191,180</b>	
<b>Percentage</b>				<b>53%</b>	<b>32%</b>	<b>1%</b>	<b>1%</b>	<b>0%</b>	<b>0%</b>	<b>3%</b>	<b>1%</b>	<b>0%</b>	<b>0%</b>	<b>7%</b>	<b>100%</b>	
<b>LMA charge</b>				<b>146,138</b>	<b>89,218</b>	<b>2,551</b>	<b>3,270</b>	<b>301</b>	<b>708</b>	<b>8,585</b>	<b>2,949</b>	<b>699</b>	<b>98</b>	<b>20,012</b>	<b>274,529</b>	

1. The above information is for information only and does not constitute an offer of insurance. Please refer to the policy for full details.  
 2. The above information is for information only and does not constitute an offer of insurance. Please refer to the policy for full details.  
 3. The above information is for information only and does not constitute an offer of insurance. Please refer to the policy for full details.



Annexure J

A \$	FMIF		CPAIF	ICPAIF	CPF	AIFCP	ASPF	MPF	W/Sale	LMIM	Total	
	McN	BDO										FTI
Oct-13	70,199	54,195	2,645	3,939	1,668	1,228	27,198	7,703	4,255	196	-	183,507
Nov-13	72,174	58,697	5,807	14,563	1,251	2,323	19,217	7,618	2,574	391	-	184,714
Dec-13	69,911	57,117	1,189	6,036	794	540	19,069	2,581	416	-	-	157,653
Jan-14	82,831	59,876	2,251	9,305	615	1,654	18,522	4,598	389	165	-	180,206
Feb-14	73,429	63,847	2,460	11,502	1,204	840	16,022	5,749	333	518	5,164	184,990
Mar-14	69,535	87,164	1,566	6,157	260	1,192	15,272	7,943	918	96	-	190,303
Apr-14	116,758	80,102	1,723	7,830	2,038	350	6,672	8,523	109	-	49	230,166
May-14	124,245	71,178	1,282	4,645	2,944	804	7,945	4,437	1,945	-	364	228,241
Jun-14	101,769	62,131	1,776	2,277	210	493	5,979	2,053	487	-	68	191,180
Jul-14	106,956	58,746	4,613	2,826	298	1,435	5,638	1,871	54	-	10,867	193,303
<b>Total Costings</b>	<b>887,906</b>	<b>653,054</b>	<b>25,412</b>	<b>69,181</b>	<b>11,280</b>	<b>10,859</b>	<b>141,533</b>	<b>53,072</b>	<b>11,480</b>	<b>1,366</b>	<b>5,646</b>	<b>1,924,263</b>
% of total costings	46%	34%	1%	4%	1%	1%	7%	3%	1%	0%	0%	100%
Total LMA expenditure to to Sept 2013 (incl. LMA service fee)												1,007,177
Applicable share of LMA funding	464,738	341,814	13,301	36,210	5,904	5,684	74,080	27,781	6,009	715	2,955	1,007,177

A8-140828-LMINMAN01-FMIF reimbursement for LMA costs-MH-HG



McGrathNicol

## TAX INVOICE

**LMIM in its capacity as RE for the FMIF (Receivers and Managers Appointed) (In Liquidation)**

**ABN 66 482 247 488**

Date: 22 September 2014

Invoice Number: CPAIF01

Invoice to: LM Currency Protected Australian Income Fund  
Att: John Park and Ginette Muller  
By email: john.park@fticonsulting.com

Description: FMIF reimbursement for costs incurred to run the fund

Price: \$141,060.00 (excl. GST)

GST: \$14,106.00

**Total: \$155,166.00**

Please remit amount owing to the account details below:

Name: LMIM in its capacity as RE for the FMIF (Receivers and Managers Appointed) (In Liquidation)  
BSB: 484 799  
Acct: 45108 1276

**Payment terms are 14 days from the date of this invoice.**





McGrathNicol

## TAX INVOICE

**LMIM in its capacity as RE for the FMIF (Receivers and Managers Appointed) (In Liquidation)**

**ABN 66 482 247 488**

Date: 22 September 2014

Invoice Number: ICPAIF01

Invoice to: LM Institutional Currency Protected Australian Income Fund  
Att: John Park and Ginette Muller  
By email: john.park@fticonsulting.com

Description: FMIF reimbursement for costs incurred to run the fund

Price: \$22,147.00 (excl. GST)

GST: \$2,214.70

**Total: \$24,361.70**

Please remit amount owing to the account details below:

Name: LMIM in its capacity as RE for the FMIF (Receivers and Managers Appointed) (In Liquidation)  
BSB: 484 799  
Acct: 45108 1276

**Payment terms are 14 days from the date of this invoice.**



McGrathNicol

## TAX INVOICE

**LMIM in its capacity as RE for the FMIF (Receivers and Managers Appointed) (In Liquidation)**

**ABN 66 482 247 488**

Date: 22 September 2014

Invoice Number: CPF01

Invoice to: LM Cash Performance Fund  
Att: John Park and Ginette Muller  
By email: john.park@fticonsulting.com

Description: FMIF reimbursement for costs incurred to run the fund

Price: \$20,803.00 (excl. GST)

GST: \$2,080.30

**Total: \$22,883.30**

Please remit amount owing to the account details below:

Name: LMIM in its capacity as RE for the FMIF (Receivers and Managers Appointed) (In Liquidation)

BSB: 484 799

Acct: 45108 1276

**Payment terms are 14 days from the date of this invoice.**



McGrathNicol

## TAX INVOICE

**LMIM in its capacity as RE for the FMIF (Receivers and Managers Appointed) (In Liquidation)**

**ABN 66 482 247 488**

Date: 22 September 2014

Invoice Number: AIFCP01

Invoice to: LM Australian Income Fund  
Att: John Park and Ginette Muller  
By email: john.park@fticonsulting.com

Description: FMIF reimbursement for costs incurred to run the fund

Price: \$305,419.00 (excl. GST)

GST: \$30,541.90

**Total: \$335,960.90**

Please remit amount owing to the account details below:

Name: LMIM in its capacity as RE for the FMIF (Receivers and Managers Appointed) (In Liquidation)  
BSB: 484 799  
Acct: 45108 1276

**Payment terms are 14 days from the date of this invoice.**



McGrathNicol

## TAX INVOICE

**LMIM in its capacity as RE for the FMIF (Receivers and Managers Appointed) (In Liquidation)**

**ABN 66 482 247 488**

Date: 22 September 2014

Invoice Number: ASPF01

Invoice to: LM Australian Structured Products Fund  
Att: John Park and Ginette Muller  
By email: john.park@fticonsulting.com

Description: FMIF reimbursement for costs incurred to run the fund

Price: \$108,269.00 (excl. GST)

GST: \$10,826.90

**Total: \$119,095.90**

Please remit amount owing to the account details below:

Name: LMIM in its capacity as RE for the FMIF (Receivers and Managers Appointed) (In Liquidation)  
BSB: 484 799  
Acct: 45108 1276

**Payment terms are 14 days from the date of this invoice.**



McGrathNicol

## TAX INVOICE

**LMIM in its capacity as RE for the FMIF (Receivers and Managers Appointed) (In Liquidation)**

**ABN 66 482 247 488**

Date: 22 September 2014

Invoice Number: LMIM01

Invoice to: LMIM Limited (Receivers and Managers Appointed) (In Liquidation)  
Att: John Park and Ginette Muller  
By email: john.park@fticonsulting.com

Description: FMIF reimbursement for costs incurred to run the fund

Price: \$11,079.00 (excl. GST)

GST: \$1,107.90

**Total: \$12,186.90**

Please remit amount owing to the account details below:

Name: LMIM in its capacity as RE for the FMIF (Receivers and Managers Appointed) (In Liquidation)  
BSB: 484 799  
Acct: 45108 1276

**Payment terms are 14 days from the date of this invoice.**

Summary of LMA reimbursements for the period 26 July 2013 to 30 June 2014

Month	McN	FMIF BDO	FMIF FTI	CPAIF FTI	ICPAIF FTI	CPF FTI	AIFCP FTI	ASPF FTI	MPF KM	W/Sale Trilogy	LMIM FTI	LMA	Total	FMIF	%
July 2013 to Sept 2013	464,738	341,814	13,301	36,210	5,904	5,684	74,080	27,781	6,009	715	2,955	27,986	1,007,177	819,853	81.40%
Oct-13	141,954	109,592	5,349	7,966	3,374	2,483	55,000	15,576	8,605	397	-	20,787	371,083	256,895	69.23%
Nov-13	114,558	98,167	9,217	23,274	1,985	3,687	30,502	12,092	4,085	621	-	-	293,188	216,942	73.99%
Dec-13	158,699	129,656	2,700	13,702	1,803	1,226	43,287	5,869	945	-	-	-	357,877	291,055	81.33%
Jan-14	134,505	97,229	3,655	15,111	999	2,686	30,077	7,467	631	269	-	-	292,629	235,389	80.44%
Feb-14	108,163	94,049	3,623	16,942	1,773	1,237	23,601	8,468	491	763	7,607	5,778	272,495	205,835	75.54%
Mar-14	107,471	134,525	2,571	9,503	402	1,840	23,570	12,259	1,417	148	-	-	293,706	244,567	83.27%
Apr-14	157,736	108,216	2,327	10,578	2,753	472	9,014	11,514	148	-	66	8,423	310,947	268,279	86.28%
May-14	120,490	69,027	1,243	4,505	2,855	780	7,705	4,303	1,886	-	353	8,196	221,343	190,760	86.18%
Jun-14	146,138	89,218	2,551	3,270	301	708	6,585	2,949	699	-	98	20,012	274,529	237,907	86.66%
<b>Total</b>	<b>1,654,452</b>	<b>1,266,493</b>	<b>46,537</b>	<b>141,061</b>	<b>22,149</b>	<b>20,803</b>	<b>305,421</b>	<b>108,268</b>	<b>24,916</b>	<b>2,913</b>	<b>11,079</b>	<b>90,882</b>	<b>3,694,974</b>	<b>2,967,482</b>	<b>80.31%</b>
	44.78%	34.28%	1.26%	3.82%	0.60%	0.56%	8.27%	2.93%	0.67%	0.08%	0.30%	2.46%			

Method used by FTI to allocate Responsible Entity costs

June 14 Qtr

Fund Name	FUM average EDM Apr - June 2014	FUM as percentage of Total
LM Cash Performance Fund	\$565,912.76	0.47%
LM First Mortgage Income Fund	\$83,721,881.42	69.37%
LM Australian Structured Products Fund	\$7,471,908.04	6.19%
LM Australian Income Fund	\$28,926,591.62	23.97%
<b>Grand Total</b>	<b>\$120,686,293.83</b>	<b>100%</b>

# LM Investment Management Limited (In Liquidation) ("LMIM")

## Tax Invoice

ABN 68 077 208 461

Date: 30 September 2013

To: LM First Mortgage Income Fund ("LM FMIF")  
Level 1, 38 Cavill Avenue  
SURFERS PARADISE QLD 4217

Invoice No: 8978inv4.2

Reference: Category 2 Remuneration and out of pocket expenses 1 September 2013 to 30 September 2013

Date	Description	Amount \$
30/09/13	FMIF allocation of LMIM Liquidators remuneration (schedule and allocation basis attached) incurred for work undertaken by the Liquidators and their staff for general responsible entity work for the period 1 September 2013 to 30 September 2013. Work (as allocated) undertaken to administer, care for, and preserve LM FMIF assets. Allocation of time based on Funds under Management.	62,837.13
	Total Invoice	62,837.13

Sale Amount: 62,837.13

GST: 6,283.71

Total Inc GST: 69,120.84

Total Paid: 0.00

**Balance Due: 69,120.84**

Please pay to following account:

Account Name: LM Investment Management Ltd (In Liquidation)  
BSB: 064 000  
Account Number: 13 409 158  
Payment Reference: 8978inv4.2

LMI Investment Management Ltd (In Liquidation): Calculation of Category 2 Remuneration 1 September 2013 to 30 September 2013

Employee	Position	Rate/hour		Total actual hours	Total (excl GST)		Assets \$	Creditors \$	Employees \$	Investigation \$	Trade On \$	Administration \$
		excl GST \$	actual hours		excl GST \$	hours						
Ginette Muller	Senior Managing Director	590.00	4.30	2,537.00	0.00	0.00	0.00	0.00	0.00	0.00	767.00	1,770.00
John Park	Senior Managing Director	590.00	2.20	1,298.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	1,298.00
Kelly-Anne Tremfield	Senior Managing Director	590.00	7.80	4,602.00	1,357.00	0.00	0.00	0.00	0.00	0.00	177.00	3,068.00
John Corbett	Managing Director	550.00	33.50	18,425.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	18,425.00
Sally McBryde	Managing Director	550.00	6.80	3,740.00	165.00	0.00	0.00	1,100.00	0.00	0.00	605.00	1,870.00
Andrew Weatherley	Director 2	545.00	0.40	218.00	0.00	218.00	0.00	0.00	0.00	0.00	0.00	0.00
Christine Alterator	Director 2	545.00	2.00	1,090.00	0.00	0.00	0.00	0.00	0.00	0.00	54.50	1,035.50
Glenn O'Keamey	Director 2	545.00	7.80	4,251.00	0.00	0.00	0.00	109.00	0.00	0.00	1,580.50	2,289.00
Lauren Morcom	Director 2	545.00	22.30	12,153.50	0.00	0.00	0.00	0.00	0.00	0.00	0.00	12,153.50
Renee Lobb	Director 1	485.00	23.00	11,155.00	48.50	97.00	0.00	0.00	0.00	5,141.00	4,656.00	1,212.50
Andrew Stokes	Director	400.00	0.60	240.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	240.00
Elva Zuairi	Manager 1	345.00	32.30	11,143.50	0.00	0.00	0.00	310.50	1,483.50	0.00	3,760.50	5,569.00
Stuart Clancy	Manager 1	345.00	0.20	69.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	69.00
Benjamin Robson	Accountant 1	235.00	17.10	4,018.50	47.00	0.00	0.00	0.00	188.00	0.00	1,034.00	2,749.50
Various	Administration	130.00	5.30	689.00	0.00	0.00	0.00	0.00	0.00	0.00	260.00	429.00
<b>Total</b>			<b>185.60</b>	<b>75,629.50</b>	<b>1,617.50</b>	<b>898.00</b>		<b>2,880.50</b>	<b>5,141.00</b>	<b>12,894.50</b>		<b>52,198.00</b>
GST				7,562.95								
<b>Total (including GST)</b>				<b>83,192.45</b>								



LM Investment Management Ltd (In Liquidation): Calculation of Category 2 Remuneration 1 September 2013 to 30 September 2013

Allocation of Cost by % FUM

Fund Name	FUM EOM Sept 2013	FUM as percentage of Total	Allocation WIP
LM Cash Performance Fund	\$503,702.53	0.15%	\$113.88
LM First Mortgage Income Fund	\$277,928,057.64	83.09%	\$62,837.13
LM Australian Structured Products Fund	\$7,583,957.35	2.27%	\$1,714.67
LM Australian Income Fund	\$48,492,898.91	14.50%	\$10,963.82
<b>Grand Total</b>	<b>\$334,508,616.43</b>	<b>100%</b>	<b>\$75,629.50</b>

LM Investment Management Ltd (In Liquidation): Calculation of Category 2 Remuneration 1 September 2013 to 30 September 2013

Name	Position	Date	Hours	Charge out Rate	Charge	Task Desc	Narrative
Benjamin Robson	Accountant	2/09/2013	0.2	235.00	\$ 47.00	Administration	Correspondence with Robina Cleaning services regarding amending invoices still outstanding
Christine Alterator	Director 2	2/09/2013	0.8	545.00	\$ 436.00	Administration	Search LM G/ for controllership documents and email to RCL
Christine Alterator	Director 2	2/09/2013	0.3	545.00	\$ 163.50	Administration	See KAT regarding queries from EBZ regarding on charging fund for expenditure
Ginette Muller	Senior Managing Director	2/09/2013	0.3	590.00	\$ 177.00	Administration	Arrange meeting with all practitioners to discuss LIMM policy.
Glenn O'Kearney	Director 2	2/09/2013	0.1	545.00	\$ 54.50	Trade-On	Review note from Eloa regarding Im op costs. note to Eloa.
Joan Springate	Administration	2/09/2013	0.1	130.00	\$ 13.00	Administration	Receipt voucher & posting receipt
John Corbett	Managing Director	2/09/2013	4.5	550.00	\$ 2,475.00	Administration	Preparing for and then general discussions with ASIC on AFSL and the various funds that LIMM is RE for.
Kelly-Anne Trenfield	Senior Managing Director	2/09/2013	1.2	590.00	\$ 708.00	Administration	GDM/Sam re insurance; structure; planning re progression/closure of file review o/s tasks; prepare to do list Emails in; response to RCL request for clarity re charging.
Kelly-Anne Trenfield	Senior Managing Director	2/09/2013	0.1	590.00	\$ 59.00	Trade-On	CMA re invoicing to funds re recovery of costs
Lauren Morcom	Director 1	2/09/2013	3.5	545.00	\$ 1,907.50	Administration	Preparing for meeting with ASIC; Meeting with ASIC on compliance issues regarding all funds under AFSL, internal debrief on ASIC meeting
Renee Lobb	Director 1	2/09/2013	0.2	485.00	\$ 97.00	Investigations	Review email from ASIC requesting director insurance policy copies. Email Ginette Muller regarding same and possible privileged information rights.
Renee Lobb	Director 1	2/09/2013	0.3	485.00	\$ 145.50	Trade-On	Review numerous emails arranging a meeting time for insurance matters. File same and book boardroom for Tuesday at 11:00 am.
Renee Lobb	Director 1	2/09/2013	0.3	485.00	\$ 145.50	Administration	Review and respond to email from Ally group regarding class action. Take call regarding same and explain position.
Renee Lobb	Director 1	2/09/2013	0.2	485.00	\$ 97.00	Investigations	Send email to confirm insurance meeting tomorrow to KM, MGN+, Clutz, DUC and BDO.
Renee Lobb	Director 1	2/09/2013	0.2	485.00	\$ 97.00	Trade-On	Review and respond to miscellaneous investor enquiries.
Renee Lobb	Director 1	2/09/2013	0.1	485.00	\$ 48.50	Administration	Find AFSL ASIC letter for John Corbett. Send same to assist in ASIC meeting.
Renee Lobb	Director 1	2/09/2013	1.4	485.00	\$ 679.00	Trade-On	Take two adviser calls. Provide update on Receivership. Catch up meeting with LM I, SAM, Ginette Muller and John Corbett regarding meeting with ASIC and actions to be taken following same with respect to the funds.
Sally McBryde	Managing Director	2/09/2013	0.8	550.00	\$ 440.00	Administration	Update with JDC & GDM re outcome of meeting with ASIC & role of LIMM as RE & compliance requirements
Sally McBryde	Managing Director	2/09/2013	1.0	550.00	\$ 550.00	Administration	Discussion with GDM & KAT re Austcorp legal action & funding of same, discussion re protection of PI policy
Eloa Zuardi	Manager 1	2/09/2013	0.5	345.00	\$ 172.50	Creditors	Review various invoices received from Grace records. Link each invoice and PO requested. Enquire re discrepancies. Request invoice to be amended
Eloa Zuardi	Manager 1	2/09/2013	0.5	345.00	\$ 172.50	Trade-On	Purchase Order Register - Update
Benjamin Robson	Accountant	2/09/2013	0.5	235.00	\$ 117.50	Employees	Receipt returned cheque from Asgard into account. Prepare MYOB documents for issue of new cheque to Bronwyn Kingston
Benjamin Robson	Accountant	2/09/2013	0.3	235.00	\$ 70.50	Employees	Preparation of letter to Colonial First State Super regarding Bronwyn Kingston. Inclusion of Supporting documents
Brittany Newman	Administration	2/09/2013	0.1	130.00	\$ 13.00	Trade-On	Mail in from ATO - Instalment Activity Statement (1-31 August 2013)
Benjamin Robson	Accountant	3/09/2013	1.0	235.00	\$ 235.00	Administration	Update Consultants Fee Register. Inclusion of KWM Invoice 1544410, calculations completed on split. Draft email to S Trakner and forward to GOK for review. Consult GOK on General fund work split.

Eloa Zuardi	Manager 1	3/09/2013	1.0	345.00	\$	345.00	Administration	Update cash flow and SOP
Eloa Zuardi	Manager 1	3/09/2013	0.2	345.00	\$	69.00	Administration	Call to Sarah Abraham from Risk Management
Ginette Muller	Senior Managing Director	3/09/2013	0.8	590.00	\$	472.00	Administration	Preparation and meeting with DLC, BDO, McGrath, Kordamethe and Clayton Utz. Work relates to the protection of the MIF and MPF assets and the RE has an indemnity regarding same. Also, some MIF/MPF claimants are to benefit if LMIM does not protect the asset.
Glenn O'Keamey	Director 2	3/09/2013	0.2	545.00	\$	109.00	Trade-On	Review legal invoice split - discussions with BJR on Mallesons invoice. discussions with Eloa update on LMA trading invoice
John Park	Senior Managing Director	3/09/2013	0.1	590.00	\$	59.00	Administration	Email in Russell's
Renee Lobb	Director 1	3/09/2013	0.1	485.00	\$	48.50	Investigations	Attempt to call ASIC to advise on insurance policy restrictions.
Renee Lobb	Director 1	3/09/2013	1.8	485.00	\$	873.00	Investigations	Meeting with DLC, BDO, MGNM, KM and Clayton Utz regarding insurance actions being taken and instructions required.
Renee Lobb	Director 1	3/09/2013	0.2	485.00	\$	97.00	Administration	Email all parties with invite for next meeting.
Renee Lobb	Director 1	3/09/2013	0.2	485.00	\$	97.00	Investigations	Speak with Irma from ASIC regarding policy exclusion on confidentiality. Advise Ginette Muller okay to issue formal email.
Renee Lobb	Director 1	3/09/2013	0.3	485.00	\$	145.50	Trade-On	Responding to numerous investor queries. Try to call back investor. Leave message.
Sally McBryde	Managing Director	3/09/2013	1.0	550.00	\$	550.00	Administration	Consider outstanding insurance and related legal issues, review status, draft note to GDM for meeting with Clayton Utz & meeting with McGrathNico
Andrew Stokes	Director	03/09/2013	0.1	400.0	\$	40.00	Administration	Minor LM activities
Eloa Zuardi	Manager 1	3/09/2013	0.2	345.00	\$	69.00	Trade-On	Follow up invoices for PO's 17/20 and 34
Eloa Zuardi	Manager 1	3/09/2013	1.0	345.00	\$	345.00	Trade-On	Update cash flow and SOP
Benjamin Robson	Accountant	3/09/2013	0.6	235.00	\$	141.00	Trade-On	Update to purchase order register, Correspondence with James cuts and Eloa Zuardi regarding Grace records invoices. MYOB payment prepared for final invoice
Benjamin Robson	Accountant	3/09/2013	0.5	235.00	\$	117.50	Trade-On	Follow up Aizer Electrical and Aizer plumbing with phone calls regarding Purchase Order 17 & 20. Follow up Robina Cleaning Solutions regarding Purchase Order 34 incorrect amounts. Update email to Eloa Zuardi
Sally McBryde	Managing Director	3/09/2013	0.1	550.00	\$	55.00	Trade-On	Receipt - check supporting documentation and coding of receipt voucher, approve
Benjamin Robson	Accountant	4/09/2013	0.5	235.00	\$	117.50	Administration	Clayton Utz invoice summary as at today at request of KAT. Attach supporting emails
Benjamin Robson	Accountant	4/09/2013	0.3	235.00	\$	70.50	Administration	Allen's Linklater's 90830006 and 90829770 Correspondence with Glenn O'Keamey and Simon Tickner
Benjamin Robson	Accountant	4/09/2013	0.4	235.00	\$	94.00	Administration	FEG initial contact with IP form review and draft completed. Review into B&R to ensure documents sufficient for FEG claims
Brittany Newman	Administration	4/09/2013	0.1	130.00	\$	13.00	Administration	Express Post SQ 0704533 in from Fiona Draney, LMIM for CMA - Form S24's (Glendinning Developments Pty Ltd, Kingopen Pty Ltd, Cameo Estates Lifestyle Villages (Launceston) Pty Ltd, Young Land Corporation Pty Ltd)
Christine Alterator	Director 2	4/09/2013	0.6	545.00	\$	327.00	Administration	Email out to Rob regarding LM IT systems and emails in from Fiona - KAT to sign; scan executed documents to Fiona
Christine Alterator	Director 2	4/09/2013	0.1	545.00	\$	54.50	Administration	Review letter in from Clayton Utz regarding controllerships
Christine Alterator	Director 2	4/09/2013	0.1	545.00	\$	54.50	Administration	Review various emails in
Kelly-Anne Trenfield	Senior Managing Director	4/09/2013	0.1	590.00	\$	59.00	Administration	Review and approve payment
Kelly-Anne Trenfield	Senior Managing Director	4/09/2013	0.1	590.00	\$	59.00	Administration	Review and approve payment

Kelly-Anne Trenfield	Senior Managing Director	4/09/2013	2.3	590.00	\$ 1,357.00	Assets	GDM/RCL/GOK re payment of clayton utz/ LM to do list and planning fee review re correction of allocations review clayton Utz Invoice re payment
Priscilla Williams	Administrative	4/09/2013	0.3	130.00	\$ 39.00	Administration	Revisions to letter to David Adnams re LMIM Potential Claim on Insurance Policy
Renee Lobb	Director 1	4/09/2013	0.3	485.00	\$ 145.50	Administration	Review and respond to emails regarding insurance notifications and Clayton Utz invoices.
Renee Lobb	Director 1	4/09/2013	0.4	485.00	\$ 194.00	Trade-On	Do time costing proforma and send to Ginette Muller.
Renee Lobb	Director 1	4/09/2013	0.2	485.00	\$ 97.00	Investigations	Review ASIC notices seeking copies of insurance policies. Fwd same to Clayton Utz to respond.
Renee Lobb	Director 1	4/09/2013	0.2	485.00	\$ 97.00	Administration	Request database updates for new addresses etc. Send to LM Investment Management Ltd staff for actioning.
Renee Lobb	Director 1	4/09/2013	0.5	485.00	\$ 242.50	Investigations	Review Ginette Muller letter regarding PI notification and reasoning for same. cross check judgment paragraphs.
Renee Lobb	Director 1	4/09/2013	0.1	485.00	\$ 49.50	Administration	Request database update requested from Hitomi Matthews.
Renee Lobb	Director 1	4/09/2013	0.1	485.00	\$ 49.50	Administration	Filing all sent emails to public folders.
Sally McByrde	Managing Director	4/09/2013	0.3	550.00	\$ 165.00	Assets	Call from John Denethy of Blue Broking re PI proposal for retirement villages, review documentation & emails to determine position, email to RFZ to determine status, email Ann McCallum of LM re same
Joan Springate	Administration	4/09/2013	0.1	130.00	\$ 13.00	Trade-On	Receipt voucher & posting receipt
Joan Springate	Administration	4/09/2013	0.1	130.00	\$ 13.00	Trade-On	Payment voucher & posting payment
Joan Springate	Administration	4/09/2013	0.3	130.00	\$ 39.00	Trade-On	Setting up Online payment & posting payment
Benjamin Robson	Accountant	4/09/2013	0.2	235.00	\$ 47.00	Trade-On	Follow up Robbra Cleaning services regarding invoice
Ginette Muller	Senior Managing Director	4/09/2013	0.5	590.00	\$ 295.00	Trade-On	Emails from Simon Tickner and response from Clout and Associates - relates to the Lien and finalising trading liabilities and ST's employment.
Benjamin Robson	Accountant	5/09/2013	0.5	235.00	\$ 117.50	Administration	Email to Sean Russell regarding invoice appointment. Phone call and email to Luke Borna regarding invoice appointment KWM
Benjamin Robson	Accountant	5/09/2013	0.1	235.00	\$ 23.50	Administration	Phone call to Russell's. VM left
Eloa Zuardi	Manager 1	5/09/2013	0.5	345.00	\$ 172.50	Employees	Review FEG documents re employee claim. POD received from Michael Skeggs.
John Corbett	Managing Director	5/09/2013	1.0	550.00	\$ 550.00	Administration	Working through ASIC related issues for AFSL
Renee Lobb	Director 1	5/09/2013	0.2	485.00	\$ 97.00	Investigations	Review email from Kelly-Anne Trenfield regarding insurance matters and Clutz fees. Confirm with Kelly-Anne Trenfield that GOK will instruct Clutz to comply with ASIC notice.
Renee Lobb	Director 1	5/09/2013	0.4	485.00	\$ 194.00	Investigations	Review ASIC s30 notice and send email to FTI LM Investment Management Ltd team after review of insurance file to ask if anyone holds the directors insurance policy.
Renee Lobb	Director 1	5/09/2013	0.3	485.00	\$ 145.50	Investigations	Draft letter to accompany documents to be issued in compliance with ASIC section 30 notice. Provide GOK with details on attendees at Tuesday's insurance meeting also.
Renee Lobb	Director 1	5/09/2013	0.3	485.00	\$ 145.50	Investigations	Review policy documents and sort into those to comply with ASIC notice. Update letter to ASIC in compliance of notice with specifics on policy documents.
Renee Lobb	Director 1	5/09/2013	0.1	485.00	\$ 48.50	Investigations	Finalise ASIC section 30 notice response and attachments. Send to Ginette Muller for signing.
Renee Lobb	Director 1	5/09/2013	1.1	485.00	\$ 533.50	Investigations	Draft response to ASIC 912C notice. Discuss same with John Corbett.

Sally McBryde	Managing Director	5/09/2013	0.2	550.00	\$ 110.00	Administration	Email from RCL re ASIC request for insurance policy details, search documents & locate policy requested
Kelly-Anne Trenfield	Senior Managing Director	5/09/2013	0.1	590.00	\$ 59.00	Trade-On	Review and approve payment
Joan Springgate	Administration	5/09/2013	0.2	130.00	\$ 26.00	Trade-On	Receipt voucher, Posting receipt & getting cheque ready to bank
Christine Alterator	Director 2	5/09/2013	0.1	545.00	\$ 54.50	Trade-On	Review super cheque
Benjamin Robson	Accountant	6/09/2013	1.5	235.00	\$ 352.50	Administration	Clayton Utz invoice reconciliation from statement received. Correspondence with Kerry from CLUTZ and inclusion of most recent invoice in register. Inclusion of latest KWM invoice in register. Draft emails requesting payment for GOK review. Correspondence with Sean Russell regarding invoice amendments and Correspondence with Simon Tickner requesting payment
Eloa Zuardi	Manager 1	6/09/2013	0.5	345.00	\$ 172.50	Employees	Review initial contact FEG sheet. Email out to GEERS. Phone call out to Hayley re employee claim. Confirmation possible rejection as employee NZ
Glenn O'Kearney	Director 2	6/09/2013	1.5	545.00	\$ 817.50	Administration	Review invoices in/Clutz, NR etc. discuss with BJR - review updates schedule. part charging of work relating to correspondence with clayton Utz/costs incurred/lim position. draft reply to Mark. balance charged to FMIF and MPF. review ASIC notices and liaise with Renee regarding response required. discussions with sally regarding insurance issues. discussions Eloa regarding LMA invoice issues regarding ongoing liq costs etc. review schedule
Kelly-Anne Trenfield	Senior Managing Director	6/09/2013	0.2	580.00	\$ 118.00	Administration	Emails in re CU payment of fees; review letters to KIMMCON
Kelly-Anne Trenfield	Senior Managing Director	6/09/2013	0.1	590.00	\$ 59.00	Administration	Emails in re insurance/asic notices
Renee Lobb	Director 1	6/09/2013	0.2	485.00	\$ 97.00	Investigations	Send ASIC 912C notice to Steve Russell for review. Respond to subsequent email also.
Renee Lobb	Director 1	6/09/2013	0.1	485.00	\$ 48.50	Investigations	Instruct Jess to take s30 response to ASIC.
Renee Lobb	Director 1	6/09/2013	0.1	485.00	\$ 48.50	Investigations	Seek assistance from GOK with respect to fee components of 912C notice.
Renee Lobb	Director 1	6/09/2013	0.4	485.00	\$ 194.00	Investigations	Review of email from Clayton Utz regarding PI insurance and response for application for leave to proceed. Discuss with SAM action on point 2 of email regarding fee issue and proposed response to Clutz. Discuss email also with Ginette Muller and email Mark Waller response to section 30 notice and reiterate SAM's response to Ginette Muller which she will communicate to Clayton Utz.
Renee Lobb	Director 1	6/09/2013	0.7	485.00	\$ 339.50	Investigations	Review additional emails from Clayton Utz with respect to unpaid fees. Send email to GOK, SAM and KAT regarding who can respond. Also review additional documents provided suggested to be provided as part of response to s30 notice from ASIC. Draft letter to attach same and send to ASIC and forward to Ginette Muller for review.
Sally McBryde	Managing Director	6/09/2013	0.1	550.00	\$ 55.00	Employees	Email from GEERS advising of rejection of Michael Skeggs claim
Joan Springgate	Administration	6/09/2013	0.1	130.00	\$ 13.00	Trade-On	Bank Rec
Eloa Zuardi	Manager 1	6/09/2013	0.5	345.00	\$ 172.50	Trade-On	Email out and phone call to Irene/Zoran re Expenses to be reimbursed by Funds. Follow up refund from controllership accounts
Eloa Zuardi	Manager 1	6/09/2013	0.3	345.00	\$ 103.50	Trade-On	Email in from Maribel re query on Teistra phone account/ Advise Teistra contact and transfer docs lodged
Eloa Zuardi	Manager 1	6/09/2013	0.2	345.00	\$ 69.00	Trade-On	Discussions with Kate re invoice to be raised for costs period 26 July 2013 to 9 August 2013.
Eloa Zuardi	Manager 1	6/09/2013	0.5	345.00	\$ 172.50	Trade-On	Update on PO's outstanding for payment. Follow up various invoices not received from suppliers

Benjamin Robson	Accountant	9/09/2013	0.1	235.00	\$	23.50	Administration	Forward latest Clayton Utz bill to Simon for payment
Benjamin Robson	Accountant	9/09/2013	0.3	235.00	\$	70.50	Administration	Inclusion of Norton Rose invoice 1230880 in consultant fee register
Benjamin Robson	Accountant	9/09/2013	0.4	235.00	\$	94.00	Administration	FMIF invoice reconciliation review, adjustments and sent to Simon Tickner and John Corbett. Invoice 1230880 sent for payment
Brittany Newnman	Administration	9/09/2013	0.8	130.00	\$	104.00	Administration	Call to ASIC following up call on 26 August 2013 regarding invoice statement. Prepare 8974fn35
Eloa Zuardi	Manager 1	9/09/2013	0.2	345.00	\$	69.00	Administration	Email to BJR re reminder that we need to pay the insurance
Ginette Muller	Senior Managing Director	9/09/2013	0.2	590.00	\$	118.00	Administration	Review the 5912C Notice.
Glenn O'Kearney	Director 2	9/09/2013	2.1	545.00	\$	1,144.50	Administration	Review ASIC notice of director. draft reply to point 3 of the notice - review legal advice and cash flow information for reference. note to Kelly and RCL regarding draft reply. update in from JC and RCL - review template for response.
John Corbett	Managing Director	9/09/2013	1.5	550.00	\$	825.00	Administration	Dealing with ASIC requests
Kelly-Anne Trenfield	Senior Managing Director	9/09/2013	0.2	590.00	\$	118.00	Administration	Emails in re insurance issues; email in from Russell's re related authorities re trustee/costs GDM update
Lauren Marcom	Director 1	9/09/2013	3.0	545.00	\$	1,635.00	Administration	Responding to ASIC queries
Lauren Marcom	Director 1	9/09/2013	0.5	545.00	\$	272.50	Administration	Phone call from ASIC (Jeremy Holiday) about LM funds and our role as Responsible Entity
Renee Lobb	Director 1	9/09/2013	0.2	485.00	\$	97.00	Investigations	Draft additional response to ASIC notice after discussion with Ginette Muller and Clayton Utz email of Friday.
Renee Lobb	Director 1	9/09/2013	0.2	485.00	\$	97.00	Investigations	Convert insurance information to PDF and send to ASIC.
Renee Lobb	Director 1	9/09/2013	0.3	485.00	\$	145.50	Trade-On	Discussions with JDC regarding investor Communications required and our role going forward. discuss meeting times for a catch up on all funds.
Renee Lobb	Director 1	9/09/2013	0.5	485.00	\$	242.50	Investigations	Reviewing and responding to emails regarding remuneration and correspondence with investors on same. Review John Corbett correspondence and commentary also.
Renee Lobb	Director 1	9/09/2013	0.2	485.00	\$	97.00	Investigations	Respond to GDM enquiry on section 912c notice.
Sally McBryde	Managing Director	9/09/2013	0.1	550.00	\$	55.00	Trade-On	Correspondence out draft - review and note contents, make changes where necessary. to Colonial first State re super
Sally McBryde	Managing Director	9/09/2013	0.1	550.00	\$	55.00	Trade-On	IAS return - ATO PAYG return - check working papers and sign where appropriate.
Sally McBryde	Managing Director	9/09/2013	0.1	550.00	\$	55.00	Trade-On	Review & sign letter to Colonial First State enclosing super cheque
Sally McBryde	Managing Director	9/09/2013	0.1	550.00	\$	55.00	Administration	Email from Blue Broking re PI policy & impact of noting liquidators interest on same
Eloa Zuardi	Manager 1	9/09/2013	0.5	345.00	\$	172.50	Employees	Returned cheque from super payment for employee Bronwyn Kingston. Arrange new cheque to be drawn for new super a/c and draft letter to super enclosing cheque
Eloa Zuardi	Manager 1	9/09/2013	0.3	345.00	\$	103.50	Trade-On	Various discussions re pro rata calculation and invoice to be issued from Clouts. Phone call out to Kate.
Eloa Zuardi	Manager 1	9/09/2013	0.2	345.00	\$	69.00	Trade-On	Review August BAS/PAYG
Brittany Newnman	Administration	9/09/2013	0.1	130.00	\$	13.00	Trade-On	Prepare Instalment Activity Statement (1-31 August 2013)
Brittany Newnman	Administration	9/09/2013	0.1	130.00	\$	13.00	Trade-On	Mail out to Colonial First State - 8973187
Brittany Newnman	Administration	9/09/2013	0.1	130.00	\$	13.00	Trade-On	Mail out to ATO - Instalment Activity Statement (1-31 August 2013)
Glenn O'Kearney	Director 2	9/09/2013	0.1	545.00	\$	54.50	Administration	Discussions with Ash regarding advices etc. loan man fees

Glenn O'Keamey	Director 2		9/09/2013	0.1	545.00	\$	54.50	Trade-On	Discussions with Elio regarding trading costs/lma invoices etc. review breakup of costs .leave mgs for dc/out
Benjamin Robson	Accountant		10/09/2013	0.2	235.00	\$	47.00	Administration	Include payment confirmations of MIF payments into register
Benjamin Robson	Accountant		10/09/2013	0.4	235.00	\$	94.00	Administration	September instalment of insurance to Macquarie Premium funding. MYOB voucher prepared
Benjamin Robson	Accountant		10/09/2013	0.2	235.00	\$	47.00	Administration	Correspondence with Irene Cailing via telephone regarding update on consultants fees
Benjamin Robson	Accountant		10/09/2013	0.3	235.00	\$	70.50	Administration	Russell's invoice B 14841 credit notice received, applied to invoice and draft email to Simon Tickner
Benjamin Robson	Accountant		10/09/2013	0.6	235.00	\$	141.00	Administration	Russell's invoices relating to MPF indemnity, MPF Lien and LMIM corporate costs reviewed and included in Register.
Elio Zuardi	Manager 1		10/09/2013	1.5	345.00	\$	517.50	Administration	Update cash flow and SOP
Ginette Muller	Senior Managing Director		10/09/2013	0.5	590.00	\$	295.00	Trade-On	Update with KAT, RCL and JC. Review SOP and other matters, including S912C response.
John Corbett	Managing Director		10/09/2013	2.5	550.00	\$	1,375.00	Administration	Processing of ASIC related information for response.
Renee Lobb	Director 1		10/09/2013	0.1	485.00	\$	48.50	Investigations	Review John Corbett email regarding 912C notice progression.
Renee Lobb	Director 1		10/09/2013	0.2	485.00	\$	97.00	Trade-On	Review GOK email to Mark Waller regarding Clayton Utz fees paid to date and outstanding issues with respect to Managed Performance Fund and FMIF ongoing legal costs.
Renee Lobb	Director 1		10/09/2013	0.2	485.00	\$	97.00	Investigations	Take call from ASIC regarding return of notice documents.
Renee Lobb	Director 1		10/09/2013	0.1	485.00	\$	48.50	Investigations	Review GOK correspondence on point 3. of ASIC 912C notice. Reformat and insert into document.
Renee Lobb	Director 1		10/09/2013	0.2	485.00	\$	97.00	Trade-On	Take call from estate executor and answer queries.
Renee Lobb	Director 1		10/09/2013	0.2	485.00	\$	97.00	Investigations	Compile 912C notice information and speak with John Corbett on same. Circularise to Ginette Muller and Kelly-Anne Trenfield.
Renee Lobb	Director 1		10/09/2013	1.4	485.00	\$	679.00	Trade-On	Catch up with John Corbett, Ginette Muller and Kelly-Anne Trenfield on fund issues, legal costs and indemnity issues as well as tracking progress on 801NC notices and wind up strategies for each fund.
Sally McBryde	Managing Director		10/09/2013	0.1	550.00	\$	55.00	Administration	Follow up monthly PJ premium funding instalment, check MYOB for payment & instructions to staff to pay same
Sally McBryde	Managing Director		10/09/2013	0.1	550.00	\$	55.00	Trade-On	Email from Steve Hannan requesting update on LMIM position re funds, email John Corbett re same
Stuart Clancy	Manager 1		10/09/2013	0.2	345.00	\$	69.00	Administration	Received call from JS regarding queries in relation to payments of invoices and future course of action.
Elio Zuardi	Manager 1		10/09/2013	1.5	345.00	\$	517.50	Trade-On	Update cash flow and SOP
Elio Zuardi	Manager 1		10/09/2013	0.5	345.00	\$	172.50	Trade-On	Update PO register and approve final payment to suppliers
Elio Zuardi	Manager 1		10/09/2013	0.2	345.00	\$	69.00	Trade-On	Follow up Kate re invoice
Elio Zuardi	Manager 1		10/09/2013	0.1	345.00	\$	34.50	Trade-On	Follow up bond refund from Macquarie Telecom.
Benjamin Robson	Accountant		10/09/2013	0.3	235.00	\$	70.50	Trade-On	Correspondence with Alzer plumbing regarding outstanding invoices, telephone call and email to accounts. Update to Purchase Order register
Benjamin Robson	Accountant		10/09/2013	0.2	235.00	\$	47.00	Trade-On	Payment of Alzer invoice
Benjamin Robson	Accountant		10/09/2013	0.2	235.00	\$	47.00	Trade-On	Follow up refund from Macquarie Telecom from Bond deposit paid
Brittany Newman	Administration		10/09/2013	0.1	130.00	\$	13.00	Trade-On	Mail in from Telstra - Bill Number P 412 110 410-1
Glenn O'Keamey	Director 2		10/09/2013	0.1	545.00	\$	54.50	Trade-On	Review and sign off on LMA trading payments. va

Benjamin Robson	Accountant	11/09/2013	0.4	235.00	\$	84.00	Administration	FIMF invoice reconciliation for Irene Cailing
Benjamin Robson	Accountant	11/09/2013	0.3	235.00	\$	70.50	Administration	Telephone call to Michael Sanders and Associates Solicitors regarding outstanding Computer share debt. Notes on conversation
Benjamin Robson	Accountant	11/09/2013	0.2	235.00	\$	47.00	Administration	Payment request reviewed and sent for filing
Eloa Zuardi	Manager 1	11/09/2013	1.0	345.00	\$	345.00	Administration	Various discussions with Kate and David re invoice for period 26 July 2013 to 9 August 2013. Invoice received, review for accuracy and calculate portion to be invoiced to MIF and AIF. Prepare invoices from LMIM to MIF and AIF
Eloa Zuardi	Manager 1	11/09/2013	1.0	345.00	\$	345.00	Administration	Various discussions with SAM re payment of accrued leave by FIMF. Draft ltr to Clouts requesting them to seek reimbursement from McGrath Nicol. Update excel file with accrued leave and split Last round of redundancies to be paid.
Ginette Muller	Senior Managing Director	11/09/2013	0.3	590.00	\$	177.00	Trade-On	ASIC 912C Report
Joan Springate	Administration	11/09/2013	0.3	130.00	\$	39.00	Administration	Setting up Online payment & posting payment
John Corbett	Managing Director	11/09/2013	2.5	550.00	\$	1,375.00	Administration	Dealing with issues and responses related to ASIC / fund audits / relief requests
Kelly-Anne Trenfield	Senior Managing Director	11/09/2013	0.9	590.00	\$	531.00	Administration	Review ASIC notice re LMGDM re ASIC final review of s912 notice Email in from peter drake re rta; advisor emails in Emails re ASIC notices; Email from Ashley re controller fees
Lauren Morcom	Director 1	11/09/2013	2.0	545.00	\$	1,080.00	Administration	Phone conference with several LM staff to discuss outstanding issues associated with funds for which LMIM is the responsible entity, internal discussions about work to be undertaken for LMIM, and audit and compliance strategies for LMIM.
Lauren Morcom	Director 1	11/09/2013	2.0	545.00	\$	1,090.00	Administration	Applying for relief from ASIC for financial reporting and audit for FIMF and applying for financial reporting and audit extension for all other funds
Renee Lobb	Director 1	11/09/2013	0.5	485.00	\$	242.50	Investigations	Review and format ASIC 912C notice response. Send to Kelly-Anne Trenfield, Ginette Muller, John Corbett, and GOK for review.
Renee Lobb	Director 1	11/09/2013	0.8	485.00	\$	388.00	Investigations	Review Kelly-Anne Trenfield, Ginette Muller and John Corbett separate changes. Compile changes and reformat 912C response. Send compiled version to Ginette Muller, Kelly-Anne Trenfield, Lauren Morcom and John Corbett for review.
Renee Lobb	Director 1	11/09/2013	1.3	485.00	\$	630.50	Trade-On	Teleconference meeting with John Corbett, Lauren Morcom and LM Investment Management Ltd staff to discuss non First Mortgage Income Fund strategies and tasks required to move forward.
Renee Lobb	Director 1	11/09/2013	0.2	485.00	\$	97.00	Investigations	Finalise and send to ASIC 912C response.
Sally McBryde	Managing Director	11/09/2013	0.1	550.00	\$	55.00	Administration	Payment - check supporting documentation, review invoices and banking voucher for payment to PI funding, approve payment
Eloa Zuardi	Manager 1	11/09/2013	1.0	345.00	\$	345.00	Trade-On	Various discussions with Kate and David re invoice for period 26 July 2013 to 9 August 2013. Invoice received, review for accuracy and calculate portion to be invoiced to MIF and AIF. Prepare invoices from LMIM to MIF and AIF
Eloa Zuardi	Manager 1	11/09/2013	0.2	345.00	\$	69.00	Creditors	LMA Purchase Order Register - Update
Benjamin Robson	Accountant	11/09/2013	0.4	235.00	\$	94.00	Trade-On	Correspondence with Robert Wareham regarding refund of bond payment. Complete refund forms
Kelly-Anne Trenfield	Senior Managing Director	11/09/2013	0.1	590.00	\$	59.00	Trade-On	Issues re outstanding annual leave entitlements
Sally McBryde	Managing Director	11/09/2013	1.0	550.00	\$	550.00	Employees	Various emails re reimbursement of accrued leave for administrators period & how to proceed, discussions with EBZ & GOK



Glenn O'Kearney	Director 2	11/09/2013	0.5	545.00	\$	272.50	Creditors	Discussion Sally and Eloa regarding LMA entitlements issues/va period/ Liquidator position.
Benjamin Robson	Accountant	11/09/2013	0.5	235.00	\$	117.50	Trade-On	Review of Macquarie Telecom Invoice charges. Discuss charges with Eloa Zuardi and forward refund supporting documents for approval
Glenn O'Kearney	Director 2	11/09/2013	0.3	545.00	\$	163.50	Trade-On	Review invoice from LMA regarding op costs. discussions with Eloa regarding invoicing for op costs and break up of invoices. reply to Kat at DLC regarding amendments to invoices.
Benjamin Robson	Accountant	12/09/2013	0.4	235.00	\$	94.00	Administration	Hickey controllership invoice for Seasilver Hotels reviewed. Correspondence with Shelly Chalmers at LM regarding payment and Britany Newman regarding updates to controllership payments spread sheet.
John Corbett	Managing Director	12/09/2013	0.5	550.00	\$	275.00	Administration	Review of RG's regarding application for relief of audit.
Kelly-Anne Trenfield	Senior Managing Director	12/09/2013	0.1	590.00	\$	59.00	Administration	Review and approve payment
Lauren Morcom	Director 1	12/09/2013	5.0	545.00	\$	2,725.00	Administration	Applying for relief from ASIC for financial reporting and audit for FMIF and applying for financial reporting and audit extension for all other funds, phone call with fund auditors.
Marushka Flynn	Administration	12/09/2013	0.4	130.00	\$	52.00	Administration	Photocopied & sorted Form 524s for related companies to be lodged manually
Renee Lobb	Director 1	12/09/2013	0.3	485.00	\$	145.50	Trade-On	Discussion with John Corbett on tasks to complete for remaining funds incl updates, 801NC notices and relief applications.
Renee Lobb	Director 1	12/09/2013	0.3	485.00	\$	145.50	Trade-On	Take call from investor. provide update on funds and answer queries.
Sally McBryde	Managing Director	12/09/2013	0.3	550.00	\$	165.00	Employees	Call with David Clout in relation to reimbursement of employee accrued leave for admin period
Eloa Zuardi	Manager 1	12/09/2013	0.2	345.00	\$	69.00	Administration	Email out to James re The LM Australian Units Fund
Eloa Zuardi	Manager 1	12/09/2013	0.2	345.00	\$	69.00	Administration	Follow up Expenses to be reimbursed by Funds
Eloa Zuardi	Manager 1	12/09/2013	0.2	345.00	\$	69.00	Trade-On	Email to Kate re Felicity Williams has fully re-paid the overpayment of wages
Glenn O'Kearney	Director 2	12/09/2013	0.2	545.00	\$	109.00	Employees	Discussion Sally regarding DLc/wages funding issues. VA period entitlements.
Glenn O'Kearney	Director 2	12/09/2013	0.1	545.00	\$	54.50	Administration	Follow up ash regarding advices.
Benjamin Robson	Accountant	12/09/2013	0.2	235.00	\$	47.00	Trade-On	Correspondence with Robert Wareham regarding refund from Macquarie Telecom, forward refund form
Benjamin Robson	Accountant	13/09/2013	0.2	235.00	\$	47.00	Administration	Correspondence with Simon Tickner and Glenn O'Kearney regarding split of Consultants invoice
Benjamin Robson	Accountant	13/09/2013	0.2	235.00	\$	47.00	Administration	Follow up Macquarie premium funding payment
Eloa Zuardi	Manager 1	13/09/2013	0.3	345.00	\$	103.50	Administration	Follow up insurance payment
Joan Springate	Administration	13/09/2013	0.1	130.00	\$	13.00	Administration	Bank Rec
John Corbett	Managing Director	13/09/2013	1.0	550.00	\$	550.00	Administration	Review of ASIC applications.
Kelly-Anne Trenfield	Senior Managing Director	13/09/2013	0.5	590.00	\$	295.00	Administration	Review confidentiality deed; request for advice from Russell's; respond to DLC
Lauren Morcom	Director 1	13/09/2013	4.0	545.00	\$	2,160.00	Administration	Applying for relief from ASIC for financial reporting and audit for CPF, SPF and AIF, phone calls with LM staff etc.
Renee Lobb	Director 1	13/09/2013	0.2	485.00	\$	97.00	Creditors	Review and respond to adviser query regarding commission updates.
Renee Lobb	Director 1	13/09/2013	0.6	485.00	\$	281.00	Trade-On	Take call from ASIC regarding additional information requested on the back of the 912C notice. Discuss documents required and review subsequent email from ASIC and compile documents requested. Circularise John Corbett, John Park, GINETTE Muller and Lauren Morcom to confirm correct documents will be provided.

Renee Lobb	Director 1	13/09/2013	0.3	485.00	\$ 145.50	Administration	Discuss ASIC email and call back requests on "release application" with Lauren Morcom.
Benjamin Robson	Accountant	13/09/2013	0.3	235.00	\$ 70.50	Trade-On	Thank you call to Brett Campbell from Xerox for their help through LMA Administration
Joan Springate	Administration	13/09/2013	0.1	130.00	\$ 13.00	Trade-On	Bank Rec
Eloa Zuardi	Manager 1	13/09/2013	0.5	345.00	\$ 172.50	Administration	Follow up Expenses to be reimbursed by Funds from Zoran request dates of payments etc.
Sally McBryde	Managing Director	13/09/2013	0.1	550.00	\$ 55.00	Trade-On	Update on Xerox position re photocopiers arranged by administrators
Glenn O'Kearney	Director 2	13/09/2013	0.2	545.00	\$ 109.00	Trade-On	Review advice ash tipack.
Eloa Zuardi	Manager 1	16/09/2013	0.2	345.00	\$ 69.00	Administration	Check if insurance was paid out of LMIM account
Eloa Zuardi	Manager 1	16/09/2013	0.3	345.00	\$ 103.50	Administration	Email in from Caroline Hodge re mobile phone to be transferred. Advise change of customer lodged with Telstra.
Eloa Zuardi	Manager 1	16/09/2013	0.2	345.00	\$ 69.00	Administration	Amended bank voucher received from JS re Primus compliance paid in SG dollars. Update cash flow re this transaction.
Ginette Muller	Senior Managing Director	16/09/2013	0.2	590.00	\$ 118.00	Administration	Review application to ASIC regarding the audit and relief. Review RG43, s340 etc. and discussions with Lauren and ASIC - Daniel and Leah at 2pm. Emails to them prior.
Kelly-Anne Trenfield	Senior Managing Director	16/09/2013	0.1	590.00	\$ 59.00	Administration	Review and adjust the draft application.
Kelly-Anne Trenfield	Senior Managing Director	16/09/2013	0.1	590.00	\$ 59.00	Administration	Read email in re options re recovery of books and records
Lauren Morcom	Director 1	16/09/2013	0.3	545.00	\$ 163.50	Administration	Details re movement of books and records
Renee Lobb	Director 1	16/09/2013	0.3	485.00	\$ 145.50	Trade-On	Phone call with ASIC about applying for an extension for preparing financial statements and audit (CPF), amending application, internal emails and reading emails from ASIC regarding the relief application.
Renee Lobb	Director 1	16/09/2013	0.3	485.00	\$ 145.50	Investigations	Take a call and answer an email both regarding tax statement timing.
Sally McBryde	Managing Director	16/09/2013	0.2	550.00	\$ 110.00	Trade-On	Send 7 emails attaching PDS and circular documents requested by ASIC.
Sally McBryde	Managing Director	16/09/2013	0.1	550.00	\$ 55.00	Trade-On	Discussion with EBZ re funding of leave for admin period, review letter to Clouts re same & amend
Sally McBryde	Managing Director	16/09/2013	0.1	550.00	\$ 55.00	Trade-On	Email from Carolyn Hodge re mobile phone transfer, review EBZ response
Eloa Zuardi	Manager 1	16/09/2013	0.5	345.00	\$ 172.50	Employees	Amendments to letter to Clout re obtaining funding direct from McGN for employee entitlements
Sally McBryde	Managing Director	16/09/2013	0.1	550.00	\$ 55.00	Employees	Discussions with GOK/SAM re accrued leave for admin period to be refunded by McGrath, draft letter to Clouts re employees made redundant and urgent payment and ltr re current employees.
Benjamin Robson	Accountant	17/09/2013	0.2	235.00	\$ 47.00	Administration	Update on position re payment of admin period accrued leave, provide update to Fran Mulder
Eloa Zuardi	Manager 1	17/09/2013	0.8	345.00	\$ 207.00	Administration	Payment of Blue Broking insurance premium, MYOB voucher created
John Park	Senior Managing Director	17/09/2013	0.2	590.00	\$ 118.00	Administration	Update Cash flow and SOP
Kelly-Anne Trenfield	Senior Managing Director	17/09/2013	0.4	590.00	\$ 236.00	Administration	Review and approval of accounts AGT
Lauren Morcom	Director 1	17/09/2013	1.0	545.00	\$ 545.00	Administration	Email from and response to David Clout re deed of confidentiality Review o/s issues/emails, mail/emails in re indemnity claims/funds management
Eloa Zuardi	Manager 1	17/09/2013	0.2	345.00	\$ 69.00	Employees	Reading LM emails, reviewing documentation on bank account signatories, emails with FTI staff about RG45, other documentation
Eloa Zuardi	Manager 1	17/09/2013	0.6	345.00	\$ 207.00	Trade-On	Ltr out to Clouts re employee leave to be paid via McGrath Nicol
Eloa Zuardi	Manager 1	17/09/2013	0.5	345.00	\$ 172.50	Administration	Update Cash flow and SOP
							Email and phone call out to JS re The LM Australian Units Fund payment to Bank of Ireland.

Sally McBryde	Managing Director	17/09/2013	0.1	550.00	\$	55.00	Employees	Amend letter to Clouts re employee entitlements for admin period
Benjamin Robson	Accountant	18/09/2013	0.3	235.00	\$	70.50	Administration	Inclusion of latest Norton Rose invoice into register invoice 1230968
Benjamin Robson	Accountant	18/09/2013	0.2	235.00	\$	47.00	Administration	Call to Clayton Utz requesting updated statement of accounts
Benjamin Robson	Accountant	18/09/2013	0.2	235.00	\$	47.00	Administration	Phone call from Kerry Bailey
Benjamin Robson	Accountant	18/09/2013	0.3	235.00	\$	70.50	Administration	Outstanding Clayton Utz invoice summary reviewed and reconciled with Consultants Fee Register
Eloa Zuardi	Manager 1	18/09/2013	1.0	345.00	\$	345.00	Administration	Amend invoices and excel file re LMIM op costs including this LMA fee and other trading costs for period 26/7 to date
Eloa Zuardi	Manager 1	18/09/2013	0.2	345.00	\$	69.00	Administration	AGT requested 2 urgent payments re ASIC relief/extension audit forms. Prepare MYOB vouchers
Glenn O'Kearney	Director 2	18/09/2013	0.1	545.00	\$	54.50	Administration	Review note from Aline regarding ASIC fees audits etc.
Joan Springgate	Administration	18/09/2013	0.2	130.00	\$	26.00	Administration	Payment voucher & posting payment
Kelly-Anne Trenfield	Senior Managing Director	18/09/2013	0.4	590.00	\$	236.00	Administration	Emails re payment out of fund costs out of LMIMGOK update re indemnity
Renee Lobb	Director 1	18/09/2013	0.3	485.00	\$	145.50	Administration	Discussions with Lauren Morcom regarding lodgement of CF02 forms where to obtain funds to pay ASIC fees. Answer queries and review subsequent emails on this issue.
Sally McBryde	Managing Director	18/09/2013	0.1	550.00	\$	55.00	Administration	Update to GOK on position of admin period PI insurance policy
Eloa Zuardi	Manager 1	18/09/2013	0.3	345.00	\$	103.50	Administration	Discussions re Professional Indemnity Insurance policies and current covers in place
Eloa Zuardi	Manager 1	18/09/2013	0.7	345.00	\$	241.50	Employees	Phone call in from Kate from Clouts re LMA Annual Leave calculation and verification of FEG outstanding employee entitlements. Review file and compare with VA administrators calculation for VA period.
Glenn O'Kearney	Director 2	18/09/2013	0.1	545.00	\$	54.50	Administration	Call from Sean Russell and discuss LMA indemnity - letter to clout. note.
Sally McBryde	Managing Director	18/09/2013	0.1	550.00	\$	55.00	Employees	Email from Trevor Wheatley re FEG claim and advise date sent to FEG
Benjamin Robson	Accountant	19/09/2013	0.2	235.00	\$	47.00	Assets	Receipt funds from rent deposit regarding 20 Albatross Ave
Eloa Zuardi	Manager 1	19/09/2013	0.2	345.00	\$	69.00	Administration	Phone call in from CMAJVS re international transfer to be completed to Bank of Ireland
Joan Springgate	Administration	19/09/2013	0.1	130.00	\$	13.00	Administration	Receipt voucher & posting receipt
Joan Springgate	Administration	19/09/2013	0.1	130.00	\$	13.00	Administration	Receipt voucher & posting receipt
Joan Springgate	Administration	19/09/2013	0.1	130.00	\$	13.00	Administration	Bank Rec
John Corbett	Managing Director	19/09/2013	1.0	550.00	\$	550.00	Administration	General items related to LMIM as RE of the various funds and ASIC submissions
Lauren Morcom	Director 1	19/09/2013	1.0	545.00	\$	545.00	Administration	Internal meeting about obligations going forward. For example reporting obligations, internal recording of transactions, general fund management and responsibilities
Renee Lobb	Director 1	19/09/2013	0.4	485.00	\$	194.00	Trade-On	Review and respond to two enquiries regarding EOFY tax statements. Take investor call and answer queries regarding hardship payments.
Renee Lobb	Director 1	19/09/2013	0.1	485.00	\$	48.50	Administration	Review and file email from ASIC to Ginette Muller.
Renee Lobb	Director 1	19/09/2013	0.2	485.00	\$	97.00	Administration	File a weeks worth of sent emails.
Eloa Zuardi	Manager 1	19/09/2013	1.0	345.00	\$	345.00	Employees	Email in from Kate re LMA Annual Leave. Prepare reconciliation and verify difference between Clouts calculation and Adm period. Discussions re Hayley's leave accounted for VA period. Email to Kate re annual leave and LSL to be paid by Clouts.

Eloa Zuardi	Manager 1	19/09/2013	0.2	345.00	\$	69.00	Administration	Email to GOK re to Professional Indemnity Insurance for LMA and refund from MIF /AIF
Joan Springate	Administration	19/09/2013	0.6	130.00	\$	78.00	Trade-On	Setting up Online payment & posting payment
Sally McBryde	Managing Director	19/09/2013	0.1	550.00	\$	55.00	Trade-On	Review calculation of AL & LSL for admin period for redundant employees, approve payment of amounts
Carly Drew	Administration	20/09/2013	0.2	130.00	\$	26.00	Administration	Photocopying to forward to Fiona @ LM for records
Joan Springate	Administration	20/09/2013	0.1	130.00	\$	13.00	Administration	Receipt voucher & posting receipt
Joan Springate	Administration	20/09/2013	0.1	130.00	\$	13.00	Administration	Setting up Online payment & posting payment
John Corbett	Managing Director	20/09/2013	2.0	550.00	\$	1,100.00	Administration	Working through the S601NC notices for each of the funds prior to submission to ASIC
John Park	Senior Managing Director	20/09/2013	0.2	590.00	\$	118.00	Administration	Review and approval of payments
Renee Lobb	Director 1	20/09/2013	0.1	485.00	\$	48.50	Trade-On	Respond to generalised investor queries.
Renee Lobb	Director 1	20/09/2013	0.5	485.00	\$	242.50	Trade-On	Call with investor discuss workings of feeder funds incl wholesale and background to returns and process form here.
Renee Lobb	Director 1	20/09/2013	0.2	485.00	\$	97.00	Trade-On	Respond to general investor enquiry regarding tax statement.
Renee Lobb	Director 1	20/09/2013	0.4	485.00	\$	194.00	Trade-On	Review comprehensive fund update from Steve Hanna raising queries on commissions outstanding, RG 45 updates, sell requests etc. Also review ABW draft letter to ASIC on 38 cavil avenue property, potential offenses committed by directors and details of demand letters to same.
Eloa Zuardi	Manager 1	20/09/2013	0.3	345.00	\$	103.50	Administration	Email out to James re payment for The LM Australian Units Fund
Eloa Zuardi	Manager 1	20/09/2013	0.2	345.00	\$	69.00	Trade-On	Follow up bond refund for Macquarie
Andrew Weatherley	Director 2	23/09/2013	0.2	545.00	\$	109.00	Creditors	Kiri- SPWF email re commissions paid, fwd to JC, resp with holding response Review prev emails re payments made
Andrew Weatherley	Director 2	23/09/2013	0.2	545.00	\$	109.00	Creditors	JC email re commission payment made, prepare and send email to Kiri- SPWF/GDM email re availability, amend draft email to ASIC, email to/from JP re signing affidavit, resp to GDM
Benjamin Robson	Accountant	23/09/2013	0.1	235.00	\$	23.50	Administration	Mail In
Eloa Zuardi	Manager 1	23/09/2013	0.2	345.00	\$	69.00	Administration	ASIC receipt of docs lodged - Application of relief AIF and LMIM
Eloa Zuardi	Manager 1	23/09/2013	0.1	345.00	\$	34.50	Administration	Email in from Sharon re Austrac invoice for LMIM
Ginette Muller	Senior Managing Director	23/09/2013	1.5	590.00	\$	885.00	Administration	Not to be charged to the Fund. Review issues pertaining to the appeal and how the matter should be communicated both externally and internally. Discuss with JP and with Strategic Comms. Note emails in and out pertaining to same. Update staff and assist with their queries.
John Corbett	Managing Director	23/09/2013	1.0	550.00	\$	550.00	Administration	Dealing with general RE related matters across all funds - correspondence, audit preparation, investor queries.
Renee Lobb	Director 1	23/09/2013	0.2	485.00	\$	97.00	Trade-On	Respond to multiple queries regarding tax statements.
Benjamin Robson	Accountant	23/09/2013	0.2	235.00	\$	47.00	Trade-On	Correspondence with Robert Wareham regarding refund of Macquarie Bond
Eloa Zuardi	Manager 1	24/09/2013	0.2	345.00	\$	69.00	Administration	Follow up Irene re Primus - Outstanding invoices for regulatory services provided in Singapore
Eloa Zuardi	Manager 1	24/09/2013	1.0	345.00	\$	345.00	Administration	Update cash flow and security position. Review transactions on bank statement, review bank reconciliations.
John Corbett	Managing Director	24/09/2013	0.5	550.00	\$	275.00	Administration	General RE related matters across funds around audit, ASIC and correspondence.
Marushka Flynn	Administration	24/09/2013	0.1	130.00	\$	13.00	Administration	Lodged Form EX01 on ASIC online & updated MYOB

Glenn O'Keamey	Director 2	24/09/2013	0.2	545.00	\$	109.00	Administration	Review SOP/cash flow from Eioa - note t regarding LMA emp entitlement owing. Follow up Irene and Zoran re funds to be reimbursed re expenses related to funds paid by LMA.
Eloa Zuardi	Manager 1	24/09/2013	0.2	345.00	\$	69.00	Administration	Email out to GOK re op to cover the period to 31 August
Eloa Zuardi	Manager 1	24/09/2013	0.2	345.00	\$	69.00	Employees	Email out to Kate and follow up AL payment. Email to Donna Alexander - LM Outstanding Payment of AL & LSL
Eloa Zuardi	Manager 1	24/09/2013	1.0	345.00	\$	345.00	Administration	Update cash flow and security position. Review transactions on bank statement, review bank reconciliations.
Sally McByde	Managing Director	24/09/2013	0.2	550.00	\$	170.00	Employees	Email from Donna Alexander re update on payment of admin period leave, obtain update from EBZ, respond to GDM, discuss with EBZ
Benjamin Robson	Accountant	25/09/2013	0.1	235.00	\$	23.50	Administration	Mail In
Benjamin Robson	Accountant	25/09/2013	0.3	235.00	\$	70.50	Administration	Action Insurance Deposit refund form for second insurance policy completed
Benjamin Robson	Accountant	25/09/2013	0.2	235.00	\$	47.00	Administration	Mail In Mail In
Benjamin Robson	Accountant	25/09/2013	0.1	235.00	\$	23.50	Administration	Mail Out
Eloa Zuardi	Manager 1	25/09/2013	0.5	345.00	\$	172.50	Administration	Discussions with GOK re operational costs and invoice for period to 31 August. review invoice paid to Primus Compliance and review cash flow for any fund type costs.
Joan Springate	Administration	25/09/2013	0.1	130.00	\$	13.00	Administration	Receipt voucher & posting receipt
Joan Springate	Administration	25/09/2013	0.1	130.00	\$	13.00	Administration	Payment voucher & posting payment
John Corbett	Managing Director	25/09/2013	2.5	550.00	\$	1,375.00	Administration	Working through the various audit engagement letters and discussions with EY regarding the letters. Dealing with fund correspondence.
John Park	Senior Managing Director	25/09/2013	1.1	590.00	\$	649.00	Administration	Prepare for and attend meeting with Russell's on all outstanding matters
Glenn O'Keamey	Director 2	25/09/2013	0.5	545.00	\$	272.50	Trade-On	Reconcile current invoices outstanding and cash received/ LMA/LMIM cash flow and cash position and consultants fees.
Eloa Zuardi	Manager 1	25/09/2013	0.2	345.00	\$	69.00	Trade-On	Update from Kate re approval from McGrath Nicol/BDO for payment AL and LSL
Eloa Zuardi	Manager 1	25/09/2013	0.2	345.00	\$	69.00	Creditors	EFT Remittance from Macquarie Telecom
Eloa Zuardi	Manager 1	25/09/2013	0.5	345.00	\$	172.50	Trade-On	Discussions with GOK re operational costs and invoice for period to 31 August. review invoice paid for period and review cash flow for any fund type costs. Amend invoices
Eloa Zuardi	Manager 1	25/09/2013	0.2	345.00	\$	69.00	Administration	Follow up insurance refund re Corporate Travel Refund: \$385.84 and Machinery / Electronic Equipment: \$2,245.83
Eloa Zuardi	Manager 1	25/09/2013	0.2	345.00	\$	69.00	Administration	Follow up LMA Annual Leave payment response from Clouts
Eloa Zuardi	Manager 1	25/09/2013	0.5	345.00	\$	172.50	Administration	Check bank statements for refunds received last 3 months. Discussions with Zoran and Irene re Expenses to be reimbursed by Funds.
Benjamin Robson	Accountant	25/09/2013	0.2	235.00	\$	47.00	Trade-On	EFT payment to Robina Cleaning Services
Benjamin Robson	Accountant	25/09/2013	0.1	235.00	\$	23.50	Trade-On	Check LMA account for Blue Broking refund
Benjamin Robson	Accountant	25/09/2013	0.1	235.00	\$	23.50	Trade-On	Perusal email from Lynne at Action Insurance Brokers regarding refund
Benjamin Robson	Accountant	25/09/2013	0.1	235.00	\$	23.50	Trade-On	Provide account details to Andrea at Blue Broking
Sally McByde	Managing Director	25/09/2013	0.1	550.00	\$	55.00	Employees	Email from Fran Mulder re update on payment of leave, provide update
Eloa Zuardi	Manager 1	26/09/2013	0.3	345.00	\$	103.50	Administration	Seek refund re ASIC audit relief forms. Advise Irene details for payment

Glenn O'Kearney	Director 2	26/09/2013	1.1	545.00	\$	599.50	Trade-On	Updates to Cash flows and trading SOP regarding funds received from funds/allocation of costs paid to service entity, update for new invoices issued to funds.
Glenn O'Kearney	Director 2	26/09/2013	0.2	545.00	\$	109.00	Trade-On	Review details of fund request employee VA entitlements, discussions with Sally and update to team, discuss with Eloa
John Corbett	Managing Director	26/09/2013	2.5	550.00	\$	1,375.00	Administration	Updating the audit engagement letters for return to EY. Dealing with correspondence from investors.
John Park	Senior Managing Director	26/09/2013	0.1	590.00	\$	59.00	Administration	Emails in Russell's
Kelly-Anne Trenfield	Senior Managing Director	26/09/2013	0.2	590.00	\$	118.00	Administration	Details re invoicing for operation costs to Russells AGT re fee review for funds
Renee Lobb	Director 1	26/09/2013	0.1	485.00	\$	48.50	Assets	Review and file update request from Clayton Utz.
Renee Lobb	Director 1	26/09/2013	0.2	485.00	\$	97.00	Administration	Assist AU in directing ASIC enquiry.
Eloa Zuardi	Manager 1	26/09/2013	0.1	345.00	\$	34.50	Trade-On	Follow up Kate re LMA Annual Leave
John Corbett	Managing Director	27/09/2013	3.5	550.00	\$	1,925.00	Administration	Various discussions and correspondence through the day with ASIC in relation to requests for waiver and delay in delivering fund audits. Review of RG108 implications.
John Park	Senior Managing Director	27/09/2013	0.3	590.00	\$	177.00	Administration	Emails in Russell's
Kelly-Anne Trenfield	Senior Managing Director	27/09/2013	0.5	590.00	\$	295.00	Administration	Review GOK emails re payments to Clayton Utz and followup KM remuneration review remuneration review/queries DC re affidavit/application re MPF; discussion with MIF position re controllerships
Renee Lobb	Director 1	27/09/2013	0.2	485.00	\$	97.00	Trade-On	Respond to investor enquiries regarding taxation statements.
Benjamin Robson	Accountant	30/09/2013	0.5	235.00	\$	117.50	Administration	Perusal emails from Irene Cailing and Simon Tickner regarding Consultants fee invoices, and responses from Glenn O'Kearney. Update register with payment confirmations
Benjamin Robson	Accountant	30/09/2013	0.5	235.00	\$	117.50	Administration	Correspondence with Glenn O'Kearney and Irene Cailing regarding outstanding invoices on consultants register
Eloa Zuardi	Manager 1	30/09/2013	1.5	345.00	\$	517.50	Administration	Update cash flow and SOP
Eloa Zuardi	Manager 1	30/09/2013	0.2	345.00	\$	69.00	Employees	Follow up Michael Skeggs claim from FEG
John Corbett	Managing Director	30/09/2013	2.5	550.00	\$	1,375.00	Administration	Brisbane / Gold Coast / Brisbane to start EY on audit and discussions with LM staff
John Corbett	Managing Director	30/09/2013	4.5	550.00	\$	2,475.00	Administration	Discussions with EY who were commencing audits of AIF, CPF and ASPF.
John Park	Senior Managing Director	30/09/2013	0.2	590.00	\$	118.00	Administration	Discussions with LM staff on LM Capalaba, TT Mandurah, reporting and issues with valuations and unwinding of ASPF products, reporting of CPF and AIF when S601MC's are produced, issues with investor enquiries and ongoing provision of information to investors.
Kelly-Anne Trenfield	Senior Managing Director	30/09/2013	0.1	590.00	\$	59.00	Administration	Emails in Russell's
Renee Lobb	Director 1	30/09/2013	0.1	485.00	\$	48.50	Administration	Review indemnity issues
Renee Lobb	Director 1	30/09/2013	0.1	485.00	\$	48.50	Administration	Review and respond to enquiries regarding investor queries whilst on leave.
Andrew Stokes	Director	30/09/2013	0.5	400.00	\$	200.00	Administration	Respond to investor enquiry regarding tax statement.
Eloa Zuardi	Manager 1	30/09/2013	0.3	345.00	\$	103.50	Trade-On	Reviewing of morning clips, sourcing of ASIC statement.
Benjamin Robson	Accountant	30/09/2013	0.3	235.00	\$	70.50	Trade-On	Follow up LMA Insurance from Kate (Cloubs)
Glenn O'Kearney	Director 2	30/09/2013	0.1	545.00	\$	54.50	Trade-On	Receipt refund monies into Main account from Macquarie Telecom
Eloa Zuardi	Manager 1	30/09/2013	1.5	345.00	\$	517.50	Trade-On	Review and pay va trading costs.
								Update cash flow and SOP

Eloa Zuardi	Manager 1	30/09/2013	0.3	345.00	\$ 103.50	Trade-On	Phone call in from Kate re pen drive mailed last week and AL claim by employees
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