

- Preparation of two statements of claim which have been filed against certain parties to preserve claims in relation to certain transactions and avoid possible statutory expiration possibly expiring as a consequence of the statute of limitations;
  - Monitoring and providing assistance to the Liquidator of Bellpac regarding the \$8M bond claim and progressing this matter;
  - Progressing the claim against the MPF and others;
  - Responding to the amended claims filed by the MPF Trustee against the assets of the Fund and investigating counter claims against the MPF
  - Pursuing the costs orders against the Austcorp companies and their subsequent winding up
  - Review of potential claims against former valuers of property securities for negligence and breach of contract;
  - Progressing claims against guarantors.
- Liaising with various parties in relation to the potential for the DB Receiver's retirement;
  - Finalising settlement of Western Union's set off claim;
  - Dealing with FTI in relation to their claims for indemnity against the assets of the Fund for expenses and costs incurred in their capacity as liquidators of the responsible entity;
  - Maintaining the management accounts of the Fund and prepare management accounts for the half year ending 31 December 2016 and for the year ending 30 June 2016;
  - Undertaking the investor management function for approximately 4,500 investors including answering queries on the winding up of the Fund and maintaining the investment database, including any change in details or transfer of units;
  - Preparing of affidavit and supporting material for an application to Court for approval of the receiver's remuneration for the period 1 May to 31 October 2016;
  - Finalising outstanding trading matters from the sale of five retirement villages, including tax compliance issues;
  - Investigations into the migration of the Composer investor management database to the AX investor management database and liaising with an IT consultant in relation to proposed correction of membership records in relation to investors that acquired units in foreign currencies;
  - Attending to compliance with ASIC's grant of relief from the requirements of a half year review and annual audit of the financial reports and compliance plan;
  - Preparation of unit price calculations as at 30 June 2016 and 31 December 2016;
  - Preparation of update reports to investors in July, September and December 2016.

## **7. Actions proposed to be taken in the next 12 months**

I provide below a summary of the proposed actions to be taken in the next 12 months in relation to the winding up of the Fund:

- Take steps to finalise the various ongoing litigation matters outlined in this report;
- Sale and settlement of the remaining two real properties outlined at section 1.2 of this report;
- Assess the outcome of the EY strike out application on certain parts of the claim against the former auditors and progress the claim against EY outlined at section 1.3.1 of this report;

- Take steps to determine or resolve the claim regarding the Bellpac bonds and realise this asset as outlined at section 1.3.2 of this report;
- Resist the MPF claim against the proceeds of the Bonds;
- Liaise with the Liquidator of the Austcorp companies to determine the potential for a return in the windings up for the benefit of the Fund as set out in section 1.3.2b of this report;
- Resolve the position in relation to the distributions and redemptions paid to the Feeder Funds;
- Finalise investigations in relation to potential claims against external valuers;
- Finalise all claims against guarantors;
- Obtain a release of funds held by Western Union;
- Resolve or have determined FTI's indemnity claim against the Fund;
- Maintain the accounts of the Fund and prepare management accounts for the year ending 30 June 2017 and half year ending 31 December 2017;
- Resolve the issues relating to the investor units subscribed in foreign currencies in the investor management database, and obtain court approval to correct the member records of the FMIF;
- Maintain the investor management database;
- Obtain approval from the Court to process interim distributions to investors;
- Process interim distributions to investors;
- Report to investors on a quarterly basis;
- Make applications to Court for remuneration approval.

Please note that the timing to finalise some of the above matters will be subject to judgments being handed down by the Court.

## **8. Actions required to complete the winding up**

I provide below a summary of the key actions required to complete the winding up:

- Realise the remaining two real properties;
- Finalise all litigation currently on foot and contemplated;
- Resolve FTI's indemnity claim against the Fund;
- Discharge all liabilities of the Fund;
- Obtain a discharge of the DB security and of the DB Receivers;
- Obtain approval from the Court to process interim distributions and a final distribution to investors;
- Prepare final accounts for the Fund;
- Arrange for an auditor to audit the final accounts of the Fund after the Fund is wound up; and
- Obtain court orders in relation to the finalisation of my role in relation to the Fund.

I anticipate that the winding up of the Fund will be finalised in approximately 18 months, however, this may vary subject to the progression of the outstanding legal matters detailed in this report.

## **9. Queries**

Should unit holders wish to advise of any changes in details or require further information, please contact BDO as follows:



BDO  
GPO Box 457  
Brisbane QLD 4001  
Phone: +61 7 3237 5999  
Fax: +61 7 3221 9227  
Email: [enquiries@lmfmif.com](mailto:enquiries@lmfmif.com)

Yours faithfully

A handwritten signature in black ink, appearing to read 'David Whyte', written over a horizontal line.

David Whyte  
Receiver



**REMUNERATION REPORT - Summary of professional fees by category of work for the period 1 November 2016 to 28 February 2017  
LM FIRST MORTGAGE INCOME FUND (RECEIVERS AND MANAGERS APPOINTED) (RECEIVER APPOINTED)**

EMPLOYEE	EMPLOYEE ID	EMPLOYEE CATEGORY	TOTAL		ASSETS		CREDITS		DEBITS		ADJUSTMENTS			
			FEES	hrs	hrs	Value (\$)	hrs	Value (\$)	hrs	Value (\$)	hrs	Value (\$)		
David Whyte	580	Partner	114.7	66,526.00	54.9	31,842.00	17.3	10,034.00	26.8	15,544.00	0.9	522.00	14.8	8,584.00
Clark Jarrold	560	Partner	61.3	34,328.00	61.3	34,328.00			12.3	6,088.50	51.1	25,239.50	26.4	13,068.00
Eric Leeuwandaal	495	Executive Director	393.0	194,535.00	264.2	130,779.00	39.0	19,305.00	8.1	3,969.00				
Craig Jenkins	490	Partner	8.1	3,969.00	6.9	3,139.50	56.3	25,616.50	41.5	18,882.50	9.7	4,413.50	12.0	5,460.00
John Somerville	485	Senior Manager	126.4	57,512.00					3.9	1,501.50				
Julie Pagcu	385	Senior Manager	3.9	1,501.50					7.8	2,925.00				
Julie Pagcu	375	Senior Manager	7.8	2,925.00					5.2	1,508.00				
Aubrey Meek	290	Senior Accountant II	116.4	33,756.00			104.4	30,276.00	89.3	25,897.00	0.6	174.00	6.8	1,972.00
Dermot O'Brien	290	Senior Accountant II	93.0	26,970.00			3.1	895.00	33.0	7,755.00	32.5	7,637.50	2.4	564.00
Dermot O'Brien	235	Senior Accountant II	106.1	24,933.50	2.8	658.00	35.4	8,319.00	1.8	297.00	92.9	15,328.50	14.5	2,900.00
Sarah Cunningham	200	Team Assistant	14.5	2,900.00										
Ryan Whyte	165	Undergraduate	219.9	36,283.50					40.1	6,616.50			13.0	2,145.00
Andrew Lane	165	Undergraduate	41.0	6,765.00					15.5	2,557.50			0.9	148.50
Antoinette Fielding	165	Undergraduate	16.0	2,640.00	0.5	82.50							1.2	192.00
Nicole Jackson	160	Team Assistant	1.2	192.00										
Brooke Stredl	130	Team Assistant	3.5	455.00	3.5	455.00								
Emma Sheehy	115	Junior Practice Assistan	4.3	494.50	4.3	494.50								
Moira Hattigh	85	Team Assistant	21.1	1,793.50										
<b>TOTALS</b>	<b>19527</b>		<b>191,470.50</b>		<b>201,770.50</b>	<b>1729.1</b>	<b>122,116.40</b>	<b>729.1</b>	<b>31,567.50</b>	<b>729.1</b>	<b>31,567.50</b>	<b>157.1</b>	<b>5,413.50</b>	<b>1,793.50</b>
<b>TOTAL FEES</b>	<b>69147.95</b>		<b>69147.95</b>											
<b>TOTAL DEBITS</b>	<b>540,527.45</b>		<b>540,527.45</b>											
<b>AVERAGE HOURS PER RATE</b>	<b>169</b>		<b>169</b>		<b>169</b>		<b>169</b>		<b>169</b>		<b>169</b>		<b>169</b>	

Note: All amounts exclude GST unless otherwise noted



**REMUNERATION REPORT - Summary of professional fees by category of work for the period 1 November 2016 to 28 February 2017**  
**OVST PTY LTD**

EMPLOYER	Position	Rate	Hrs	Totals		Creditors		Task Area		Administration	
				\$	Hrs	Hrs	\$	Hrs	\$		
David Whyte	Partner	580	0.1	58.00				0.1	58.00	1.0	455.00
John Somerville	Senior Manager	455	1.0	455.00							
Dermot O'Brien	Senior Accountant II	235	0.2	47.00		0.2	47.00				
Sarah Cunningham	Team Assistant	200	0.3	60.00							60.00
Ryan Whyte	Undergraduate	165	0.7	115.50							115.50
Andrew Lane	Undergraduate	165	0.2	33.00							33.00
Maira Hattingh	Team Assistant	85	0.3	25.50							25.50
<b>TOTALS</b>			<b>2.8</b>	<b>794.00</b>		<b>0.2</b>	<b>47.00</b>	<b>0.1</b>	<b>58.00</b>	<b>2.3</b>	<b>650.00</b>
			<b>GST</b>	<b>79.40</b>							
			<b>TOTAL INC GST</b>	<b>873.40</b>							
			<b>AVERAGE HOURLY RATE</b>	<b>284</b>			<b>235</b>		<b>580</b>		<b>277</b>

**Note: All amounts exclude GST unless otherwise noted**



**REMUNERATION REPORT - Summary of professional fees by category of work for the period 1 November 2016 to 28 February 2017**

**CAMEO ESTATES LIFESTYLE VILLAGES (LAUNCESTON) PTY LTD**

Employee	Position	Totals		Task Area	
		Rate	hrs	Creditors	Administration
		\$	hrs	\$	hrs
John Somerville	Senior Manager	455	0.3	136.50	0.3
Dermot O'Brien	Senior Accountant II	235	0.2	47.00	
Sarah Cunningham	Team Assistant	200	0.1	20.00	0.1
Ryan Whyte	Undergraduate	165	0.7	115.50	0.7
Andrew Lane	Undergraduate	165	0.2	33.00	0.2
Molra Hattingh	Team Assistant	85	0.1	8.50	0.1
<b>TOTALS</b>			<b>1.6</b>	<b>360.50</b>	<b>1.4</b>
			<b>GST</b>	<b>36.05</b>	
			<b>TOTAL INC GST</b>	<b>396.55</b>	
			<b>AVERAGE HOURLY RATE</b>	<b>225</b>	<b>235</b>
					<b>136.50</b>

**Note: All amounts exclude GST unless otherwise noted**



**REMUNERATION REPORT - Summary of professional fees by category of work for the period 1 November 2016 to 28 February 2017**

**BRIDGEWATER LAKE ESTATE PTY LTD**

Employee	Position	Rate	Totals		Task Area	
			hrs	\$	hrs	\$
John Somerville	Senior Manager	455	0.7	318.50	0.2	91.00
Dermot O'Brien	Senior Accountant II	235	0.2	47.00		
Sarah Cunningham	Team Assistant	200	0.5	100.00		
Ryan Whyte	Undergraduate	165	0.8	132.00		
Andrew Lane	Undergraduate	165	1.1	181.50		
Moira Hattingh	Team Assistant	85	0.3	25.50		
<b>TOTALS</b>			<b>3.6</b>	<b>804.50</b>	<b>0.2</b>	<b>91.00</b>
			<b>GST</b>	<b>80.45</b>		
			<b>TOTAL INC GST</b>	<b>884.95</b>		
			<b>AVERAGE HOURLY RATE</b>	<b>223</b>	<b>455</b>	<b>210</b>

**Note: All amounts exclude GST unless otherwise noted**



**REMUNERATION REPORT - Summary of professional fees by category of work for the  
period 1 November 2016 to 28 February 2017**

**REDLAND BAY LEISURE LIFE DEVELOPMENT PTY LTD**

Employee	Position	Rate	Totals		Task Area	
			hrs	\$	hrs	\$
John Somerville	Senior Manager	455	0.1	45.50	0.1	45.50
Dermot O'Brien	Senior Accountant II	235	0.2	47.00	0.2	47.00
Sarah Cunningham	Team Assistant	200	0.3	60.00	0.3	60.00
Ryan Whyte	Undergraduate	165	0.8	132.00	0.8	132.00
Andrew Lane	Undergraduate	165	0.2	33.00	0.2	33.00
Moira Hattingh	Team Assistant	85	0.2	17.00	0.2	17.00
<b>TOTALS</b>			<b>1.8</b>	<b>334.50</b>	<b>1.8</b>	<b>334.50</b>
			<b>GST</b>	<b>33.45</b>		
			<b>TOTAL INC GST</b>	<b>367.95</b>		
			<b>AVERAGE HOURLY RATE</b>	<b>186</b>		<b>186</b>

**Note: All amounts exclude GST unless otherwise noted**





**REMUNERATION REPORT - Summary of professional fees by category of work for the period 1 November 2016 to 28 February 2017**

**REDLAND BAY LEISURE LIFE PTY LTD**

Employee	Position	Rate	Totals		Task Area
			hrs	\$	
John Somerville	Senior Manager	455	0.3	136.50	Administration
Dermot O'Brien	Senior Accountant II	235	0.2	47.00	Administration
Sarah Cunningham	Team Assistant	200	0.5	100.00	Administration
Ryan Whyte	Undergraduate	165	0.7	115.50	Administration
Andrew Lane	Undergraduate	165	0.2	33.00	Administration
Moira Hattingh	Team Assistant	85	0.4	34.00	Administration
<b>TOTALS</b>			<b>2.3</b>	<b>466.00</b>	<b>2.3</b>
			<b>GST</b>	<b>46.60</b>	
			<b>TOTAL INC GST</b>	<b>512.60</b>	
<b>AVERAGE HOURLY RATE</b>				<b>203</b>	<b>203</b>

**Note: All amounts exclude GST unless otherwise noted**



**REMUNERATION REPORT - Summary of professional fees by category of work for the period 1 November 2016 to 28 February 2017**  
**PINEVALE VILLAS MORAYFIELD PTY LTD**

Employee	Position	Rate	hrs	Totals		Credits		Task Area		ADMINISTRATION	
				\$	hrs	hrs	\$	hrs	\$		hrs
David Whyte	Partner	580	0.1	58.00				0.1	58.00	0.2	91.00
John Somerville	Senior Manager	455	0.2	91.00							
Dermot O'Brien	Senior Accountant II	235	0.2	47.00		0.2	47.00			0.5	100.00
Sarah Cunningham	Team Assistant	200	0.5	100.00						0.8	132.00
Ryan Whyte	Undergraduate	165	0.8	132.00							
Andrew Lane	Undergraduate	165	0.2	33.00						0.2	33.00
<b>TOTALS</b>				<b>2.2</b>	<b>478.00</b>	<b>0.2</b>	<b>47.00</b>	<b>0.1</b>	<b>58.00</b>	<b>1.2</b>	<b>377.00</b>
				<b>GST</b>	<b>47.80</b>						
				<b>TOTAL INC GST</b>	<b>525.80</b>						
				<b>AVERAGE HOURLY RATE</b>	<b>217</b>	<b>235</b>	<b>580</b>				

**Note: All amounts exclude GST unless otherwise noted**



**Disbursements for the period 1 November 2016 to 28 February 2017**  
**LM FIRST MORTGAGE INCOME FUND (RECEIVERS AND MANAGERS**  
**APPOINTED) (RECEIVER APPOINTED)**

<b>Expense Type</b>	<b>Amount (\$ ex GST)</b>
Postage	3,203.22
Write Offs (BRI Only)	146.15
Accommodation	323.88
<b>TOTAL</b>	<b>3,673.25</b>
<b>GST</b>	<b>367.33</b>
<b>TOTAL INC GST</b>	<b>4,040.58</b>

TO THE INVESTOR AS ADDRESSED

30 June 2017

**LM FIRST MORTGAGE INCOME FUND (RECEIVERS AND MANAGERS APPOINTED) (RECEIVER APPOINTED)  
ARSN 089 343 288 ('the Fund' or 'FMIF')**

## 1. Executive Summary

I refer to my appointment as the Receiver of the Fund's assets and the person responsible for ensuring the winding up of the Fund in accordance with the terms of its constitution by Order of the Supreme Court of Queensland on 8 August 2013.

I now provide my 18<sup>th</sup> update to investors, which provides details of the progress made in the winding up of the Fund since my last report to investors dated 31 March 2017. This report should be read in conjunction with my previous reports, which are available on the website [www.lmfimf.com](http://www.lmfimf.com).

A summary of the key issues covered in this report is as follows:

- Two remaining residential units were sold at auction for \$712,500 on 24 June 2017 with settlement due on 8 August 2017. Further details are provided at Section 3 below;
- Cash at bank as at 31 May 2017 was \$72.84 million;
- The estimated return to investors is currently 13.4 to 14.7 cents per unit as detailed at Section 8.1 below and before taking into account future costs and recoveries from legal proceedings on foot;
- I am working towards making an interim distribution to investors as soon as practicable and possibly before the end of the calendar year provided that the required court approvals are obtained and subject to the resolution of the ongoing litigation involving claims against the Fund and the retirement of the Receivers and Managers of the Fund (DB Receivers) appointed by the secured creditor. Further details in relation to the status of the retirement of the DB Receivers are provided in Section 2.2 below;
- The MPF Trustee's Assigned Loans Claim in which claims for relief against the assets of the Fund are made have been adjourned to a date to be fixed to enable settlement negotiations to continue (see 2.1.1 below). Similarly, no further steps have been taken in relation to the MPF Trustee's AHS Loan claim in which claims for relief against the assets of the Fund are made (see 2.1.2 below);
- Following the mediation on 12 July 2016 in relation to a claim against the directors, LMIM and MPF for \$15.5M plus interest, settlement negotiations have been ongoing. See Section 2.3 below;

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- The former auditors of the Fund filed an application seeking to strike out parts of the claim I caused to be filed against them. The reserved decision was handed down on 8 May 2017 with their strike out application largely being unsuccessful. Further details are provided in Section 4.1 below;
- Settlement of the Bellpac Liquidator's \$8M Bonds litigation has progressed however, the remaining condition precedent to settlement has been extended to mid July 2017. This is expected to realise \$6.3 million for the benefit of investors. Further details in relation to the \$8M Bonds are provided in Section 4.1.2 below;
- The Court is yet to hand down judgement in relation to the remuneration claimed by the liquidators of LMIM (FTI) against the assets of the Fund and the indemnity claim by LMIM and its liquidators. Further details in relation to the remuneration claim and indemnity claim are provided in Section 6 below.

## **2. Position of the Secured Creditor, the potential claim by KordaMentha, the trustee of the LM Managed Performance Fund ('MPF') and claims filed against the Fund**

### **2.1 Proceedings by the Trustee of the MPF against LMIM and the Fund**

#### **2.1.1 Assigned Loans Claim**

I refer to my previous updates to investors in relation to these proceedings, in which the trustee of the MPF is the plaintiff, and the defendants are LMIM, and myself as receiver of the property of the FMIF. In these proceedings, the trustee of the MPF alleges that the entry into two Deeds of Assignment by LMIM in 2008, pursuant to which PTAL as custodian of the FMIF, assigned its right, title and interest in the securities that it held for two FMIF loans, to LMIM as trustee of the MPF, and the alleged payment of the Settlement Sum as consideration by LMIM as trustee of the MPF, breached duties owed by LMIM to members of the MPF. The relief claimed by the trustee of the MPF in these proceedings includes equitable compensation against LMIM and claims against assets of the FMIF in the total sum of about \$24.1 million plus interest.

I confirm that at the review hearing on 16 December 2016, the proceedings were adjourned to a date to be fixed as the parties wished to continue negotiations to settle the litigation in conjunction with the proceedings in both sections 2.1.2 and 2.3 below.

There have been no further steps taken in the proceedings since my previous update to investors.

#### **2.1.2 AIIS Loan Claim**

I refer to my previous updates to investors in relation to this proceeding in which the trustee of the MPF is the plaintiff, and LMIM is the defendant.

The MPF Trustee claims approximately \$16.82 million equitable compensation against LMIM and relief against the assets of the FMIF for approximately \$3.9 million (although this may be increased to \$4.1 million) being alleged interest paid by the MPF to the FMIF in respect of the loan made by the FMIF to AIIS in 2005.

There have been no further steps taken in the proceedings since my previous update to investors. Negotiations to settle these proceedings in conjunction with the proceedings above and those detailed at section 2.3 below are continuing.

## **2.2 Position of the Secured Creditor**

I refer to my comments in my previous updates to investors. The matter precluding the retirement of the DB Receivers is the provision of a release by the MPF Trustee.

I continue to liaise with the DB Receivers about their ongoing role and the possibility of their retirement. In the event the proceedings mentioned at Sections 2.1 and 2.3 herein are settled and a release is provided by the MPF, McGrathNicol will retire as Receivers and Managers.

## **2.3 Proceedings against the MPF, LMIM and the Directors of LMIM**

I refer to my previous updates to investors and briefly summarise the matter as follows:

- I filed a statement of claim in the Supreme Court of Queensland, against a number of parties including the MPF Trustee, in respect of loss allegedly suffered by the FMIF as a result of an amount paid to MPF in the Bellpac litigation matter. The claim is for \$15.5M plus interest;
- Discovery in the proceedings has been completed by the plaintiff and the MPF Trustee;
- A mediation took place on 12 July 2016. The proceedings were not settled at the mediation, however the parties continue to discuss a potential settlement of the litigation which includes discussions to resolve those matters referred to at sections 2.1 and 2.2 above;
- Various steps have been taken by me to obtain orders seeking to vary the previous orders made by the Court allowing the defendants to claim privilege and accordingly not to plead a detailed defence to matters alleged against them;
- The 6<sup>th</sup> defendant consented to the orders sought and has now filed and served an amended defence.

I summarise developments since my last update to investors as follows:

- The 6<sup>th</sup> defendant has provided Further and Better Particulars of his defence and I caused a Reply to the 6<sup>th</sup> defendant's defence to be filed and served;
- The 2<sup>nd</sup> defendant has filed and served an amended defence;
- I caused a Reply to the defence of the 2<sup>nd</sup> defendant to be filed and served and requested that the 2<sup>nd</sup> defendant provide Further and Better Particulars of her defence;
- Consent orders have been agreed for the 1<sup>st</sup>, 3<sup>rd</sup> and 4<sup>th</sup> defendants to file amended defences by 14 July 2017.

The proceedings are ongoing and an update will be provided to investors in relation to this matter in my next report.

### 3. Realisation of Assets

A summary of the status of the realisation of the remaining real property assets is provided below:

- Two units in a strata titled unit resort situated in North Queensland were sold at auction on 24 June 2017 for a total of \$712,500 with settlement due on 8 August 2017;
- 61 hectares of englobo land with various approvals for up to 257 residential lots plus retail space and a childcare centre remain to be sold within a residential land subdivision in Central Queensland. Various applications have been prepared for easements relating to the properties and have been submitted to council for approval. Further updated legal notices are also required to be issued. Following the resolution of these matters, a fresh marketing campaign is expected to commence before the end of the year, but will be subject to the timely receipt of the council's approval.

### 4. Other Potential Recoveries/Legal Actions

I provide an update in relation to investigations undertaken to date, legal proceedings on foot and further work to be done, as follows:

#### 4.1 Claim Against the Former Auditors

I refer to my previous updates to investors and briefly summarise the background as follows:

- A public examination (PE) of the former auditors and certain directors and former directors (Directors) of LM Investment Management Limited (In Liquidation) was conducted over a period of 9 days in June 2015 and a further 9 days in October 2015;
- Following the PEs, a further amended statement of claim was filed by me in the Supreme Court of Queensland and served on the former auditors of the Fund on 14 April 2016;
- The former auditors' solicitors lodged and served on me a strike-out application and supporting affidavit on 27 April 2016 seeking orders to strike-out certain parts of the statement of claim;
- At the hearing of the former auditors' strike out application and my commercial list application on 15 December 2016, the Court granted my application and placed the proceedings on the commercial list and reserved its decision on the auditor's strike out application.

I summarise developments since my last update to investors as follows:

- The reserved decision from the hearing of the strike out application was handed down on 8 May 2017. The decision has not been appealed;
- In that decision, the Court declined to strike out all of the parts of the claim that the former auditors sought to strike out. However, it did make orders striking out certain causes of action and orders were made that the statement of claim be amended to delete those causes of action;
- In accordance with the Court's judgment, the parties are now conferring to agree the form of orders which will include a timetable for the filing of a further amended statement of claim and the costs of the former auditors' strike-out application.

As advised in previous reports to investors, considerable work has been undertaken in quantifying the alleged loss suffered by the Fund. The calculation of loss is close to being finalised and will be in excess of \$100M.

The proceedings are ongoing and an update will be provided to investors in relation to this matter in my next report.

## **4.2 Bellpac Proceedings**

In addition to the claim filed and served against the MPF Trustee in relation to a loss suffered by the Fund from litigation pertaining to the Bellpac loan noted at 2.3 above, there are two further matters relating to Bellpac that have been progressed during the period, as detailed below.

### **4.2.1 Other Bellpac litigation**

#### **a. Wollongong Coal Ltd (WCL) - Convertible Bonds**

I refer to my previous updates to investors and provide a brief summary as follows:

- The liquidator of Bellpac has received the settlement amount of \$2 million from WCL in relation to the claim for redemption of the \$2 million Bonds held in WCL;
- The defendants' appeal of the decision of the Court which acknowledged that Bellpac (under the control of a liquidator) is the true owner of the \$8 million convertible bonds was unsuccessful;
- In January 2016, the Bellpac Liquidator applied for the conversion of the \$8 million Bonds to shares. As WCL did not issue all of the shares as required under the terms of the Bonds, the Bellpac Liquidator brought proceedings against WCL seeking orders requiring WCL to perform its obligation to redeem the Bonds converted to shares outside of the required time;
- The Bellpac liquidator and WCL have entered into a binding heads of agreement (HOA) which relates to the settlement of the litigation commenced against WCL. The terms of the heads of agreement include that WCL will pay to Bellpac a settlement sum of \$6.3 million in return for certain releases and Bellpac returning or cancelling the WCL shares issued to Bellpac;
- The conditions precedent to the settlement with WCL include obtaining necessary approvals to undertake the settlement transactions. In this regard:
  - The Bellpac Liquidator has obtained creditor approval to enter into the settlement with WCL;
  - The Court declined to exercise its discretion on WCL's application for approval to acquire and or cancel Bellpac's holding of WCL shares. WCL is now preparing to seek shareholder approval;
- The Trustees of the MPF (MPF) have demanded from the Liquidator circa \$680K plus interest out of the proceeds of the Bonds for repayment of funding the MPF allegedly made for the Bonds litigation from late 2010 to early 2013. The MPF has also reserved its rights in relation to claiming 35% of the funds realised from the successful Bonds proceedings.

Developments since my last update to investors are as follows:

- The sunset date of the HOA to complete the condition precedent to obtain approval from the Court or shareholders was extended by agreement to 14 July 2017 to provide more time for WCL



to obtain the required documents needed for submission to their shareholders prior to the meeting of shareholders;

- In relation to the MPF claim for reimbursement for funding as referred to above, I have written to the liquidator and I am currently awaiting a response from the Liquidator to my recent correspondence regarding the monies held by him. The Bellpac Liquidator has confirmed he will not take any step adverse to either the MPF or FMIF without first giving the parties 7 days' notice.

I will provide investors with an update in relation to the claim by MPF and the settlement of the \$8M bonds litigation with WCL in my next report.

**b. Proceedings against Bellpac Receivers, LMIM, PTAL and others ("the Parties")**

I refer to my previous updates to investors and summarise the background as follows:

- The proceedings against the Bellpac Receivers and LMIM had been discontinued in 2015. The remaining proceedings by the third mortgagee against PTAL alleging a sale of the former Bellpac property at Bellambi NSW (sold to Gujarat NRE Minerals Limited in 2011) at undervalue was discontinued in mid-2016. All defendants were awarded costs against the plaintiffs when the proceedings were discontinued.
- On 6 November 2016, I caused to be filed winding up applications against the plaintiffs based on the unpaid costs awarded in favour of LMIM as RE of the FMIF; and
- On 7 November 2016 David Clout and Patricia Talty of David Clout and Associates were appointed Liquidators over the plaintiff companies, Austcorp No. 20 Pty Ltd and Compromise Creditors Management Pty Ltd (the Austcorp companies)

Developments since my last update to investors are as follows:

- The Liquidators have now obtained books and records of the company and are undertaking investigations;
- I have continued to liaise with PTAL to ensure that the bank guarantee for the security for costs of \$150,000 provided by the Austcorp companies for the benefit of PTAL will now be recovered for the benefit of FMIF, given FMIF has reimbursed PTAL (which was sued in its capacity as custodian of the FMIF) for its defence costs.

#### **4.3 Other Potential Claims against LMIM and related Parties**

##### **4.3.1 Redemptions and Distribution paid to Class B Unit Holders**

I refer to my previous updates to investors and summarise the background as follows:

- Investigations were undertaken via the PE conducted in 2015 and subsequent thereto in relation to redemptions and distributions paid to the Class B unit holders (the feeder funds) when the Fund had suspended redemptions and distributions to other classes of members;
- Investigations have included the apparent increase in the Class B members' interest in the Fund as a consequence of the distribution transactions;
- I caused to be filed a statement of claim to preserve claims in relation to certain transactions and avoid possible expiration of claims as a consequence of the statute of limitations (to the

extent these limitations apply to the claim). This claim has not yet been formally served on the parties.

The claim relates to redemptions paid to the Feeder Funds on or after 11 May 2009 when the FMIF had suspended redemptions to other classes of unit holders in the following amounts:

- LM Currency Protected Australian Income Fund \$40.583 million (plus interest);
- LM Wholesale First Mortgage Income Fund \$9.432 million (plus interest);
- LM Institutional Currency Protected Australian Income Fund \$5.044 million (plus interest).

Further investigations have also been undertaken in relation to distributions paid to the Feeder Funds when the Fund had suspended distributions to other classes of unit holders.

Those distributions were paid in the 2012 financial year in the following amounts:

- LM Currency Protected Australian Income Fund \$10.748 million;
- LM Wholesale First Mortgage Income Fund \$5.116 million;
- LM Institutional Currency Protected Australian Income Fund \$1.04 million.

It is expected that the claim will be amended and served on the parties shortly. The claim may affect the distributions to the Feeder Funds. Accordingly, subject to the outcome of these proceedings, this may impact on the timing of distributions to investors. Once the claim has been amended and served on the parties, I propose to seek directions from the Court.

I will provide an update to investors as to the progress of the claim in my next report to investors.

#### **4.3.2 Claim by ASIC against the directors**

I refer to my previous updates to investors and confirm that the Court has dismissed the proceedings by ASIC against the directors in relation to ASIC's claim they breached their duties for failing to act with the proper degree of care and diligence regarding transactions involving the MPF. Further details can be found on the ASIC website [www.asic.gov.au](http://www.asic.gov.au) under media releases.

#### **4.4 Other actions against guarantors and valuers**

##### **4.4.1 Various claims against guarantors**

During the period, I entered into a settlement agreement on a commercial basis with one guarantor however, the guarantor defaulted under the agreement. I propose to re-list the proceedings with a view to obtaining judgement against him. Another matter currently the subject of court proceedings is also the subject of a proposed deed of settlement and I expect the deed will be finalised shortly.

##### **4.4.2 External Valuations**

I continue to finalise my investigations into whether the valuations relied on in advancing loans was too high and if there was negligence by the valuer which contributed to the losses however, I have not at this stage identified any claims that would be commercial to pursue.

## 5. Western Union

Western Union hold funds on account of the FMIF, which represented investor distributions returned due to incorrect account details held.

Western Union sought to set off funds held in the FMIF account against liabilities of other LM related entities, however a confidential commercial settlement has been negotiated. Whilst the terms of settlement have been agreed, Western Union requested that the terms be further recorded in a settlement deed. The amount of the claim is approximately \$93,000 (subject to exchange rate fluctuations). The terms of the draft settlement deed are almost finalised.

## 6. Liquidators of LMIM (FTI Consulting)

### a. Application for remuneration approval

I refer to my previous updates to investors and summarise the background as follows:

- FTI filed a Further Amended Originating Application on 16 December 2015 for the determination of their remuneration claimed as liquidators of LMIM in the amount of \$3,098,251.83 for the period from the date of their appointment to 30 September 2015 from assets of the Fund;
- The application was heard on 22 February 2016 and 14 March 2016;
- Judgement is still reserved and is yet to be handed down by the Court.

Please note that all material filed with the Court in relation to FTI's remuneration claim is available on the websites [www.lmfimf.com](http://www.lmfimf.com) and [www.lminvestmentadministration.com](http://www.lminvestmentadministration.com). A copy of the judgement and court order will be uploaded to the websites when handed down.

FTI have not submitted further details of their additional remuneration and costs claimed since 30 September 2015, and have advised that they are awaiting the outcome of the judgement noted above.

### b. Indemnity claim against the Fund

I refer to my previous updates to investors and summarise the background as follows:

- FTI submitted two indemnity claims for \$241,453.54 and \$375,499.78 against the assets of the Fund;
- The first claim of \$241,453.54 relates to legal costs incurred in relation to the appeal of the decision appointing me as receiver to wind up the Fund. I rejected this claim in full. I consider that the judgement to be handed down in relation to FTI's remuneration application deals with some similar issues;
- In respect of the second claim, I accepted and paid \$84,954.41 (\$93,449.85 less GST of \$8,495.44) (Accepted Claim), rejected \$169,243.26 and deferred \$5,473.59 pending the judgement to be handed down in relation to FTI's remuneration application. The balance of FTI's claim has been withdrawn;
- FTI made an application to Court challenging my decisions to reject their indemnity claims noted above (Indemnity Application);

- I applied for judicial advice as to whether I am justified in raising the clear accounts rule in opposition to the Indemnity Application. The clear accounts rule, if successfully agreed to by the Court, would mean that no payments can be made to LMIM until they have replenished the FMIF for any wrong doing on their part/ causing a loss to the Fund. As detailed in this report, there are significant claims against LMIM (refer sections 2.4 and 4.3.1 above and section c. below).

I summarise developments since my last update to investors as follows:

- I obtained judicial advice to the effect that I am justified in raising the clear accounts rule in opposition to the Indemnity Application, in relation to certain identified claims;
- FTI's application to Court challenging my decision to reject their indemnity claim was heard on 19 and 20 June 2017. The Court has reserved its decision.

**c. Claim filed against LMIM (not served)**

I refer to my previous update to investors and summarise the background as follows:

- I caused LMIM as RE of the FMIF to commence a proceeding against LMIM (Supreme Court of Queensland Proceedings 11560) in relation to certain transactions to avoid possible expiry of the statutory limitation periods for making the claims. This claim has not yet been formally served on LMIM.
- In this proceeding, LMIM as RE of the FMIF alleges that, *inter alia*, LMIM breached its duties to members of the FMIF by:
  - causing to be paid out of assets of the FMIF management fees in advance of it becoming entitled to payment of same;
  - overpaying management fees to itself out of assets of the FMIF;
  - causing to be paid to LMA additional fees purportedly for loan management and controllership services; and
  - directing payments to be made by the MPF, purportedly in satisfaction of liabilities owed by the MPF to the FMIF, to be paid to itself as RE of the feeder funds.

I summarise developments since my last update to investors as follows:

- Per the requests of my solicitors and counsel, further investigations were undertaken in relation to the loan management fees paid by FMIF to LMIM or LMA both prior to and after the appointment of FTI, to assist with preparing proposed amendments to the claim against LMIM;
- Assisting my solicitors and counsel to prepare proposed amendments to the claim against LMIM including the preparation of a draft Amended Statement of Claim, and a consolidated particulars document.

**d. Calling for proofs of debt/creditor indemnity claims against the Fund**

Pursuant to the Court order dated 17 December 2015 in the Residual Powers proceedings, the Liquidators of LMIM are required to call for proofs of debt and subsequently submit creditor indemnity claims against the Fund to me for approval.

I am currently liaising with the liquidators regarding the process to be adopted in that regard so that the claims can be determined. These claims may be subject to the “clear accounts rule” described in section b. above once the claims are finalised and in conjunction with my solicitors and counsel, I will determine the most appropriate way to advance claims against LMIM and for the Court to decide if the clear accounts rule should be applied against the claims.

## 7. Management Accounts

As advised in my previous report, the management accounts for the year ending 31 December 2016 are available on the website [www.lmfimf.com](http://www.lmfimf.com).

The management accounts for the year ending 30 June 2017 will be prepared shortly and will be available on the website [www.lmfimf.com](http://www.lmfimf.com) by 30 September 2017.

## 8. Investor Information

### 8.1 Estimated Return to Investors

Based on the professional valuations for the properties charged to the Fund, I provide an estimated return to Investors of between 13.4 cents and 14.7 cents per unit as at 31 May 2017, calculated as follows:

	\$ Low	\$ High
Cash at bank	72,841,506	72,841,506
Other assets (interest receivable, foreign currency accounts and amount for security for litigation costs)	701,918	1,916,918
Estimated selling prices of properties to be sold	2,780,000	2,980,000
<b>Estimated Assets Position</b>	<b>76,323,424</b>	<b>77,738,424</b>
<i>Less:</i>		
Selling costs (estimated 2.5% of sale price)	69,500	74,500
Other unsecured creditors	6,214,206	1,485,141
FTI Fees & legal expenses advised (subject to approval)- refer to Section 6 for further details - maximum amount shown	4,211,638	4,211,638
Receivers and Managers' fees (DB Receivers)	182,251	182,251

	2017	2016
Receiver's fees & outlays (BDO) (including controllerships)	1,123,990	1,123,990
Receiver's legal fees (BDO)	242,376	242,376
<b>Total Liabilities</b>	<b>12,043,961</b>	<b>7,319,896</b>
<b>Estimated net amount available to investors as at 31 May 2017</b>	<b>64,279,463</b>	<b>70,418,528</b>
Total investor units (as at 31 December 2016)	478,100,386	478,100,386
<b>Estimated return in the dollar</b>	<b>13.4 cents</b>	<b>14.7 cents</b>

Please note that the estimate and prior estimates do not take into account future operating costs and future Receiver's fees or any legal recoveries against borrowers, valuers or other third parties.

In calculating the estimated return to investors, I have also not provided any provision for the claim filed by the MPF Trustee as the prospects of a successful claim against the Fund is unknown, however, as detailed earlier in this report, I am hopeful that all claims relating to the MPF matters will be settled shortly.

#### Investments made in Foreign Currencies

As advised in my previous reports, investigations undertaken by BDO have identified that the number of units held by investors who invested in foreign currencies appears to be incorrectly recorded in the membership records of the FMIF. It appears that when LMIM transferred the member records of the FMIF to a new database in 2010 the number of units of investors who invested in a foreign currency were incorrectly recorded in the new database, by allocating to the investors concerned one unit in the FMIF for each unit of foreign currency invested, rather than one unit in the FMIF for each \$ 1AUD invested (after the foreign currency amount invested had been converted to AUD at the applicable exchange rate) in accordance with the PDS and Constitution.

Further investigations are ongoing and appropriate steps, including an application to Court for directions approving the correction of the member records of the FMIF, will be taken to address the issue and to ensure that the member records of the FMIF are accurate. I have engaged external IT consultants to assist me in rectifying the register.

#### 8.2 Distributions to Investors

Once the DB Receivers have retired and funds released to me, I will be required to retain certain funds to meet the liabilities of the Fund, including contingent claims that may arise from the auditor claim and Bellpac litigation.

I am required to seek the directions of the Court before proceeding with the next distribution.



I will update investors as to the expected timing of a distribution as these matters become clearer, however, I am hopeful to be in a position to commence distributions in the near future and possibly by late this calendar year, although it is subject to resolving or having determined matters before the court where I cannot control the timeframe to resolve, or have determined the issues.

Please note that the distribution to investors will take place after paying the secured creditor's receivers fees and costs, remaining property expenses, receiver's fees and costs and the unsecured creditors who rank ahead of investors' interests.

### **8.3 Ongoing Reporting to Investors**

Reports will be distributed to investors in accordance with the preferred method of correspondence recorded for each investor in the Fund's database. In order to assist in reducing distribution costs, it would be appreciated if investors could nominate an email address as their preferred method to receive correspondence. Investors may update their details as outlined in Section 8.4 below. For those investors that do not have an email address, correspondence will continue to be sent to you via post.

My next report to investors will be issued by 30 September 2017.

### **8.4 Investors Queries**

For any changes to investors details, please review the Useful Forms/Procedures tab on the website [www.lmfmf.com](http://www.lmfmf.com) which includes information regarding the following procedures:

- Change of Contact Address/Bank Account Details
- Change of Contact Address/Bank Accounts Details of a Deceased Estate
- Change of Trustee of Self-Managed Super Fund
- Transfer of Unit Holding from a Super Fund/ Trustee Company to Personal Name(s)
- Transfer of Unit Holding from a Deceased Estate to a Sole Survivor
- Transfer from a Deceased Estate to a Beneficiary of an Estate

It is a requirement that advisors or other third parties acting on behalf of Unit Holders are doing so pursuant to a relevant Authority/Power of Attorney. Please ensure that a relevant Authority/Power of Attorney accompanies the abovementioned documents as necessary (if an Authority/Power of Attorney has not previously been provided).

It is preferable that all questions about the winding up, or communications are sent via email to [enquiries@lmfmif.com](mailto:enquiries@lmfmif.com) with original documents to be mailed as required to:

BDO  
GPO Box 457  
Brisbane QLD 4001  
Phone: +61 7 3237 5999 Fax: +61 7 3221 9227

## 9. Receiver's Remuneration and Expenses

There have been seven applications to Court to date to approve my remuneration from the date of my appointment on 8 August 2013 until 30 April 2017.

The seventh application for the approval of my remuneration for the period 1 November 2016 to 30 April 2017 is set down to be heard on 30 June 2017. The Court will be asked to order that my remuneration for this period be fixed in the amount of \$897,580.20 (inclusive of GST) as detailed in the attached summaries in relation to my role as the person responsible for ensuring the FMIF is wound up in accordance with its constitution and \$12,314.50 (inclusive of GST) in relation to the controllerships for the retirement village assets.

A copy of all documentation in relation to my applications can be found on the website [www.lmfimf.com](http://www.lmfimf.com).

In addition to the remuneration previously approved by the Court and the seventh application set out above, I calculate that, on a time basis, I have incurred further remuneration of \$190,285.50 plus outlays of \$18.78 plus GST from 1 May 2017 to 31 May 2017 plus work undertaken in respect of the controllerships for the retirement village assets of \$4,328.00 plus GST as detailed in the table below and attached summaries.

	1 November 2016 to 30 April		1 May 2017 to 31 May 2017	
	\$ Remuneration (GST excl.)	\$ Outlays (GST excl.)	\$ Remuneration (GST excl.)	\$ Outlays (GST excl.)
LM First Mortgage Income Fund (Receivers & Managers Appointed) (Receiver Appointed)	815,982.00	8,166.19	190,285.50	18.78
OVST Pty Ltd (In Liquidation) (Controllers Appointed)	5,338.50	-	747.50	-
Pinevale Villas Morayfield Pty Ltd (In Liquidation) (Controllers Appointed)	796.00	-	746.00	-
Bridgewater Lake Estate Ltd (In Liquidation) (Controllers Appointed)	3,090.00	126.93	1,146.50	-
Redland Bay Leisure Life Ltd (In Liquidation) (Controllers Appointed)	578.00	-	640.50	-
Redland Bay Leisure Life Development Ltd (In Liquidation) (Controllers Appointed)	840.50	-	835.50	-



	1 November 2016 to 30 April 2017		1 May 2017 to 31 May 2017	
	\$ Remuneration (GST excl.)	\$ Outlay (GST excl.)	\$ Remuneration (GST excl.)	\$ Outlay (GST excl.)
Cameo Estates Lifestyle Villages (Launceston) Pty Ltd  (Receivers & Managers Appointed) (Controllers Appointed)	552.00	-	212.00	-
<b>Total</b>	<b>827,177.00</b>	<b>8,293.12</b>	<b>194,613.50</b>	<b>18.78</b>

I anticipate that my next application to Court for the approval of my remuneration will be made in November/December 2017 covering the period 1 May 2017 to 31 October 2017. A copy of my application in this respect will be posted to the website [www.lmfmf.com](http://www.lmfmf.com) and investors will be notified when this application has been lodged.

The key matters addressed during the period, were:

- Work undertaken in relation to the litigation matters detailed at Sections 2 and 4 of this report, which include, among other things:
  - Progressing the claim against the former auditors regarding the financial statements and compliance plan audits following public examinations held, the decision handed down on the former auditors' strike out application and quantifying the loss suffered by the Fund;
  - Providing assistance to the Liquidator of Bellpac regarding the \$8M bond claim including progressing the settlement with WCL;
  - Progressing the claim against the MPF and others;
  - Progressing and preparing proposed amendments to the claim against LMIM;
  - Progressing the investigations to assist with the amendment of the claim in relation to redemptions and distributions paid to Class B unitholders;
  - Progressing claims against guarantors;
- Liaising with various parties in relation to the potential for the DB Receiver's retirement;
- Progressing settlement of Western Union's set off claim;
- Dealing with the response to FTI's proceedings to review the rejection of parts of their claims for indemnity against the assets of the Fund for expenses and costs incurred in their capacity as liquidators of the responsible entity;
- Maintaining the management accounts of the Fund;
- Undertaking the investor management function for approximately 4,500 investors including answering queries on the winding up of the Fund and maintaining the investment database, including any change in details or transfer of units;
- Preparing of affidavit and supporting material for an application to Court for approval of the receiver's remuneration for the period 1 November 2016 to 30 April 2017;

- Finalising outstanding residual matters from the sale of five retirement villages, including tax compliance issues.

## 10. Queries

Should unit holders wish to advise of any changes in details or require further information, please contact BDO as follows:

BDO  
GPO Box 457  
Brisbane QLD 4001  
Phone: +61 7 3237 5999  
Fax: +61 7 3221 9227  
Email: [enquiries@lmfmif.com](mailto:enquiries@lmfmif.com)

Yours sincerely



David Whyte  
Receiver



REMUNERATION REPORT - Summary of professional fees by category of work for the period 1 November 2016 to 30 April 2017

LM First Mortgage Income Fund

Employee	Position	TOTALS		Assets		Liabilities		Net Worth		Dividend		Capital Gains		
		IN	OUT	INC	DEC	INC	DEC	INC	DEC	INC	DEC	INC	DEC	
David Whyte	Partner	580	197.0	114,260.00	80.8	46,864.00	23.2	13,466.00	73.9	42,862.00	1.7	986.00	17.4	10,092.00
Clark Jarrold	Partner	560	116.1	65,016.00	114.1	63,896.00			1.1	616.00			0.9	504.00
Steven Sorbello	Partner	550	1.7	935.00	1.7	935.00								
Craig Jenkins	Partner	500	1.0	500.00					1.0	500.00				
Eric Leeuwendal	Executive Director	495	657.9	325,660.50	305.9	151,420.50	88.4	43,758.00	35.8	17,721.00	193.2	95,634.00	34.6	17,127.00
Craig Jenkins	Partner	490	8.1	3,969.00	8.1	3,969.00			41.5	18,882.50	9.7	4,413.50	12.0	5,460.00
John Somerville	Senior Manager	455	126.3	57,466.50	6.9	3,139.50	56.2	25,571.00	0.1	45.50				
Alastair Raphael	Senior Manager	465	0.1	45.50	3.3	1,270.80			3.6	1,386.00				
Julie Pagou	Senior Manager	385	6.9	2,656.50	7.8	2,925.00			16.2	4,698.00	63.1	18,299.00	14.3	4,147.00
Julie Pagou	Senior Manager	375	7.8	2,925.00	14.2	4,118.00	168.8	48,952.00	87.9	25,491.00	0.6	174.00		
Aubrey Neek	Senior Accountant II	290	276.6	80,214.00	1.6	376.00	3.1	899.00	30.2	7,097.00	30.9	7,261.50	2.4	564.00
Dermot O'Brien	Senior Accountant II	290	91.6	26,564.00	66.3	13,260.00	55.7	11,340.00			12.7	2,540.00	2.2	440.00
Dermot O'Brien	Senior Accountant II	235	98.8	23,218.00					0.1	20.00			15.4	3,080.00
Eloise Carrall	Accountant II	200	137.9	27,580.00					0.3	55.50				
Sarah Cunningham	Team Assistant	200	15.5	3,100.00										
Dale Ludwig	Para-Professional	185	0.3	55.50										
Antoinette Fielding	Undergraduate	165	70.9	11,698.50	6.5	1,072.50	43.8	7,227.00			19.4	3,201.00	1.2	198.00
Andrew Lane	Undergraduate	165	74.5	12,292.50	10.2	1,683.00	50.5	8,332.50			10.9	1,798.50	2.9	478.50
Ryan Whyte	Undergraduate	165	311.7	51,430.50			178.1	29,386.50	5.8	987.00	113.2	18,678.00	14.6	2,409.00
Andrew Whittaker	Undergraduate	165	9.0	1,485.00			7.1	1,171.50			1.5	247.50	0.4	66.00
Nicole Jackson	Team Assistant	160	2.2	352.00									2.2	352.00
Brooke Streddt	Team Assistant	130	10.4	1,352.00	10.4	1,352.00								
Emma Sheehy	Junior Practice Assistant	115	4.3	494.50	4.3	494.50								
Melira Hattingh	Team Assistant	85	31.9	2,711.50									31.9	2,711.50
TOTALS		2,250	2,250.0	160,902.00	612.1	296,795.50	709.6	101,015.00	297.9	91,515.00	151.9	31,715.00	151.9	31,715.00
TOTAL INC GST		651	651.0	84,598.20										
AVERAGE PER HOUR		151	151.0	1,065.57										

Note: All amounts exclude GST unless otherwise noted



Disbursements for the period 1 November 2016 to 30 April 2017

**LM First Mortgage Income Fund**

EXPENSE TYPE	Amount (\$ ex GST)
Postage	8,122.10
Search Fee	44.09
<b>TOTAL</b>	<b>8,166.19</b>
<b>GST</b>	<b>816.62</b>
<b>TOTAL INC GST</b>	<b>8,982.81</b>



**REMUNERATION REPORT - Summary of professional fees by category of work for the period 1 November 2016 to 30 April 2017**  
**Bridgewater Lake Estate Pty Limited**

EMPLOYEE	POSITION	RATE		TOTAL		ASSETS		TRADE Oh		INVESTATIONS		CONTRACTS	
		hrs	\$	hrs	\$	hrs	\$	hrs	\$	hrs	\$	hrs	\$
David Whyte	Partner	580	580.00	1.0	580.00	0.9	522.00					0.1	58.00
John Somerville	Senior Manager	465	318.50	0.7	318.50	0.2	91.00					0.5	227.50
Aubrey Meek	Senior Accountant II	290	1,334.00	4.6	1,334.00	2.6	754.00			2.0	580.00		
Dermot O'Brien	Senior Accountant II	235	47.00	0.2	47.00							0.2	47.00
Sarah Cunningham	Team Assistant	200	140.00	0.7	140.00							0.7	140.00
Ryan Whyte	Undergraduate	165	412.50	2.5	412.50				1.6	264.00		0.9	148.50
Andrew Lane	Undergraduate	165	181.50	1.1	181.50							1.1	181.50
Andrew Whittaker	Undergraduate	165	76.50	0.9	76.50							0.9	76.50
Molra Hettigh	Team Assistant	85											
<b>TOTALS</b>		<b>1117</b>	<b>3,080.00</b>	<b>11.7</b>	<b>3,080.00</b>	<b>5.7</b>	<b>1,677.00</b>	<b>1.6</b>	<b>264.00</b>	<b>2.0</b>	<b>580.00</b>	<b>2.7</b>	<b>375.00</b>
			<b>309.00</b>		<b>309.00</b>								
			<b>3,389.00</b>		<b>3,389.00</b>								
			<b>26.4</b>		<b>26.4</b>		<b>169</b>		<b>165</b>		<b>270</b>		<b>110</b>

Note: All amounts exclude GST unless otherwise noted



Disbursements for the period 1 November 2016 to 30 April 2017

**Bridgewater Lake Estate Pty Limited**

Expense Type	Amount (\$ ex GST)
General	38.00
Search Fee	88.93
<b>TOTAL</b>	<b>126.93</b>
<b>GST</b>	<b>12.69</b>
<b>TOTAL INC GST</b>	<b>139.62</b>



**REMUNERATION REPORT - Summary of professional fees by category of work for the period 1 November 2016 to 30 April 2017**  
**Cameo Estates Lifestyle Villages (Launceston) Pty Ltd**

EMPLOYEE	Position	Rate	Totals		Task Fees		Administration		
			Hrs	\$	Hrs	\$	Hrs	\$	
David Whyte	Partner	580	0.1	58.00				0.1	58.00
John Somerville	Senior Manager	455	0.3	136.50				0.3	136.50
Dermot O'Brien	Senior Accountant II	235	0.2	47.00	0.2	47.00			
Sarah Cunningham	Team Assistant	200	0.6	120.00				0.6	120.00
Ryan Whyte	Undergraduate	165	0.8	132.00				0.8	132.00
Andrew Lane	Undergraduate	165	0.2	33.00				0.2	33.00
Moira Hattingh	Team Assistant	85	0.3	25.50				0.3	25.50
<b>TOTALS</b>			<b>2.5</b>	<b>552.00</b>	<b>0.2</b>	<b>47.00</b>		<b>2.5</b>	<b>500.00</b>
			GST						
			56.20						
			<b>TOTAL INC. GST</b>						
			608.20						
			<b>AVERAGE HOURLY RATE</b>						
			221						226

**Note: All amounts exclude GST unless otherwise noted**



**REMUNERATION REPORT - Summary of professional fees by category of work for the period 1 November 2016 to 30 April 2017**  
**OVST Pty Ltd**

EMPLOYEES	RATES	TOTALS		Creditors		Employees		Trade Off		VARIABLES	
		Rate	Hours	Hours	\$	Hours	\$	Hours	\$	Hours	\$
David Whyte	580	0.2	116.00			0.1	58.00	0.2	99.00	0.1	58.00
Eric Leeuwendaal	495	0.2	99.00								
John Somerville	455	1.0	455.00							1.0	455.00
Aubrey Meek	290	3.6	1,044.00					3.1	899.00	0.5	145.00
Damien Hicks	260	3.9	1,014.00					2.0	520.00	1.9	494.00
Dermot O'Brien	235	0.2	47.00		47.00	0.2					
Sarah Cunningham	200	6.0	1,200.00					4.8	960.00	1.2	240.00
Ryan Whyte	165	3.0	495.00					2.1	346.50	0.9	148.50
Andrew Lane	165	0.7	115.50							0.7	115.50
Andrew Whittaker	165	4.1	676.50					3.4	561.00	0.7	115.50
Moha Hattingh	85	0.9	76.50							0.9	76.50
<b>TOTALS</b>		<b>23.6</b>	<b>5,338.50</b>		<b>47.00</b>	<b>0.2</b>	<b>58.00</b>	<b>15.6</b>	<b>3,865.50</b>	<b>5.6</b>	<b>918.00</b>
		<b>TOTALING GST</b>									
		5,338.50									
		<b>TOTALING GST</b>									
		5,872.35									
		<b>AVERAGE HOURLY RATE</b>		224							
		235									

Note: All amounts exclude GST unless otherwise noted





**REMUNERATION REPORT - Summary of professional fees by category of work for the period 1 November 2016 to 30 April 2017**  
**Redland Bay Leisure Life Development Pty Ltd**

EMPLOYEE	Position	Rate	Totals		Task Area		
			hrs	5	Assets	Administration	
David Whyte	Partner	580	0.1	58.00		0.1	58.00
John Somerville	Senior Manager	455	0.1	45.50		0.1	45.50
Dermot O'Brien	Senior Accountant II	235	0.2	47.00		0.2	47.00
Sarah Cunningham	Team Assistant	200	1.1	220.00	0.1	1.0	200.00
Andrew Lane	Undergraduate	165	0.2	33.00		0.2	33.00
Ryan Whyte	Undergraduate	165	0.8	132.00		0.8	132.00
Molra Hatttigh	Team Assistant	85	0.5	42.50		0.5	42.50
<b>TOTALS</b>			<b>3.0</b>	<b>578.00</b>	<b>0.1</b>	<b>20.00</b>	<b>598.00</b>
			GST	57.80			
			<b>TOTAL INC GST</b>	<b>635.80</b>			
<b>AVERAGE HOURLY RATE</b>			<b>193</b>			<b>200</b>	<b>202</b>

Note: All amounts exclude GST unless otherwise noted



**REMUNERATION REPORT - Summary of professional fees by category of work for the period 1 November 2016 to 30 April 2017**  
**Redland Bay Leisure Life Pty Ltd**

EMPLOYEE	Position	Rate	Totals		Totals	
			Hours	\$	Hours	\$
David Whyte	Partner	580	0.1	58.00	0.1	58.00
John Somerville	Senior Manager	455	0.3	136.50	0.3	136.50
Dermot O'Brien	Senior Accountant II	235	0.2	47.00	0.2	47.00
Sarah Cunningham	Team Assistant	200	1.5	300.00	1.3	260.00
Ryan Whyte	Undergraduate	165	0.8	132.00	0.8	132.00
Andrew Lane	Undergraduate	165	0.2	33.00	0.2	33.00
Andrew Whittaker	Undergraduate	165	0.4	66.00	0.2	33.00
Molra Hattingh	Team Assistant	85	0.8	68.00	0.8	68.00
<b>TOTALS</b>			<b>4.3</b>	<b>840.50</b>	<b>4.9</b>	<b>702.50</b>
			<b>GST</b>	<b>84.05</b>		
			<b>TOTAL INC GST</b>	<b>924.55</b>		
			<b>AVERAGE HOURLY RATE</b>	<b>196</b>		<b>197</b>

**Note: All amounts exclude GST unless otherwise noted**



REMUNERATION REPORT - Summary of professional fees by category of work for the period 1 November 2016 to 30 April 2017

Pinevale Villas Morayfield Pty Ltd

EMPLOYEE	Position	Rate	Totals		Creditors		Trade Or		Administration	
			hrs	1	hrs	2	hrs	3	hrs	4
David Whyte	Partner	580	0.2	116.00			0.1	58.00	0.1	58.00
John Somerville	Senior Manager	455	0.2	91.00					0.2	91.00
Dermot O'Brien	Senior Accountant II	235	0.2	47.00	0.2	47.00				
Sarah Cunningham	Team Assistant	200	1.3	260.00			0.2	40.00	1.1	220.00
Ryan Whyte	Undergraduate	165	1.0	165.00			0.2	33.00	0.8	132.00
Andrew Lane	Undergraduate	165	0.2	33.00			0.2	33.00	0.2	33.00
Andrew Whittaker	Undergraduate	165	0.2	33.00						
Moira Hattingh	Team Assistant	85	0.6	51.00					0.6	51.00
<b>TOTALS</b>			<b>3.9</b>	<b>796.00</b>	<b>0.2</b>	<b>47.00</b>	<b>0.7</b>	<b>164.00</b>	<b>2.0</b>	<b>635.00</b>
			<b>GST</b>	<b>79.60</b>						
			<b>TOTAL INC GST</b>	<b>875.60</b>						
			<b>AVERAGE HOURLY RATE</b>	<b>204</b>	<b>235</b>	<b>234</b>				

Note: All amounts exclude GST unless otherwise noted



**REMUNERATION REPORT - Summary of professional fees by category of work for the period 1 May 2017 to 31 May 2017**  
**LM First Mortgage Income Fund (Receivers and Managers Appointed) (Receiver Appointed)**

Employee	Position	Total		Assets		Liabilities		Trade (M)		Overhead		Contingent	
		hrs	\$	hrs	\$	hrs	\$	hrs	\$	hrs	\$	hrs	\$
David Whyte	Partner	560	36,134.00	12.3	7,134.00	7.0	4,060.00	27.1	15,718.00	1.1	638.00	14.8	8,584.00
Clark Jarrald	Partner	560	11,648.00	20.8	11,648.00								
Mark Whittaker	Partner	550	4,235.00	7.7	4,235.00								
Craig Jenkins	Partner	500	150.00	0.3	150.00								
Eric Leeuwendal	Executive Director	495	74,299.50	21.7	10,741.50	21.1	10,444.50	7.0	3,465.00	63.9	31,630.50	36.4	18,018.00
Julie Pagou	Senior Manager	385	1,347.50	3.5	1,347.50								
Aubrey Meek	Senior Accountant II	290	20,184.00	8.1	2,349.00	19.1	5,539.00	7.8	1,560.00	41.2	11,948.00	1.2	348.00
Elaine Carroll	Accountant II	200	19,800.00	2.9	580.00	66.0	13,200.00			22.1	4,420.00	0.2	40.00
Andrew Whittaker	Undergraduate	165	3,960.00	24.0	3,960.00	23.4	3,861.00			4.2	693.00	0.6	99.00
Ryan Whyte	Undergraduate	165	9,339.00	56.6	9,339.00	33.9	5,593.50			9.3	1,594.50	18.5	3,052.50
Antoinette Fielding	Undergraduate	165	8,448.00	51.2	8,448.00	33.9	5,593.50	2.8	462.00			4.0	660.00
Brooke Stradi	Team Assistant	130	52.00	0.4	52.00								
Moira Hatthigh	Team Assistant	85	688.50	8.1	688.50								
		TOTALS	190,260.50	789	39,430.00	204	10,391.50	44	7,206.00	21	59,867.50	77	31,977.00
		GST	19,026.05										
		TOTAL INCL GST	209,286.55										
		AVERAGE HOURS PER EMPLOYEE	144		407		736		174		416		246

**Note:** All amounts exclude GST unless otherwise noted



**Disbursements for the period 1 May 2017 to 31 May 2017  
LM First Mortgage Income Fund (Receivers and  
Managers Appointed) (Receiver Appointed)**

<b>EXPENSE TYPE</b>	<b>Amount (\$ ex GST)</b>
Taxi fares	8.47
Postage	10.31
<b>TOTAL</b>	<b>18.78</b>
<b>GST</b>	<b>1.88</b>
<b>TOTAL INC GST</b>	<b>20.66</b>



**REMUNERATION REPORT - Summary of professional fees by category of work for the period 1 May 2017 to 31 May 2017**  
**Bridgewater Lake Estate Pty Limited**

Employee	Position	Rate	Totals		Task Area	
			hrs	\$	hrs	\$
Eric Leeuwendal	Executive Director	495	0.1	49.50	0.1	49.50
Aubrey Meek	Senior Accountant II	290	2.9	841.00	0.2	58.00
Sarah Cunningham	Team Assistant	200	0.7	140.00		
Ryan Whyte	Undergraduate	165	0.6	99.00		
Maira Hattingh	Team Assistant	85	0.2	17.00		
<b>TOTALS</b>			<b>4.5</b>	<b>1,146.50</b>	<b>0.3</b>	<b>107.50</b>
			GST			
			<b>TOTAL INC GST</b>			
			<b>1,261.15</b>			
			<b>AVERAGE HOURLY RATE</b>			
			<b>255</b>		<b>358</b>	
					<b>447</b>	

**Note: All amounts exclude GST unless otherwise noted**



**REMUNERATION REPORT - Summary of professional fees by category of work for the period 1 May 2017 to 31 May 2017**  
**Cameo Estates Lifestyle Villages (Launceston) Pty Ltd**

FEE EARNER	POSITION	RATE	DAYS	Total	ESTIMATED	
					ADMINISTRATIVE	PROFESSIONAL
Sarah Cunningham	Team Assistant	200	0.4	80.00	0.4	80.00
Ryan Whyte	Undergraduate	165	0.8	132.00	0.8	132.00
<b>TOTALS</b>				<b>212.00</b>	<b>1.2</b>	<b>212.00</b>
				<b>GST</b>	<b>27.20</b>	
				<b>TOTAL INC GST</b>	<b>239.20</b>	
				<b>AVERAGE HOURLY RATE</b>	<b>199.33</b>	

**Note: All amounts exclude GST unless otherwise noted**



**REMUNERATION REPORT - Summary of professional fees by category of work for the period 1 May 2017 to 31 May 2017**  
**OVST Pty Ltd**

EMPLOYEE	Position	Rate \$	Totals		Task Area	
			hrs	\$	hrs	\$
Eric Leeuwendal	Executive Director	495	0.3	148.50	0.3	148.50
Sarah Cunningham	Team Assistant	200	2.0	400.00	2.0	400.00
Ryan Whyte	Undergraduate	165	1.0	165.00	1.0	165.00
Moira Hattingh	Team Assistant	85	0.4	34.00	0.4	34.00
<b>TOTALS</b>			<b>3.7</b>	<b>747.50</b>	<b>4.7</b>	<b>747.50</b>
			<b>GST</b>	<b>74.75</b>		
			<b>TOTAL INC GST</b>	<b>822.25</b>		
			<b>AVERAGE HOURLY RATE</b>	<b>200.70</b>		

**Note:** All amounts exclude GST unless otherwise noted





**REMUNERATION REPORT - Summary of professional fees by category of work for the period 1 May 2017 to 31 May 2017**  
**Pinevale Villas Morayfield Pty Ltd**

EMPLOYEE	Position	Rate /hr	Total \$	TASKS	
				ADDITIONAL FEES	ADDITIONAL FEES
Sarah Cunningham	Team Assistant	200	580.00	2.9	580.00
Ryan Whyte	Undergraduate	165	132.00	0.8	132.00
Moira Hattingh	Team Assistant	85	34.00	0.4	34.00
<b>TOTALS</b>		<b>4.1</b>	<b>746.00</b>		
		<b>GST</b>	<b>74.60</b>		
		<b>TOTAL INC GST</b>	<b>820.60</b>		
		<b>AVERAGE HOURLY RATE</b>	<b>182</b>		

**Note: All amounts exclude GST unless otherwise noted**



**REMUNERATION REPORT - Summary of professional fees by category of work for the period 1 May 2017 to 31 May 2017**  
**Redland Bay Leisure Life Development Pty Ltd**

EMPLOYEE	Position	Rate	hrs	Totals			
				Task Area	Task Area		
				Administration	Administration		
Alex Taylor	Analyst I	230	2.5	575.00	2.5	575.00	
Sarah Cunningham	Team Assistant	200	0.6	120.00	0.6	120.00	
Ryan Whyte	Undergraduate	165	0.8	132.00	0.8	132.00	
Moira Hattingh	Team Assistant	85	0.1	8.50	0.1	8.50	
<b>TOTALS</b>				<b>4.0</b>	<b>835.50</b>	<b>4.0</b>	<b>835.50</b>
				<b>GST</b>	<b>83.55</b>		
				<b>TOTAL INC GST</b>	<b>919.05</b>		
				<b>AVERAGE HOURLY RATE</b>	<b>209</b>		<b>209</b>

Note: All amounts exclude GST unless otherwise noted



**REMUNERATION REPORT - Summary of professional fees by category of work for the period 1 May 2017 to 31 May 2017**  
**Redland Bay Leisure Life Pty Ltd**

Employee	Position	Rate	Totals		Task Area
			hrs	\$	
Sarah Cunningham	Team Assistant	200	2.5	500.00	Administration
Ryan Whyte	Undergraduate	165	0.8	132.00	
Moira Hattingh	Team Assistant	85	0.1	8.50	
<b>TOTALS</b>			<b>3.4</b>	<b>640.50</b>	<b>640.50</b>
			<b>GST</b>	<b>64.05</b>	
			<b>TOTAL INC GST</b>	<b>704.55</b>	
			<b>AVERAGE HOURLY RATE</b>	<b>188</b>	

**Note: All amounts exclude GST unless otherwise noted**

**TO THE INVESTOR AS ADDRESSED**

29 September 2017

**LM FIRST MORTGAGE INCOME FUND (RECEIVERS AND MANAGERS APPOINTED) (RECEIVER APPOINTED)**

**ARSN 089 343 288 ('the Fund' or 'FMIF')**

I refer to my appointment as the Receiver of the Fund's assets and the person responsible for ensuring the winding up of the Fund in accordance with the terms of its constitution by Order of the Supreme Court of Queensland on 8 August 2013.

I now provide my 19<sup>th</sup> update report to investors. This report is prepared in accordance with the Exemption granted by the Australian Securities and Investments Commission (ASIC Exemption) in relation to financial reporting obligations of the Fund. In this regard, the ASIC Exemption requires a report to be made available to investors for each period of six months starting on 1 January 2016, which includes the following information:

- (i) Information about the progress and status of the winding up of the Fund, including details of:
  - A. The actions taken during the period;
  - B. The actions required to complete the winding up;
  - C. The actions proposed to be taken in the next 12 months; and
  - D. The expected time to complete the winding up.
- (ii) The financial position of the Fund as at the last day of the relevant period (based on available information);
- (iii) Financial information about receipts (and payments) of the Fund during the period; and
- (iv) The following information at the end of the period:
  - A. The value of the Fund's property; and
  - B. The potential return to investors.

This report covers, inter alia, the period 1 January 2017 to 30 June 2017 (the Period).

## **1. Progress and Status of the Winding Up**

### **1.1 Position of the Secured Creditor, the potential claim by KordaMentha, the trustee of the LM Managed Performance Fund (MPF) and claims filed against the Fund**

#### **1.1.1 Proceedings by the Trustee of the MPF against LM Investment Management Limited (LMIM) and the Fund**

##### **1.1.1.1 Assigned Loans Claims**

I refer to my previous updates to investors in relation to these proceedings, in which the Trustee of the MPF is the plaintiff, and the defendants are LMIM, and myself as receiver of the property of the FMIF.

The relief claimed by the Trustee of the MPF in these proceedings includes equitable compensation against LMIM and claims against assets of the FMIF in the total sum of about \$24.1 million plus interest.

At the review hearing on 16 December 2016, the proceedings were adjourned to a date to be fixed as the parties wished to continue negotiations to settle the litigation in conjunction with the proceedings in both sections 1.1.1.2 and 1.1.3 below.

There have been no further steps taken in the proceedings since my previous update to investors.

##### **1.1.1.2 Australian International Investment Services Pty Ltd (AIIS) Loan Claim**

I refer to my previous updates to investors in relation to this proceeding in which the Trustee of the MPF is the plaintiff, and LMIM is the defendant.

The MPF Trustee has claimed approximately \$16.82 million as equitable compensation against LMIM and relief against the assets of the FMIF for approximately \$3.9 million (this may be increased to \$4.1 million) being alleged interest paid by the MPF to the FMIF in respect of the loan made by the FMIF to AIIS in 2005.

There have been no further steps taken in the proceedings since my previous update to investors. Negotiations to settle these proceedings in conjunction with the proceedings above and those detailed at section 1.1.3 below are continuing.

##### **1.1.2 Position of the Secured Creditor**

I refer to my comments in my previous updates to investors. The DB Receivers have advised the matter precluding their retirement is that prior to retiring, they request the provision of a release by the MPF Trustee, with respect to various claims that the MPF Trustee has made or foreshadowed.

I continue to liaise with the DB Receivers about their ongoing role and the possibility of their retirement. In the event the proceedings mentioned at Sections 1.1.1 and 1.1.3 are settled and a release is provided by the MPF, McGrathNicol will retire as Receivers and Managers.

##### **1.1.3 Proceedings against the MPF, LMIM and the Directors of LMIM**

I refer to my previous updates to investors in relation to a statement of claim I caused to be filed in the Supreme Court of Queensland, against a number of parties, including the MPF Trustee, in respect of loss allegedly suffered by the FMIF as a result of an amount paid to MPF in the Bellpac litigation matter. The claim is for \$15.5M plus interest.

Since the mediation in mid-2016, the parties have continued to discuss a potential settlement of the litigation, including discussions to resolve those matters referred to at section 1.1.1 above. Notwithstanding this, I have continued to take steps to progress the proceedings. Namely, I caused to be filed an application to the court seeking orders to disclose for the purposes of these proceedings relevant transcripts obtained during the public examinations and documents produced for the public examinations by the former auditors. I recently obtained these orders and have now disclosed those documents in the proceedings.

All Director defendants, except for Peter Drake, have now filed amended defences. A Reply to the amended defences of Francene Maree Mulder and Eghard Van der Hoven, and a Request for Further and Better Particulars have recently been filed by me seeking further particulars of various parts of their amended defences. I am awaiting the filing of Mr Drake's amended defence and subject to seeking further particulars of that amended defence, I will file a Reply to that amended defence. I otherwise intend to take steps to progress the proceedings to trial (subject to the outcome of the settlement negotiations referred to above).

The proceedings are ongoing and an update will be provided to investors in relation to this matter in my next report.

## 1.2 Realisation of Assets

A summary of the status of the realisation of the remaining real property assets is provided below:

- Two units in a strata titled unit resort situated in North Queensland were sold at auction on 24 June 2017 for a total of \$712,500 and settlement occurred on 8 August 2017;
- 61 hectares of englobo land with various approvals for up to 257 residential lots plus retail space and a childcare centre remain to be sold within a residential land subdivision in Central Queensland. Various applications have been prepared for easements relating to the properties and have been submitted to council for approval. A marketing campaign will commence shortly and an auction is expected to be held before the end of the calendar year.

## 1.3 Legal Actions/Potential Recoveries

### 1.3.1 Claim against the former auditors

I refer to my previous updates to investors and briefly summarise the background as follows:

- A public examination (PE) of the former auditors and certain directors and former directors (Directors) of LM Investment Management Limited (In Liquidation) was conducted over a period of 9 days in June 2015 and a further 9 days in October 2015;
- Following the PEs, a further amended statement of claim was filed by me in the Supreme Court of Queensland and served on the former auditors of the Fund on 14 April 2016;
- The former auditors' solicitors lodged and served on me a strike-out application and supporting affidavit on 27 April 2016 seeking orders to strike-out certain parts of the statement of claim;
- At the hearing of the former auditors' strike out application and my commercial list application on 15 December 2016, the Court granted my application and placed the proceedings on the commercial list and reserved its decision on the auditor's strike out application;

- The reserved decision from the hearing of the strike out application was handed down on 8 May 2017. In that decision, the Court declined to strike out all of the parts of the claim that the former auditors sought to strike out. However, the Court did make orders striking out certain causes of action and orders were made that the statement of claim be amended to delete those causes of action;
- In accordance with the Court's judgment, the parties were required to agree the form of orders including a timetable for the filing of a further amended statement of claim and the costs of the former auditors' strike-out application.

I summarise developments since my last update to investors as follows:

- In accordance with the Court's judgment, the parties have been conferring to agree the form of orders which will include a timetable for the filing of a further amended statement of claim and the costs of the former auditors' strike-out application;
- I have also been progressing the calculation of the estimated loss. This should be finalised by the end of this month and is required as part of the amendments to the claim. A significant amount of work has been undertaken in this regard, including estimating the additional costs and expenses incurred by the Fund as a consequence of the alleged delay in winding up the Fund.

The amended claim will be filed and served on the former auditors in early November 2017. A review hearing is expected to be held shortly thereafter to agree orders for the next steps in the proceedings, including the filing by the auditors of a defence to the amended claim.

The loss as estimated is in excess of \$100M.

The proceedings are ongoing and an update will be provided to investors in relation to this matter in my next report.

### **1.3.2 Bellpac Proceedings**

In addition to the claim filed and served against the MPF in relation to a loss suffered by the Fund from litigation pertaining to the Bellpac loan noted at 1.1.3 above, there are two further matters relating to Bellpac, as detailed below.

#### **a. Wollongong Coal Ltd (WCL) - Convertible Bonds**

I refer to my previous updates to investors and provide a brief summary as follows:

- The liquidator of Bellpac has received the settlement amount of \$2 million from WCL in relation to the claim for redemption of the \$2 million Bonds held in WCL;
- In January 2016, the Bellpac Liquidator applied for the conversion of the \$8 million Bonds to shares. As WCL did not issue all of the shares as required under the terms of the Bonds, the Bellpac Liquidator brought proceedings against WCL seeking orders requiring WCL to perform its obligation to redeem the Bonds converted to shares outside of the required time;
- The Bellpac liquidator and WCL have entered into a binding heads of agreement (HOA) which relates to the settlement of the litigation commenced against WCL. The terms of the HOA include that WCL will pay to Bellpac a settlement sum of \$6.3 million in return for certain releases and Bellpac returning or cancelling the WCL shares issued to Bellpac;

- A final condition precedent to the settlement with WCL has been delayed as the Court dismissed WCL's application for approval of the acquisition and/or cancellation of the WCL shares held by Bellpac and WCL is now required to seek shareholder approval however, certain documents needed to support the proposal to shareholders has taken longer than expected;
- The Trustees of the MPF (MPF) have demanded from the Liquidator circa \$680K plus interest out of the proceeds of the Bonds litigation for repayment of funding the MPF allegedly made for the Bonds litigation from late 2010 to early 2013. The MPF has also reserved its rights in relation to claiming 35% of the funds realised from the successful Bonds proceedings.

Developments since my last update to investors are as follows:

- On 19 July 2017 WCL advised the Bellpac liquidator that all of the documentation necessary to finalise the documents for the shareholders meeting was ready except for the valuation of WCL's property holdings. WCL advised that the valuer engaged in April 2017 suddenly declined to accept the engagement as they advised that they should not have accepted the engagement as it was outside the scope of their expertise. As it was necessary for WCL to engage another valuer, WCL sought a further extension to the sunset date of the HOA to 2 October 2017. This was recommended and agreed to by Bellpac's liquidator. Bellpac's liquidator has advised they will seek interest as a condition of any further extensions sought by WCL;
- In relation to the MPF claim for reimbursement for funding as referred to above, there has been correspondence between me, the liquidator and the MPF as to the parties' respective positions on the matter. To date, no resolution has been agreed in respect of the claim. To the extent possible, I will endeavour to resolve the claim as part of the settlement negotiations referred to in 1.1.3 above.

I will provide investors with an update in relation to the claim by MPF and the settlement of the \$8M bonds litigation with WCL in my next report.

**b. Proceedings against Bellpac Receivers, LMIM, PTAL and others ("the Parties")**

I refer to my previous updates to investors and summarise the background as follows:

- The proceedings against the Bellpac Receivers and LMIM had been discontinued in 2015. The remaining proceedings by the third mortgagee against PTAL alleging a sale of the former Bellpac property at Bellambi NSW (sold to Gujarat NRE Minerals Limited in 2011) at undervalue was discontinued in mid-2016. All defendants were awarded costs against the plaintiffs when the proceedings were discontinued;
- On 6 November 2016, I caused to be filed winding up applications against the plaintiffs based on the unpaid costs awarded in favour of LMIM as RE of the FMIF; and
- On 7 November 2016 David Clout and Patricia Talty of Clout and Associates were appointed Liquidators over the plaintiff companies, Austcorp No. 20 Pty Ltd and Compromise Creditors Management Pty Ltd (the Austcorp companies).

Developments since my last update to investors are as follows:

- The Liquidators have agreed to assign the debt and securities of the Austcorp companies held over Bellpac to the Fund for consideration of \$14,000. A result of that is the cause of action against the Parties which was the basis for the proceedings that have been discontinued, has also been assigned to the Fund. Before that assignment, it was possible that the claims could



be re-enlivened if either the Liquidator was funded to do so or if the Liquidators chose to sell the action to a 3<sup>rd</sup> party. I am awaiting an update from the Liquidators in relation to the status of the winding up and the prospects for a return to creditors, however I understand that the Liquidators have not been able to identify any realisable assets at this stage so a dividend appears unlikely;

- I have continued to liaise with PTAL to ensure that the bank guarantee for the security for costs of \$150,000 provided by the Austcorp companies for the benefit of PTAL will now be recovered for the benefit of FMIF, given FMIF has reimbursed PTAL (which was sued in its capacity as custodian of the FMIF) for its defence costs.

### **1.3.3 Redemptions and Distributions paid to Class B Unit Holders**

I refer to my previous updates to investors and summarise the background as follows:

- Investigations have been undertaken via the PE conducted in 2015 and subsequent thereto in relation to redemptions and distributions paid to the Class B unit holders (Feeder Funds) when the Fund had suspended redemptions and distributions to other classes of members;
- The Feeder funds are the LM Currency Protected Australian Income Fund (CPAIF), the LM Institutional Currency Protected Australian Income Fund (ICPAIF) and the LM Wholesale First Mortgage Income Fund (WMIF).

I summarise developments since my update to investors as follows:

- On 28 July 2017, I caused to be filed an amended statement of claim against LMIM and the Feeder funds. This claim has now been formally served on the parties. The relief sought in the claim includes declarations to withhold from distributions or payments otherwise payable from the Fund to:
  - CPAIF in the sum of \$40,583,109.06 plus interest, as adjusted for the difference between the sum paid for capital distributions in early to mid-2013 and the amount the CPAIF would otherwise have been entitled as referred to in the amended statement of claim;
  - ICPAIF in the sum of \$5,044,118.30 plus interest, as adjusted for the difference between the sum paid for capital distributions in early to mid-2013 and the amount the CPAIF would otherwise have been entitled as referred to in the amended statement of claim;
  - WMIF in the sum of \$9,432,090.76 plus interest, as adjusted for the difference between the sum paid for capital distributions in early to mid-2013 and the amount the WMIF would otherwise have been entitled as referred to in the amended statement of claim.
- If the Court grants the relief sought against the Feeder Funds and putting aside any other recoveries for the benefit of investors:
  - the CPAIF and ICPAIF is not likely to receive any distribution in the winding up of the FMIF;

- the WMIF is likely to receive a smaller distribution than it otherwise would have been entitled, subject to the outcome of litigation against the FMIF and future operating costs of the FMIF;
- the FMIF can use the funds which otherwise would have been paid to the Feeder Funds for distributions to investors generally instead and, as a result, the return to other investors (Class A and Class C) is likely to increase.

As a next step in these proceedings I now intend to make an application under Section 59 of the Trusts Act to seek directions in regards to how the differing interests of LMIM is to be represented in the proceedings and an application under Section 500 of the Corporations Act to seek leave to proceed against LMIM (which is required because it is in liquidation). At the hearing of those applications, I also intend to seek orders for a timetable for the future conduct of the proceedings, including the filing of defences and replies.

I will keep investors updated as to the progress of this claim.

#### **1.3.4 External Valuations**

I refer to my previous reports to investors. I have not at this stage identified any claims that would be commercial to pursue based on my investigations into whether the valuations relied on in advancing loans was too high and if there was negligence by the valuer.

#### **1.3.6 Various claim against Guarantors**

During the period I progressed a review of the loan book to ascertain if there are any further claims against guarantors capable of commercial recoveries. One matter is currently the subject of court proceedings. Another matter previously subject to Court proceedings has been settled on a commercial basis with the guarantor.

#### **1.3.7 Western Union**

Western Union hold funds on account of the FMIF, which represented investor capital distributions returned due to incorrect account details held.

Western Union sought to set off funds held in the FMIF account against alleged liabilities of LMIM in its capacity as RE of other funds, however a confidential commercial settlement has been negotiated and agreed. The amount of the claim is approximately \$93,000 (subject to exchange rate fluctuations). While the terms of settlement have been agreed, Western Union requested that the terms be further recorded in a settlement deed. The terms of the draft settlement deed are still being finalised and were further negotiated during the period. I am hopeful that this matter can be finalised shortly.

#### **1.3.8 Liquidators of LMIM (FTI Consulting)**

##### **a. Application for remuneration approval**

I refer to my previous updates to investors and summarise the background as follows:

- FTI filed a Further Amended Originating Application on 16 December 2015 for the determination of their remuneration claimed as liquidators of LMIM in the amount of \$3,098,251.83 for the period from the date of their appointment to 30 September 2015 from assets of the Fund;

- Judgement is reserved and is yet to be handed down by the Court.

FTI have not submitted further details of their additional remuneration and costs claimed after mid December 2015 and have advised that they are awaiting the outcome of the judgement noted above.

Please note that all material filed with the Court in relation to FTI's remuneration claim is available on the websites [www.lmfimf.com](http://www.lmfimf.com) and [www.lminvestmentadministration.com](http://www.lminvestmentadministration.com). A copy of the judgement and court order will be uploaded to the websites when handed down.

**b. Indemnity claim against the Fund and proof of debt process**

As advised in my previous reports to investors, the orders handed down following the hearing of FTI's application for directions and orders in relation to their ongoing role and extent of their powers and responsibilities to undertake certain duties in the winding up of the FMIF set out, amongst other things, the process for me to adjudicate on claims made by LMIM for indemnity against the property of the FMIF in respect to any expense or liability of, or claim against, LMIM in acting as Responsible Entity of the FMIF.

I refer to my previous updates to investors and summarise the background as follows:

- FTI submitted two indemnity claims for \$241,453.54 and \$375,499.78 against the assets of the Fund;
- The first claim of \$241,453.54 relates to legal costs incurred in relation to the appeal of the decision appointing me as receiver to wind up the Fund. This claim has been rejected in full;
- In respect of the second claim, I accepted and paid \$84,954.41 (\$93,449.85 less GST of \$8,495.44) (Accepted Claim), rejected \$169,243.26 and deferred \$5,473.59 pending the judgement to be handed down in relation to FTI's remuneration application. The balance of FTI's claim has been withdrawn;
- FTI made an application to Court challenging my decision to reject their indemnity claim noted above (Indemnity Application);
- I obtained judicial advice to the effect that I am justified in raising the clear accounts rule in opposition to the Indemnity Application, in relation to certain identified claims;
- I caused to be filed a detailed Points of Claim in preparation for the hearing;
- FTI's Indemnity Application challenging my decision to reject FTI's indemnity claim was heard on 19 and 20 June 2017. The Court has reserved its decision;
- At the abovementioned hearing, mention was made of the process of FTI calling for proofs of debt from creditors of LMIM in its capacity of RE of the Fund in order to ascertain the liabilities to Fund creditors. I am hopeful that this process can be undertaken in the near future.

If a debt or claim is admitted by FTI in the winding up of LMIM and a claim for indemnity out of the FMIF with respect to such debt or claim is identified, I summarise the process as outlined in the Orders as follows:

- FTI must notify me within 14 days of the claim for indemnity against the assets of the Fund;
- Within 14 days I may seek further information in relation to the claim

- Within 30 days of receipt of the claim from FTI or from receipt of further information I have requested, I am required to:
  - Accept the claim, or
  - Reject the claim, or
  - Accept part of it and reject part of the claim; and
  - To give FTI written notice of the decision;
- I am required to give FTI written reasons for rejecting any part of a claim within 7 days after giving notice of my decision including those claims identified through the proof of debt process mentioned above;
- Within 28 days of receiving a notice of rejection, FTI may apply to the Court for directions in relation to the rejection and advise the creditor of my decision and other specified matters.

**c. Claim filed against LMIM**

I refer to my previous report to investors and confirm that in November 2016, I caused LMIM as RE of the FMIF to commence a proceeding against LMIM (Supreme Court of Queensland Proceedings 11560) in relation to certain transactions to avoid possible expiry of the statutory limitation periods for making the claims.

In this proceeding, LMIM as RE of the FMIF alleges that, *inter alia*, LMIM breached its duties to members of the FMIF by:

- causing to be paid out of assets of the FMIF management fees in advance of it becoming entitled to payment of same;
- overpaying management fees to itself out of assets of the FMIF;
- causing to be paid to LMA additional fees purportedly for loan management and controllership services; and
- directing payments to be made by the MPF, purportedly in satisfaction of liabilities owed by the MPF to the FMIF, to be paid to itself as RE of the feeder funds.

I summarise developments since my update to investors as follows:

- Further investigations were undertaken including in relation to payment of management and additional loan management fees and a consolidated particulars document was prepared to support the amended statement of claim;
- the amended claim and statement of claim and consolidated particulars have been filed and served on LMIM.

The next steps in these proceedings are to make an application under Section 59 of the Trusts Act to seek directions of the Court in regard to how the differing interests of the parties (LMIM as RE of the FMIF, and LMIM in its personal capacity) are to be represented in the proceedings and an application under Section 500 of the Corporations Act to seek leave to proceed against LMIM.

Subject to any directions that may be made by the Court, if the claims made in this proceeding are successful, they may be able to be relied upon as a set-off against certain claims made by LMIM for indemnity out of assets of the FMIF, including those claims identified through the proof of debt process



mentioned above or claims made by other parties seeking to subrogate to LMIM's alleged rights of indemnity.

I will keep investors updated as to the progress of this claim.

## 2. Financial Position of the Fund

The management accounts for the year ending 30 June 2017 are available on the website [www.lmfmf.com](http://www.lmfmf.com) on the page titled 'Financial Statements & Other Key Documents'.

A summary of the financial position of the Fund as at 30 June 2017 is provided below.

Description	30 June 2017
<b>ASSETS</b>	\$
Cash and cash equivalents	73,094,783
Receivables	351,024
Loans & Receivables	3,620,167
<b>TOTAL ASSETS</b>	<b>77,065,974</b>
<b>LIABILITIES</b>	
Payables	6,883,961
Distributions payable	1,372,036
<b>Total liabilities excluding net assets attributable to unitholders</b>	<b>8,255,997</b>
<b>NET ASSETS</b>	<b>68,809,977</b>

These figures are subject to the disclaimers and qualifications set out in the management accounts and the covering letter thereto.

### Financial Position of Scheme as at 30 June 2017

#### Fund Assets

The total assets of the Fund as at 30 June 2017 were \$77,065,974.

The balance includes cash at bank of \$73,094,783, interest receivable on term deposits of \$351,024 and net default loans of \$3,620,167. The net default loans balance includes the two remaining real property assets noted at section 1.2 above and cash held in controllership bank accounts.

#### Fund Liabilities

The total liabilities of the Fund as at 30 June 2017 were \$8,255,997.

The Distributions payable balance relates to distributions that appear to have been declared prior to the date of the Receiver's appointment which were not paid, or have not cleared or were returned unclaimed.



The Payables balance primarily consists of trade creditors, custodian fees, legal fees, receiver's fees and fees and expenses claimed by FTI, which remain unpaid as at 30 June 2017.

Some of these liabilities have not been verified, or may be subject to court approval being obtained.

#### **Net Assets Attributable to Unit Holders**

Net assets attributable to unit holders as at 30 June 2017 were \$68,809,977

The net assets of the Fund and number of units on issue as at 30 June 2017 and 31 December 2016 is detailed in the table below.

Description	30 June 2017	31 December 2016
Estimated net amount of assets available to investors as at period end (\$)	68,809,977	70,248,277
Total investor units (# of units)	478,100,386	478,100,386
Estimated net asset amount per unit available to investors as at period end (cents in the dollar)	14.4	14.7

#### **Investments made in Foreign Currencies**

Investigations undertaken by BDO have identified certain apparent discrepancies in the register of members of the FMIF as the units in the FMIF held by investors who invested in foreign currencies appear to be presently inaccurately recorded in the register of members of the FMIF.

It appears that this stems from a transfer of the membership records of the FMIF to a new database in 2010, and the way in which the number of units of investors who invested in foreign currency were then recorded in the new database.

Under section 175 of the Corporations Act, prior to correcting the register of members, Court approval is required.

I summarise developments since my update to investors as follows:

- I undertook further investigations and identified conversion files on LM's servers which appear to contain the data used when converting the investor database data from the old legacy computer system to the replacement AX computer system;
- I conferred with and finalised a service request with the IT consultants outlining the proposed steps to test a proposed solution to rectify the Fund's investor register which has involved duplicating the investor database as a test platform to re-perform the conversion of the foreign investor data into the duplicate of the AX system using the existing AUD data;
- After obtaining advice from my solicitors, I liaised with the Liquidators of LMIM, the Trustee of the MPF, the responsible entity of the WMIF and the receivers and managers of the CPAIF and ICPAIF and obtained their consent to providing our IT consultant with a copy of the AX investor database to enable a test of the proposed solution to correct the membership records to be undertaken on this copy of the AX database.

Steps are now being taken to commence the process of testing the conversion files located to assess the integrity of the data for use in the testing phase of the project. After our IT consultants have completed the testing phase of rectifying the investor register on the AX database copy, appropriate steps will then be taken, including an application to Court for directions approving the correction of the member records of the FMIF, before such corrections are undertaken.

### 3. Receipts and Payments of the Fund

The receipts and payments of the Fund, as maintained by the DB Receivers, for the period 1 January 2017 to 30 June 2017 is summarised in the table below.

Description	\$
<b>Receipts</b>	
Loan Reductions	1,958,357
Interest	518,591
GST received	127,698
Other income/refunds received	2,411
<b>Total receipts</b>	<b>2,607,057</b>
<b>Payments</b>	
Bank charges	22
Legal fees	1,153,721
Loan draws	47,526
IT expenses and record management/storage	130,500
<b>Total payments</b>	<b>1,331,769</b>
<b>Net receipts (payments)</b>	<b>1,275,288</b>



#### 4. Investor Information

##### 4.1 Estimated Return to Investors as at 31 August 2017

Based on the professional valuation for the remaining property charged to the Fund, I provide an estimated return to Investors of between 13.2 cents and 14.5 cents per unit as at 31 August 2017, calculated as follows:

Description	Low \$	High \$
Cash at bank	71,748,290	71,748,290
Other assets (including estimated sale price of remaining property net of selling costs)	2,846,918	4,251,918
<b>Estimated Assets Position</b>	<b>74,595,208</b>	<b>76,000,208</b>
Other unsecured creditors	6,288,954	1,559,889
FTI Fees & legal expenses advised (subject to approval)- refer to Section 1.3.9 for further details - maximum amount shown	4,211,638	4,211,638
Receivers and Managers' fees (DB Receivers)	83,397	83,397
Receiver's fees & outlays (BDO) (including controllerships)	763,716	763,716
<b>Total Liabilities</b>	<b>11,402,705</b>	<b>6,678,640</b>
<b>Estimated net amount available to investors as at 31 August 2017</b>	<b>63,247,502</b>	<b>69,381,567</b>
Total investor units (as at 30 June 2017)	478,100,386	478,100,386
<b>Estimated return in the dollar</b>	<b>13.2 cents</b>	<b>14.5 cents</b>

Please note that the above estimate and prior estimates do not take into account future operating costs and future Receiver's fees or any legal recoveries against borrowers, valuers or other third parties including the claim and relief now sought against the Feeder Funds.

In calculating the estimated return to investors, I have also not provided any allowance for the claims filed by the MPF Trustee as the prospects of a successful claim against the Fund is unknown.





#### 4.2 Estimated Unit Price as at 30 June 2017

The estimated unit price as at 30 June 2017 is 14.4 cents, which is based on estimated selling price of the remaining secured asset as at 30 June 2017.

Description	\$
Total Value of Fund Assets as at 30 June 2017 (net of land tax and rates)	77,065,974
Less Creditors and Other Payables	8,255,997
<b>Total Net Value of Fund Assets</b>	<b>68,809,977</b>
<b>Total Number of Units</b>	<b>478,100,386</b>
<b>Unit Price Estimate</b>	<b>14.4</b>

I *attach* a copy of a letter confirming the unit price as at 30 June 2017, which may be forwarded to Centrelink to assist with the review of investors' pensions.

#### 4.3 Distributions to Investors

Once the DB Receivers have retired and funds released to me, I will be required to retain certain funds to meet the liabilities of the Fund, including contingent claims that may arise from the auditor claim and Bellpac litigation.

I am required to seek the directions of the Court before proceeding with a distribution. In addition, with the claim against the Feeder Funds (see 1.3.3 above) now filed and served on the parties, this claim will need to be resolved prior to any distribution to investors.

I will update investors as to the expected timing of a distribution as these matters become clearer, however, I am working towards being in a position to commence distributions as soon as practicable, although it is subject to resolving matters before the court where I cannot necessarily control the timeframe to resolve the issues.

Please note that the distribution to investors will take place after paying creditors, costs, land tax, rates, Receivers fees and other claims which rank ahead of investors' interests.

#### 4.4 Ongoing Reporting to Investors

Reports will be distributed to investors in accordance with the preferred method of correspondence recorded for each investor in the Fund's database. In order to assist in reducing distribution costs, it would be appreciated if investors could nominate an email address as their preferred method to receive correspondence. Investors may update their details as outlined in Section 4.5 below. For those investors that do not have an email address, correspondence will continue to be sent to you via post.

My next report to investors will be issued in December 2017.



#### 4.5 Investors Queries

Arrangements are in place to ensure that any reasonable questions asked by members of the FMIF, about the winding up of the FMIF, will be answered within a reasonable period of time (generally seven days) and without charge to the investor.

For any changes to investors details, please review the Useful Forms/Procedures tab on the website [www.lmfimf.com](http://www.lmfimf.com) which includes information regarding the following procedures:

- Change of Contact Address/Bank Account Details
- Change of Contact Address/Bank Accounts Details of a Deceased Estate
- Change of Trustee of Self-Managed Super Fund
- Transfer of Unit Holding from a Super Fund/ Trustee Company to Personal Name(s)
- Transfer of Unit Holding from a Deceased Estate to a Sole Survivor
- Transfer from a Deceased Estate to a Beneficiary of an Estate

It is a requirement that advisors or other third parties acting on behalf of Unit Holders are doing so pursuant to a relevant Authority/Power of Attorney. Please ensure that a relevant Authority/Power of Attorney accompanies the abovementioned documents as necessary (if an Authority/Power of Attorney has not previously been provided).

It is preferable that all questions about the winding up, or communications are sent via email to [enquiries@lmfmif.com](mailto:enquiries@lmfmif.com) with original documents to be mailed as required to:

BDO  
GPO Box 457  
Brisbane QLD 4001  
Phone: +61 7 3237 5999  
Fax: +61 7 3221 9227

#### 5. Receiver's Remuneration and Expenses

There have been seven applications to Court to date to approve my remuneration from the date of my appointment on 8 August 2013 until 30 April 2017.

The application for the approval of my remuneration for the period 1 November to 30 April 2017 was heard by the Court on 30 June 2017. The Court ordered that my remuneration for this period be fixed in the amount of \$897,580.20 (inclusive of GST) in relation to my role as the person responsible for ensuring the FMIF is wound up in accordance with its constitution and \$12,314.50 (inclusive of GST) in relation to the controllerships for the retirement village assets.

A copy of all documentation in relation to my applications can be found on the website [www.lmfimf.com](http://www.lmfimf.com).

In addition to the remuneration previously approved by the Court, I calculate that, on a time basis, I have incurred further remuneration of \$706,359.50 (exclusive of GST) plus outlays of \$8,567.20 (exclusive of GST) from 1 May 2017 to 31 August 2017 plus work undertaken in respect of the



controllerships for the retirement village assets of \$15,902.00 (exclusive of GST) as detailed in the table below and attached summaries.

Company Name	Remuneration (GST exclusive)	Outlay (GST exclusive)
LM First Mortgage Income Fund (Receivers & Managers Appointed) (Receiver Appointed)	706,359.50	8,567.20
Bridgewater Lake Estate Ltd (In Liquidation) (Controllers Appointed)	1,703.50	-
Cameo Estates Lifestyle Villages (Launceston) Pty Ltd (Receivers & Managers Appointed) (Controllers Appointed)	243.00	-
OVST Pty Ltd (In Liquidation) (Controllers Appointed)	11,370.50	-
Pinevale Villas Morayfield Pty Ltd (In Liquidation) (Controllers Appointed)	868.00	-
Redland Bay Leisure Life Development Ltd (In Liquidation) (Controllers Appointed)	956.00	-
Redland Bay Leisure Life Ltd (In Liquidation) (Controllers Appointed)	761.00	-
<b>Total</b>	<b>722,261.50</b>	<b>8,567.20</b>

I anticipate that my next application to Court for the approval of my remuneration will be made in November 2017 covering the period 1 May 2017 to 31 October 2017. A copy of my application in this respect will be posted to the website [www.lmfimif.com](http://www.lmfimif.com) and investors will be notified when this application has been lodged.

## 6. Actions taken during the period

I provide below a summary of actions taken during the period from 1 January to 30 June 2017:

- Work undertaken in relation to the litigation matters detailed at Section 1.1 and 1.3 of this report, which include, among other things:
  - Progressing the claim against the former auditors regarding the financial statements and compliance plan audits following public examinations held, amending the claim and conducting substantial work finalising the quantification of the loss suffered by the Fund. See Section 1.3.1 above;
  - Amending two statements of claim which have been filed against LMIM and the Feeder Funds in relation to certain transactions. See sections 1.3.3 and 1.3.8c above;
  - Monitoring and providing assistance to the Liquidator of Bellpac regarding the \$8M bonds claim, progressing this matter, and also dealing with the MPF's claim for reimbursement of litigation funding costs from the proceeds of the Bonds. See section 1.3.2 above;
  - Progressing the claim against the MPF and others;

- Pursuing the recovery of the security for costs in favour of PTAL in the Austcorp matter as well as obtaining assignments of the Austcorp companies' security to avoid any potential further proceedings against the Fund. See section 1.3.2 above;
- Review of potential claims against former valuers of property securities for negligence and breach of contract;
- Progressing claims against guarantors.
- Liaising with various parties in relation to the potential for the DB Receiver's retirement;
- Taking steps to finalise a settlement deed further recording the agreement reached in relation to Western Union's set off claim;
- Responding to FTI's application to court to challenge my decision to reject certain claims by LMIM (or FTI) for indemnity against the assets of the Fund for certain expenses and costs;
- Maintaining the management accounts of the Fund and prepare management accounts for the year ending 30 June 2017 and for the half year ending 31 December 2016;
- Undertaking the investor management function for approximately 4,500 investors including answering queries on the winding up of the Fund and maintaining the investment database, including any change in details or transfer of units;
- Preparing affidavit and supporting material for an application to Court for approval of the receiver's remuneration for the period 1 November 2016 to 30 April 2017;
- Finalising outstanding matters from the sale of five retirement villages, including tax compliance issues;
- Investigations into the migration of the Composer investor management database to the AX investor management database and agreeing a plan with an IT consultant in relation to proposed correction of membership records in relation to investors that acquired units in foreign currencies;
- Attending to compliance with ASIC's grant of relief from the requirements of a half year review and annual audit of the financial reports and compliance plan;
- Preparation of unit price calculations as at 30 June 2017 and 31 December 2016; and
- Preparation of update reports to investors in March, June and September 2017.

## **7. Actions proposed to be taken in the next 12 months**

I provide below a summary of the proposed actions to be taken in the next 12 months in relation to the winding up of the Fund:

- Take steps to finalise the various ongoing litigation matters outlined in this report;
- Sale and settlement of the remaining real property outlined at section 1.2 of this report;
- Continue to monitor and assist the Bellpac liquidator to achieve settlement or determination of the \$8M bonds claim;
- Resolve the MPF claim against the proceeds of the Bonds;

- Liaise with the Liquidator of the Austcorp companies to determine the potential for a return in the windings up for the benefit of the Fund;
- Finalise investigations in relation to potential claims against external valuers;
- Finalise all claims against guarantors;
- Obtain a release of funds held by Western Union;
- Resolve or have determined FTI's indemnity claim against the Fund;
- Maintain the accounts of the Fund and prepare management accounts for the half year ending 31 December 2017;
- Resolve the issues relating to the investor units subscribed in foreign currencies in the investor management database, and obtain court approval to correct the member records of the FMIF;
- Maintain the investor management database;
- Subject to settlement of the proceedings in section 1.1.3, the retirement of the DB receivers and obtaining appropriate orders in the Feeder Fund proceedings and approval from the Court, process an interim distributions to investors;
- Report to investors on a quarterly basis; and
- Make applications to Court for remuneration approval.

Please note that the timing to finalise some of the above matters will be subject to judgments being handed down by the Court.

## **8. Actions required to complete the winding up**

I provide below a summary of the key actions required to complete the winding up:

- Realise the remaining real property;
- Finalise all litigation currently on foot and contemplated;
- Resolve or have determined FTI's indemnity claim (and any further claims) against the Fund;
- Discharge all liabilities of the Fund;
- Obtain a discharge of the DB security and of the DB Receivers;
- Obtain approval from the Court to process interim distributions and a final distribution to investors;
- Prepare final accounts for the Fund;
- Arrange for an auditor to audit the final accounts of the Fund after the Fund is wound up; and
- Obtain court orders in relation to the finalisation of my role in relation to the Fund.

I anticipate that the winding up of the Fund will be finalised in approximately 18 to 24 months, however, this may vary subject to the progression of the outstanding legal matters detailed in this report.



## 9. Queries

Should unit holders wish to advise of any changes in details or require further information, please contact BDO as follows:

BDO  
GPO Box 457  
Brisbane QLD 4001  
Phone: +61 7 3237 5999  
Fax: +61 7 3221 9227  
Email: [enquiries@lmfmif.com](mailto:enquiries@lmfmif.com)

Yours faithfully

A handwritten signature in black ink, appearing to read 'David Whyte', written over a horizontal line.

David Whyte  
Receiver



Disbursements for the period 1 May 2017 to 31 August 2017

LM First Mortgage Income Fund

Expense Type	Amount (S, \$, GST)
Taxi fares	8.47
Postage	8,118.71
Search Fee	322.72
Printing	117.90
<b>TOTAL</b>	<b>8,567.20</b>
<b>GST</b>	<b>856.72</b>
<b>TOTAL INC GST</b>	<b>9,423.92</b>





**REMUNERATION REPORT - Summary of professional fees by category of work for the period 1 May 2017 to 31 August 2017**  
**Bridgewater Lake Estate Pty Limited**

Employee	Position	Rate	Totals			Task Area			Totals
			Hrs	\$	Hrs	Assets	Creations	Investigations	
David Whyte	Partner	580	0.1	58.00				0.1	58.00
Eric Leeuwendal	Executive Director	495	0.4	198.00	0.1	49.50		0.3	148.50
Aubrey Meek	Senior Accountant II	310	1.0	310.00			0.4	0.6	186.00
Aubrey Meek	Senior Accountant II	290	2.9	841.00	0.2	58.00		2.7	783.00
Sarah Cunningham	Team Assistant	215	0.1	21.50				0.1	21.50
Sarah Cunningham	Team Assistant	200	0.7	140.00				0.7	140.00
Ryan Whyte	Undergraduate	165	0.6	99.00				0.6	99.00
Moira Hattingh	Team Assistant	95	0.2	19.00				0.2	19.00
Moira Hattingh	Team Assistant	85	0.2	17.00				0.2	17.00
<b>TOTALS</b>			<b>6.2</b>	<b>1,703.50</b>	<b>0.2</b>	<b>58.00</b>	<b>0.4</b>	<b>0.1</b>	<b>40.60</b>
			<b>GST</b>	<b>170.35</b>					
			<b>TOTAL INCL GST</b>	<b>1,873.85</b>					
<b>AVERAGE HOURLY RATE</b>			<b>275</b>	<b>290</b>	<b>495</b>	<b>200</b>	<b>170</b>	<b>170</b>	<b>276</b>

**Note:** All amounts exclude GST unless otherwise noted



**REMUNERATION REPORT - Summary of professional fees by category of work for the period 1 May 2017 to 31 August 2017**  
**Cameo Estates Lifestyle Villages (Launceston) Pty Ltd**

EMPLOYEE	Position	Rate	Totals		Task Area	
			hrs	inc	Administration	hrs
Sarah Cunningham	Team Assistant	215	0.1	21.50	0.1	21.50
Sarah Cunningham	Team Assistant	200	0.4	80.00	0.4	80.00
Ryan Whyte	Undergraduate	165	0.8	132.00	0.8	132.00
Moirra Hattingh	Team Assistant	95	0.1	9.50	0.1	9.50
<b>TOTALS</b>			<b>1.4</b>	<b>243.00</b>	<b>1.4</b>	<b>243.00</b>
			<b>GST</b>	<b>24.30</b>		
			<b>TOTAL INC GST</b>	<b>267.30</b>		
			<b>AVERAGE HOURLY RATE</b>	<b>174</b>		<b>174</b>

**Note:** All amounts exclude GST unless otherwise noted



**REMUNERATION REPORT - Summary of professional fees by category of work for the period 1 May 2017 to 31 August 2017**  
**OVST Pty Ltd**

EMPLOYEE	RESPONSIBILITY	TOTALS		TASK AREA				TOTALS	
		Rate	Hrs	Assets	Trades Op	Investigative	AGU/IT/CP/SP		
Leisa Rafter	Partner	650	0.2	130.00				0.2	130.00
John Garrard	Senior Manager	515	1.1	566.50				1.1	566.50
Eric Leeuwendal	Executive Director	495	1.2	594.00	198.00			0.8	396.00
Samuel Alexander	Manager	450	2.6	1,170.00	1,170.00				
Ainsley Watt	Senior Accountant I	350	0.5	175.00		175.00		0.5	175.00
Aubrey Meek	Senior Accountant II	310	23.4	7,254.00				6.3	1,953.00
Aubrey Meek	Senior Accountant II	290	0.9	261.00	261.00				
Brad Gallant	Senior Consultant II	280	1.5	420.00	420.00			1.5	420.00
Brad Gallant	Senior Consultant II	225	0.5	112.50	112.50			0.5	112.50
Sarah Cunningham	Team Assistant	215	0.2	43.00					43.00
Sarah Cunningham	Team Assistant	200	2.0	400.00				2.0	400.00
Ryan Whyte	Undergraduate	165	1.0	165.00				1.0	165.00
Maira Hattingh	Team Assistant	95	0.3	28.50				0.3	28.50
Maira Hattingh	Team Assistant	85	0.6	51.00				0.6	51.00
<b>TOTALS</b>			16.0	11,370.50	2,610.00	2,610.00	1,400.00	54.0	12,990.50
<b>TOTAL (INC GST)</b>				11,370.50					
<b>TOTAL (INC GST)</b>				12,507.55					
<b>AVERAGE HOURLY RATE</b>				316	290		380		317

**Note:** All amounts exclude GST unless otherwise noted



**REMUNERATION REPORT - Summary of professional fees by category of work for the period 1 May 2017 to 31 August 2017**  
**Pinevale Villas Morayfield Pty Ltd**

EMPLOYEE	Position	Rate	Totals		Task Area	
			hrs	\$	hrs	Administration
Ainsley Watt	Senior Accountant I	350	0.3	105.00	0.3	105.00
Sarah Cunningham	Team Assistant	200	2.9	580.00	2.9	580.00
Ryan Whyte	Undergraduate	165	0.8	132.00	0.8	132.00
Moira Hattingh	Team Assistant	85	0.6	51.00	0.6	51.00
<b>TOTALS</b>			<b>4.6</b>	<b>868.00</b>	<b>4.6</b>	<b>868.00</b>
			<b>GST</b>	<b>86.80</b>		
			<b>TOTAL INC GST</b>	<b>954.80</b>		
			<b>AVERAGE HOURLY RATE</b>	<b>186</b>		<b>186</b>

**Note:** All amounts exclude GST unless otherwise noted



**REMUNERATION REPORT - Summary of professional fees by category of work for the period 1 May 2017 to 31 August 2017**  
**Redland Bay Leisure Life Development Pty Ltd**

Employee	Position	Rate	hrs	Totals	Task Area
				\$	Administrative
Alex Taylor	Senior Consultant I	230	2.5	575.00	2.5
Sarah Cunningham	Team Assistant	215	0.3	64.50	0.3
Sarah Cunningham	Team Assistant	200	0.6	120.00	0.6
Ryan Whyte	Undergraduate	165	0.8	132.00	0.8
Moira Hattingh	Team Assistant	95	0.5	47.50	0.5
Moira Hattingh	Team Assistant	85	0.2	17.00	0.2
<b>TOTALS</b>			<b>4.9</b>	<b>956.00</b>	<b>4.9</b>
				<b>95.60</b>	
				<b>1,051.60</b>	
				<b>195</b>	
				<b>956.00</b>	

**Note:** All amounts exclude GST unless otherwise noted



**REMUNERATION REPORT - Summary of professional fees by category of work for the period 1 May 2017 to 31 August 2017**  
**Redland Bay Leisure Life Pty Ltd**

EMPLOYEE	POSITION	RATE	HRS	Totals	
				\$	hrs
Sarah Cunningham	Team Assistant	215	0.3	64.50	0.3
Sarah Cunningham	Team Assistant	200	2.5	500.00	2.5
Ryan Whyte	Undergraduate	165	0.8	132.00	0.8
Moira Hattingh	Team Assistant	95	0.5	47.50	0.5
Moira Hattingh	Team Assistant	85	0.2	17.00	0.2
<b>TOTALS</b>			<b>4.3</b>	<b>761.00</b>	<b>4.3</b>
			<b>GST</b>	<b>76.10</b>	
			<b>TOTAL INC (GST)</b>	<b>837.10</b>	
			<b>AVERAGE HOURLY RATE</b>	<b>177</b>	

**Note:** All amounts exclude GST unless otherwise noted



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Australia

29 September 2017

**TO WHOM IT MAY CONCERN**

**LM FIRST MORTGAGE INCOME FUND (RECEIVERS AND MANAGERS APPOINTED) (RECEIVER APPOINTED) ARSN 089 343 288 ('the Fund' or 'FMIF')**

I refer to my appointment as the Receiver of the Fund's assets and the person responsible for ensuring the winding up of the Fund in accordance with the terms of its constitution by Order of the Supreme Court of Queensland on 8 August 2013.

I provide an update on the estimated unit price of the fund as at 30 June 2017, calculated as follows:

Description	\$
<b>Total Value of Fund Assets as at 30 June 2017 (net of land tax and rates)</b>	<b>77,065,974</b>
Less Creditors and Other Payables	8,255,997
<b>Total Net Value of Fund Assets</b>	<b>68,809,977</b>
<b>Total Number of Units</b>	<b>478,100,386</b>
<b>Unit Price Estimate</b>	<b>14.4</b>

Should you have any queries in respect of the above, please contact Ainsley Watt of my office on (07) 3173 5564 or enquiries@lmfmif.com.au.

Yours faithfully,

David Whyte  
Receiver

TO THE INVESTOR AS ADDRESSED

21 December 2017

LM FIRST MORTGAGE INCOME FUND (RECEIVERS AND MANAGERS APPOINTED) (RECEIVER APPOINTED)  
ARSN 089 343 288 ('the Fund' or 'FMIF')

## 1. Executive Summary

I refer to my appointment as the Receiver of the Fund's assets and the person responsible for ensuring the winding up of the Fund in accordance with the terms of its constitution by Order of the Supreme Court of Queensland on 8 August 2013.

I now provide my 20<sup>th</sup> update to investors, which provides details of the progress made in the winding up of the Fund since my last report to investors dated 29 September 2017. This report should be read in conjunction with my previous reports, which are available on the website [www.lmfimf.com](http://www.lmfimf.com).

A summary of the key issues covered in this report is as follows:

- The remaining security property (mostly residential land in North Queensland) was sold at auction for \$1.75 million and settled on 20 December 2017. Further details are provided at Section 3 below;
- Cash at bank as at 30 November 2017 was \$72.1 million;
- The estimated return to investors is currently 13.3 to 14.5 cents per unit as detailed at Section 8 below and before taking into account future costs and recoveries from legal proceedings on foot;
- Attempts to settle the claim against the directors, LMIM and MPF for \$15.5M plus interest, have not been successful. I am now taking further steps to progress the matter to a trial (see 2.3 below);
- The MPF Trustee's Assigned Loans Claim in which claims for relief against the assets of the Fund are made remains adjourned to a date to be fixed (see 2.1.1 below). Similarly, no further steps have been taken in relation to the MPF Trustee's AHS Loan claim in which claims for relief against the assets of the Fund are made (see 2.1.2 below);
- As required by the orders of the Court in its decision on the strike out application of the former auditors of the Fund, I caused to be filed an amended claim on 20 November 2017 to include details of the quantification of loss and make other required changes. The claim is for in excess of \$200 million. Further details are provided in Section 4.1 below;
- Settlement of the Bellpac Liquidator's \$8M Bonds litigation has progressed however, the remaining condition precedent (Sunset Date) to settlement has been extended to March 2018.



The Liquidator has been successful in negotiating as part of the agreement to extend the Sunset Date that WCL pay interest at 3% p.a. from 2 October 2017 until settlement. This is expected to realise \$6.3 million plus interest from 2 October 2017 for the benefit of investors. Further details in relation to the \$8M Bonds are provided in Section 4.2.1 below;

- The Court has handed down its decision in relation to the remuneration application by the former administrators, now liquidators of LMIM (FTI) referred to in paragraph 6a below and the indemnity claim by LMIM and its liquidators against the assets of the Fund referred to in paragraph 6b below. Of the approximately \$3 million claimed by FTI in this application for remuneration or expenses from the FMIF from the date of their appointment to 30 September 2015, the Court has approved the payment of \$1.827M plus any GST from the FMIF. This outcome is a significant saving for the investors. In relation to the indemnity claim, the Court found, *inter alia*, that FTI's legal costs of the appeal in 8895 of 2013 of \$263,127.13 and the costs of assessment of those costs in the sum of \$9,068.68 cannot be paid out of the property of the FMIF, and that the Liquidators are entitled to direct indemnity out of the FMIF for various amounts totalling \$44,158. His Honour also held that the clear accounts rule operates to suspend LMIM's claimed right to payment from the assets of the FMIF until the resolution of the claim made in the proceeding 11560/16 (the LMIM Claim) and that LMIM's indemnity claims, to the extent that they are otherwise maintainable, should not be finally resolved until the LMIM Claim is resolved. Further details in relation to the remuneration claim and indemnity claim are provided in Section 6 below;
- I am working towards applying to Court for approval to make an interim distribution to investors as soon as practicable subject to the resolution or determination of the ongoing litigation involving claims against the Fund, and the retirement of the Receivers and Managers of the Fund (DB Receivers) appointed by the secured creditor. Further details in relation to the status of these matters are provided below.

## **2. Position of the Secured Creditor, the potential claim by KordaMentha, the trustee of the LM Managed Performance Fund ('MPF') and claims filed against the Fund**

### **2.1 Proceedings by the Trustee of the MPF against LMIM and the Fund**

#### **2.1.1 Assigned Loans Claim**

I refer to my previous updates to investors in relation to these proceedings, in which the Trustee of the MPF is the plaintiff, and the defendants are LMIM, and myself as receiver of the property of the FMIF.

The relief claimed by the Trustee of the MPF (MPF) in these proceedings includes equitable compensation against LMIM and claims against assets of the FMIF in the total sum of about \$24.1 million plus interest.

At the review hearing on 16 December 2016, the proceedings were adjourned to a date to be fixed as the parties wished to continue negotiations to settle the litigation in conjunction with the proceedings in both sections 2.1.2 and 2.3 below. However, given that the proceedings have not settled, I intend to take steps to progress the matter.

### **2.1.2 AIIS Loan Claim**

I refer to my previous updates to investors in relation to this proceeding in which the Trustee of the MPF is the plaintiff, and LMIM is the defendant.

The MPF Trustee has claimed approximately \$16.82 million as equitable compensation against LMIM and relief against the assets of the FMIF for approximately \$3.9 million (this may be increased to \$4.1 million) being alleged interest paid by the MPF to the FMIF in respect of the loan made by the FMIF to AIIS in 2005.

As with the proceedings in 2.1.1 above, these proceedings had also not progressed as negotiations to settle these proceedings were continuing. However, given the matters have not settled, I intend to take steps to progress the matter.

### **2.2 Position of the Secured Creditor**

I refer to my comments in my previous updates to investors. The DB Receivers have advised the matter precluding their retirement is that prior to retiring, they request the provision of a release by the MPF Trustee, with respect to various claims that the MPF Trustee has made or foreshadowed.

I continue to liaise with the DB Receivers about their ongoing role and the possibility of their retirement. Given that the DB Receivers have sold the remaining property held as security for a FMIF loan and they will retire as controllers of that property shortly, I will again be pursuing the retirement of the DB Receivers' as soon as possible.

### **2.3 Proceedings against the MPF, LMIM and the Directors of LMIM**

I refer to my previous updates to investors in relation to a statement of claim I caused to be filed in the Supreme Court of Queensland, against a number of parties, including the MPF Trustee, in respect of loss allegedly suffered by the FMIF as a result of an amount paid to MPF in the Bellpac litigation matter. The claim is for \$15.5M plus interest.

Whilst attempts to settle the proceedings had been continuing in relation to these proceedings and those referred to in section 2.1 above, I continued to take steps to progress the proceedings including:

- Requiring the director defendants to file amended defences pursuant to the Court rules. All director defendants, except for Peter Drake, have now filed amended defences;
- I have filed Reply's to the amended defences and made requests for further particulars which have all now been received;
- Obtaining orders enabling me to disclose for the purposes of these proceedings relevant transcripts obtained during the public examinations and documents produced for the public examinations by the former auditors.

As previously advised above, the proceedings have not settled. I am now taking further steps to progress these proceedings to a trial. The next steps are expected to be as follows:

- Bringing the matter on for review to facilitate directions for Mr Drake to file his amended defence;
- Filing a Reply to the amended defence of Mr Drake;
- The delivery of disclosure by the 1<sup>st</sup> to 4<sup>th</sup> director defendants; and
- The delivery of any further disclosure by me.

I have written to the parties seeking agreement to a date to list the proceedings for a review before the court in late January 2018 or mid to late February 2018 to obtain orders setting out a timetable for the above matters.

As the proceedings are ongoing, an update will be provided to investors in relation to this matter in my next report.

### **3. Realisation of Assets**

The remaining property comprising 61 hectares of engobo land with various approvals for up to 257 residential lots plus retail space and a childcare centre was sold at auction on 18 November 2017 for \$1.75M (before selling costs) and settled on 20 December 2017.

This sale completes the sale of all property assets. What remains to be realised or resolved are the various claims and legal proceedings both for and against the Fund as set out below.

### **4. Other Potential Recoveries/Legal Actions**

I provide an update in relation to investigations undertaken to date, other legal proceedings on foot and further work to be done, as follows:

#### **4.1 Claim Against the Former Auditors**

I refer to my previous updates to investors and briefly summarise the background as follows:

- A public examination (PE) of the former auditors and certain directors and former directors (Directors) of LM Investment Management Limited (In Liquidation) was conducted in 2015;
- Following the PEs, a further amended statement of claim was filed by me and served on the former auditors of the Fund on 14 April 2016;
- The former auditors lodged and served on me a strike-out application and supporting affidavit on 27 April 2016 seeking orders to strike-out certain parts of the statement of claim;
- At the hearing of the former auditors' strike out application, the Court granted my application and placed the proceedings on the commercial list and reserved its decision on the auditor's strike out application;
- The reserved decision from the hearing of the strike out application was handed down on 8 May 2017. Orders were made that the statement of claim be amended to delete certain causes of action and to include details of the quantification of loss;

- In accordance with the Court's judgment, the parties were required to agree the form of orders including a timetable for the filing of a further amended statement of claim and the costs of the former auditors' strike-out application.

I summarise developments since my last update to investors as follows:

- The amended claim was filed on 20 November 2017 and served on the former auditors. Details of the loss has been included in the amended claim which has been calculated (at its highest) in excess of \$200 million. A significant amount of work has been undertaken in this regard, including quantifying the loss at 6 monthly hypothetical winding up dates between 1 July 2009 and 1 January 2013 being the estimated additional costs and expenses incurred by the Fund as a consequence of the alleged delay in winding up the Fund;
- I received a request pursuant to Rule 222 of the Court Rules (Rules) from the former auditors in late November 2017 to provide documents referred to in the amended statement of claim. I have recently provided the documents requested in accordance with the Rules to the former auditors.

The next steps in the proceedings is the filing by the former auditors of a defence to the amended claim.

The proceedings are ongoing and an update will be provided to investors in relation to this matter in my next report.

## 4.2 Bellpac Proceedings

In addition to the claim filed and served against the MPF in relation to a loss suffered by the Fund from litigation pertaining to the Bellpac loan noted at 2.3 above, there are two further matters relating to Bellpac that have been progressed during the period, as detailed below.

### 4.2.1 Other Bellpac litigation

#### a. Wollongong Coal Ltd (WCL) - \$10 million Convertible Bonds

I refer to my previous updates to investors and provide a brief summary as follows:

- The liquidator of Bellpac has received the settlement amount of \$2 million from WCL in relation to the claim for redemption of the \$2 million Bonds held in WCL;
- The Bellpac Liquidator applied for the conversion of the \$8 million Bonds to shares. As WCL did not issue all of the shares as required under the terms of the Bonds, the Bellpac Liquidator brought proceedings against WCL;
- The Bellpac liquidator and WCL entered into a binding heads of agreement (HOA) to settle the litigation commenced against WCL. The terms of the heads of agreement include that WCL will pay to Bellpac a settlement sum of \$6.3 million in return for certain releases and Bellpac returning or cancelling the WCL shares issued to Bellpac;
- A final condition precedent to the settlement with WCL has been delayed as WCL is now required to seek shareholder approval however, certain documents needed to support the proposal to shareholders has taken longer than expected;
- The MPF has demanded from the Liquidator approximately \$680K plus interest out of the proceeds of the Bonds litigation for repayment of funding the MPF allegedly made for the Bonds litigation from late 2010 to early 2013. The MPF has also reserved its rights in relation to claiming

35% of the funds realised from the successful Bonds proceedings. I have disputed the MPF's entitlement to a priority ahead of the Fund's first ranking security over the proceeds from the Bellpac bonds.

Developments since my last update to investors are as follows:

- The remaining condition precedent (Sunset Date) to the settlement with WCL has been extended to March 2018. The Liquidator has been successful in negotiating as part of the agreement to extend the Sunset Date that WCL pay interest at 3% p.a. from 2 October 2017 until settlement. This is expected to realise \$6.3 million plus interest from 2 October 2017 for the benefit of investors.
- Although there has been correspondence between the parties, no resolution has been reached in respect of the MPF claim to the proceeds of the bonds.

**b. Proceedings against Bellpac Receivers, LMIM, PTAL and others ('the Parties')**

I refer to my previous updates to investors in regard to these proceedings which had been discontinued against all parties by mid-2016. I confirm that:

- all defendants were awarded costs against the plaintiffs when the proceedings were discontinued;
- the Austcorp plaintiff companies failed to pay the costs due to be paid to the Fund and I caused the plaintiff companies to be wound up. The liquidators of the Austcorp companies have after conducting investigations confirmed that no return is expected to creditors.

Since my last update to investors I have been successful in recovering \$150,000 from PTAL in relation to realising a bank guarantee lodged with the court by the Austcorp companies for security for PTAL's costs, which I had reimbursed in late 2016.

### **4.3 Other Potential Claims against LMIM and related Parties**

#### **4.3.1 Redemptions and Distributions paid to Class B Unit Holders**

I refer to my previous updates to investors and summarise the background as follows:

- Investigations have been undertaken via the PE conducted in 2015 and subsequent thereto in relation to redemptions and distributions paid to the Class B unit holders (Feeder Funds) when the Fund had suspended redemptions and distributions to other classes of members;
- The Feeder funds are the LM Currency Protected Australian Income Fund (CPAIF), the LM Institutional Currency Protected Australian Income Fund (ICPAIF) and the LM Wholesale First Mortgage Income Fund (WMIF);
- On 28 July 2017, I caused to be filed an amended statement of claim against LMIM and the Feeder Funds and the claim was then formally served on the parties. The relief sought in the claim includes declarations to withhold from distributions or payments otherwise payable from the Fund to:

- CPAIF in the sum of \$40,583,109.06 plus interest, as adjusted for the difference between the sum paid for capital distributions in early to mid-2013 and the amount the CPAIF would otherwise have been entitled as referred to in the amended statement of claim;
- ICPAIF in the sum of \$5,044,118.30 plus interest, as adjusted for the difference between the sum paid for capital distributions in early to mid-2013 and the amount the CPAIF would otherwise have been entitled as referred to in the amended statement of claim;
- WMIF in the sum of \$9,432,090.76 plus interest, as adjusted for the difference between the sum paid for capital distributions in early to mid-2013 and the amount the WMIF would otherwise have been entitled as referred to in the amended statement of claim.

If the Court grants the relief sought against the Feeder Funds and putting aside any other recoveries for the benefit of investors:

- the CPAIF and ICPAIF is not likely to receive any distribution in the winding up of the FMIF;
- the WMIF is likely to receive a smaller distribution than it otherwise would have been entitled, subject to the outcome of litigation against the FMIF and future operating costs of the FMIF;
- the FMIF can use the funds which otherwise would have been paid to the Feeder Funds for distributions to investors generally instead and, as a result, the return to other investors (Class A and Class C) is likely to increase.

I summarise developments since my previous update to investors as follows:

- I caused to be filed an application under Section 59 of the Trusts Act to seek directions in relation to how the differing interests of LMIM are to be represented in the proceedings and an application under Section 500 of the Corporations Act to seek leave to proceed against LMIM (which is required because it is in liquidation) (the Applications);
- The receivers for the CPAIF and ICPAIF (Grant Thornton) have advised they will not consent to my Section 59 application unless orders are made:
  - that their reasonable costs and fees be fixed by the Court and paid out of the FMIF up to them preparing and filing a defence and considering any Reply filed by me;
  - that I disclose to them all of the books and records requested by them as set out in an affidavit of one of the receivers;
- The parties have consented to adjourn the hearing of the Applications (which was originally set down) on 8 December 2017 to a date to be fixed. I have also informed the parties that I will be making an application to have the matter listed on the Court's commercial list. The application and supporting documents are currently being prepared in respect of this application;
- I am also corresponding with Grant Thornton as to the issue of their costs and the provision of certain records to them.

At the hearing of those Applications, I also intend to seek orders for a timetable for the future conduct of the proceedings, including the filing of defences and replies.

I will keep investors updated as to the progress of this claim.

#### **4.4 Other actions against guarantors and valuers**

##### **4.4.1 Various claims against guarantors**

Since my last update to investors I progressed a review of the loan book to ascertain if there are any further claims against guarantors capable of commercial recoveries.

Also proceedings against a guarantor were re-listed and judgement has now been obtained against the guarantor that defaulted on a payment obligation in a deed of settlement entered into with him. If the guarantor fails to pay the judgement, bankruptcy proceedings may then be pursued.

##### **4.4.2 External Valuations**

I refer to my previous reports to investors. I have not at this stage identified any claims that would be commercial to pursue based on my investigations into whether the valuations relied on in advancing loans was too high and if there was negligence by the valuer.

#### **5. Western Union**

Western Union hold funds on account of the FMIF, which represented investor distributions returned due to incorrect account details held.

Western Union sought to set off funds held in the FMIF account against liabilities of other LM related entities, however a confidential commercial settlement has been negotiated. This matter is expected to be finalised shortly.

#### **6. Liquidators of LMIM (FTI Consulting)**

##### **a. Application for remuneration approval**

I refer to my previous updates to investors and summarise the background as follows:

- FTI filed a Further Amended Originating Application on 16 December 2015 for the determination of their remuneration claimed as administrators or liquidators of LMIM in the amount of \$3,098,251.83 for the period from the date of their appointment to 30 September 2015 from assets of the Fund;
- Judgement was reserved;
- FTI had not submitted further details of their additional remuneration and costs claimed after mid December 2015 as they were awaiting the outcome of the judgement noted above.

I summarise developments since my update to investors as follows:

- The Court handed down its reasons for judgment on 17 October 2017. Orders reflecting His Honour's reasons for judgment were made on 22 November 2017 that FTI be paid a total of \$1,827,205.23 plus any GST for remuneration and out of pocket expenses from property of the FMIF for the relevant period. The result is a significant cost saving for the investors as the amount

- to be paid to FTI from property of the FMIF for the relevant period is significantly less than the claimed amount from the property of the FMIF of approximately \$3.1 million (plus GST);
- As to the costs of the proceedings, the court orders provide that certain specified proportions of FTI's costs on an indemnity basis are to be paid from the property of the Fund and 3 other LM funds. The quantum of those costs is to be assessed if they cannot be agreed between FTI and me.

**b. Indemnity claim against the Fund and proof of debt process**

As advised in my previous reports to investors, the orders handed down following the hearing of FTI's application for directions and orders in relation to their ongoing role and extent of their powers and responsibilities to undertake certain duties in the winding up of the FMIF set out, amongst other things, the process for me to adjudicate on claims made by LMIM for indemnity against the property of the FMIF in respect to any expense or liability of, or claim against, LMIM in acting as Responsible Entity of the FMIF.

I refer to my previous updates to investors and summarise the background as follows:

- FTI submitted two indemnity claims for \$241,453.54 and \$375,499.78 against the assets of the Fund;
- The first claim of \$241,453.54 relates to legal costs incurred in relation to the appeal of the decision appointing me as receiver to wind up the Fund. I rejected this claim in full;
- In respect of the second claim, I accepted and paid \$84,954.41 (\$93,449.85 less GST of \$8,495.44) (Accepted Claim), rejected \$169,243.26 and deferred \$5,473.59 pending the judgement to be handed down in relation to FTI's remuneration application. The balance of FTI's claim has been withdrawn;
- FTI made an application to Court challenging my decision to reject their indemnity claim noted above (Indemnity Application);
- I obtained judicial advice to the effect that I am justified in raising the clear accounts rule in opposition to the Indemnity Application, in relation to certain identified claims;
- I caused to be filed a detailed Points of Claim in preparation for the hearing;
- FTI's Indemnity Application challenging my decision to reject FTI's indemnity claim was heard on 19 and 20 June 2017. The Court reserved its decision.

I summarise developments since my update to investors as follows:

- The Court handed down its reasons for judgment on 17 October 2017. His Honour found that the legal costs of the appeal in 8895 of 2013 of \$263,127.13 and costs of assessment of those costs in the sum of \$9,068.68 cannot be paid out of the property of the FMIF, that the Liquidators are entitled to direct indemnity out of the FMIF for various amounts totalling \$44,158, and that the clear accounts rule operates to suspend LMIM's claimed right to payment from the assets of the FMIF until the resolution of the claim made in the proceeding 11560/16 (the LMIM Claim) and that LMIM's indemnity claims, to the extent that they are otherwise maintainable, should not be finally resolved until the LMIM Claim is resolved;



- Orders reflecting His Honour's reasons for judgment were made on 22 November 2017;
- As to the costs of the proceedings, the court orders provide that 90% of FTI's costs of the application be paid on an indemnity basis as agreed with me or otherwise as assessed by the Court;
- In summary, of the total amount sought of \$616,953 under FTI's indemnity claim, only \$129,112 has to be paid from the Fund's assets.

Please note that material filed, decisions and orders made in relation to FTI's remuneration claim and indemnity claim are available on the websites [www.lmfimf.com](http://www.lmfimf.com) and [www.lminvestmentadministration.com](http://www.lminvestmentadministration.com).

**c. Proof of debt process**

If a debt or claim is admitted by FTI in the winding up of LMIM and a claim for indemnity out of the FMIF with respect to such debt or claim is identified, I summarise the process as outlined in the Court Orders as follows:

- FTI must notify me within 14 days of the claim for indemnity against the assets of the Fund;
- Within 14 days I may seek further information in relation to the claim;
- Within 30 days of receipt of the claim from FTI or from receipt of further information I have requested, I am required to:
  - Accept the claim, or
  - Reject the claim, or
  - Accept part of it and reject part of the claim; and
  - To give FTI written notice of the decision;
- I am required to give FTI written reasons for rejecting any part of a claim within 7 days after giving notice of my decision including those claims identified through the proof of debt process mentioned above;
- Within 28 days of receiving a notice of rejection, FTI may apply to the Court for directions in relation to the rejection and advise the creditor of my decision and other specified matters.

I have sought a number of updates from FTI as to when they will be commencing the process. I am hopeful that this process can be undertaken in the near future so the quantum of any creditor claims against the Fund can be ascertained and dealt with as soon as possible. These claims may be subject to the "clear accounts rule" described in section b. above and if so, a set off against that claim may be able to be made.

**d. Claim filed against LMIM**

I refer to my previous report to investors and summarise the background as follows:

- In November 2016, I caused LMIM as RE of the FMIF to commence a proceeding against LMIM in relation to certain transactions to avoid possible expiry of the statutory limitation periods for making the claims;

- This claim alleges that, *inter alia*, LMIM breached its duties to members of the FMIF by:
  - causing to be paid out of assets of the FMIF management fees in advance of it becoming entitled to payment of same;
  - overpaying management fees to itself out of assets of the FMIF;
  - causing to be paid to LMA additional fees purportedly for loan management and controllership services;
  - directing payments to be made by the MPF, purportedly in satisfaction of liabilities owed by the MPF to the FMIF, to be paid to itself as RE of the feeder funds;
- Following further investigations, an amended claim and statement of claim and consolidated particulars have been filed and served on LMIM.

I summarise developments since my previous update to investors as follows:

- Steps have been taken to prepare an application under Section 59 of the Trusts Act for directions of the Court in relation to how the differing interests of the parties (LMIM as RE of the FMIF, and LMIM in its personal capacity) are to be represented in the proceedings and an application under Section 500 of the Corporations Act to seek leave to proceed against LMIM (the Applications) and supporting Affidavits.

Subject to any directions that may be made by the Court, if the claims made in this proceeding are successful, they may be able to be relied upon as a set-off against certain claims made by LMIM for indemnity out of assets of the FMIF, including those claims identified through the proof of debt process mentioned above or claims made by other parties seeking to subrogate to LMIM's alleged rights of indemnity.

I will keep investors updated as to the progress of this claim.

## **7. Management Accounts**

As advised in my previous report, the management accounts for the year ending 30 June 2017 are available on the website [www.lmfimf.com](http://www.lmfimf.com).

The management accounts for the half year ending 31 December 2017 will be prepared shortly and will be available on the website [www.lmfimf.com](http://www.lmfimf.com) by 31 March 2017.

## 8. Investor Information

### 8.1 Estimated Return to Investors

Taking into account the sale price of the remaining property charged to the Fund that settled on 20 December 2017, I provide an estimated return to Investors of between 13.3 cents and 14.5 cents per unit as at 30 November 2017, calculated as follows:

Estimated Return as at 30 November 2017	\$ Low	\$ High
Cash at bank	72,121,468	72,121,468
Other assets (including sale price of remaining property net of selling costs)	1,839,119	3,049,119
<b>Estimated Assets Position</b>	<b>73,960,587</b>	<b>75,170,587</b>
<i>Less:</i>		
Other unsecured creditors (includes FTI costs claimed from remuneration and indemnity applications - per below)	6,939,599	2,160,439
FTI Fees & indemnity costs approved by the Court - refer to Section 6 for further details	1,871,364	1,871,364
Receivers and Managers' fees (DB Receivers)	189,984	189,984
Receiver's fees & outlays (BDO) (including controllerships) approved by the Court but not paid (1 May to 31 October 2017)	1,257,531	1,257,531
Receiver's fees & outlays (BDO) (including controllerships) for the month of November 2017	250,806	250,806
<b>Total Liabilities</b>	<b>10,509,283</b>	<b>5,730,123</b>
<b>Estimated net amount available to investors as at 30 November 2017</b>	<b>63,451,304</b>	<b>69,440,464</b>
Total investor units	478,100,386	478,100,386
<b>Estimated return in the dollar</b>	<b>13.3 cents</b>	<b>14.5 cents</b>

Please note that this estimate and prior estimates do not take into account future operating costs and future Receiver's fees or any legal recoveries against borrowers, valuers or other third parties including the claim and relief now sought against the Feeder Funds.

In calculating the estimated return to investors, I have also not provided any provision for the claim filed by the MPF as the prospects of a successful claim against the Fund is unknown.

### Investments made in Foreign Currencies

As advised in my previous reports, investigations undertaken by BDO have identified that the number of units held by investors who invested in foreign currencies appears to be incorrectly recorded in the membership records of the FMIF. It appears that when LMIM transferred the member records of the FMIF to a new database in 2010 the number of units of investors who invested in a foreign currency were incorrectly recorded in the new database, by allocating to the investors concerned one unit in the FMIF for each unit of foreign currency invested, rather than one unit in the FMIF for each \$1AUD invested (after the foreign currency amount invested had been converted to AUD at the applicable exchange rate) in accordance with the PDS and Constitution.

Further investigations are ongoing and appropriate steps, including an application to Court for directions approving the correction of the member records of the FMIF, will be taken to address the issue and to ensure that the member records of the FMIF are accurate. I have engaged external IT consultants to assist me in rectifying the register.

### 8.2 Distributions to Investors

I will update investors as to the expected timing of a distribution as these matters become clearer, however, I am working towards being in a position to commence distributions as soon as practicable, although it is subject to resolving matters before the court where I cannot necessarily control the timeframe to resolve the issues.

The matters before the court which need to be resolved prior to a distribution to investors are:

- the Bellpac litigation claim against the directors, MPF and LMIM and the MPF's claims against the Fund (see sections 2.1 and 2.3 above). These proceedings have not settled and I am now taking further steps to progress the matter to a trial;
- the recent claim served on the Feeder Funds seeking declarations that any distribution to the Feeder Funds be withheld (see section 4.3.1 above);
- obtaining directions from the Court for approval to proceed with a distribution and the retirement of the DB Receivers so that the funds of the FMIF held by them are released to me.

Please note that a distribution to investors will take place after paying DB's receivers fees and costs, remaining property expenses, receiver's fees and costs and the unsecured creditors who rank ahead of investors' interests.

### 8.3 Ongoing Reporting to Investors

Reports will be distributed to investors in accordance with the preferred method of correspondence recorded for each investor in the Fund's database. In order to assist in reducing distribution costs, it would be appreciated if investors could nominate an email address as their preferred method to receive correspondence. Investors may update their details as outlined in Section 8.4 below. For those investors that do not have an email address, correspondence will continue to be sent to you via post.

My next report to investors will be issued by 31 March 2018.

### 8.4 Investors Queries

For any changes to investors details, please review the Useful Forms/Procedures tab on the website [www.lmfimf.com](http://www.lmfimf.com) which includes information regarding the following procedures:



- Change of Contact Address/Bank Account Details
- Change of Contact Address/Bank Accounts Details of a Deceased Estate
- Change of Trustee of Self-Managed Super Fund
- Transfer of Unit Holding from a Super Fund/ Trustee Company to Personal Name(s)
- Transfer of Unit Holding from a Deceased Estate to a Sole Survivor
- Transfer from a Deceased Estate to a Beneficiary of an Estate

It is a requirement that advisors or other third parties acting on behalf of Unit Holders are doing so pursuant to a relevant Authority/Power of Attorney. Please ensure that a relevant Authority/Power of Attorney accompanies the abovementioned documents as necessary (if an Authority/Power of Attorney has not previously been provided).

It is preferable that all questions about the winding up, or communications are sent via email to [enquiries@lmfmif.com](mailto:enquiries@lmfmif.com) with original documents to be mailed as required to:

BDO  
GPO Box 457  
Brisbane QLD 4001  
Phone: +61 7 3237 5999  
Fax: +61 7 3221 9227

## 9. Receiver's Remuneration and Expenses

There have been eight applications to Court to date to approve my remuneration from the date of my appointment on 8 August 2013 until 31 October 2017.

The eighth application for the approval of my remuneration for the period 1 May 2017 to 31 October 2017 was heard on 30 November 2017. The Court ordered that my remuneration for this period be fixed in the amount of \$1,280,897.20 (inclusive of GST). In addition, the Court approved my remuneration sought of \$26,155.25 (inclusive of GST) in respect of the work undertaken on the controllerships.

A copy of all documentation in relation to my applications can be found on the website [www.lmfmif.com](http://www.lmfmif.com).

In addition to the remuneration approved by the Court, I calculate that, on a time basis, I have incurred further remuneration of \$230,740 plus outlays of \$3,774.56 plus GST from 1 November 2017 to 30 November 2017 plus work undertaken in respect of the controllerships for the retirement village assets of \$5,834.50 plus GST as detailed in the table below and attached summaries.

Remuneration Incurred for November 2017	Remuneration \$ (GST excl.)	Outlays \$ (GST excl.)
LM First Mortgage Income Fund (Receivers & Managers Appointed) (Receiver Appointed)	230,740.00	3,774.56
OVST Pty Ltd (In Liquidation) (Controllers Appointed)	3,977.00	-

Pinevale Villas Morayfield Pty Ltd (In Liquidation) (Controllers Appointed)	272.00	-
Bridgewater Lake Estate Ltd (In Liquidation) (Controllers Appointed)	887.50	-
Cameo Estates Lifestyle Villages (Launceston) Pty Ltd (Controllers Appointed)	116.00	-
Redland Bay Leisure Life Ltd (In Liquidation) (Controllers Appointed)	291.00	-
Redland Bay Leisure Life Development Ltd (In Liquidation) (Controllers Appointed)	291.00	-
<b>Total</b>	<b>236,574.50</b>	<b>3,774.56</b>

The key matters addressed during the period, were:

- Work undertaken in relation to the litigation matters detailed at Sections 2, 4 and 6 of this report, which include, among other things:
  - Progressing the claim against the former auditors regarding the financial statements and compliance plan audits. The majority of the work undertaken was to comply with the court's decision on the former auditors' strike out application including, amending the claim to include details of the quantification of the loss suffered by the Fund and preparing loss calculations for each six month period from 1 July 2009 to 1 January 2013;
  - Providing assistance to the Liquidator of Bellpac regarding the \$8M bond claim including progressing the settlement with WCL;
  - Progressing the claim against the MPF and others;
  - Progressing the claim against the Feeder Funds in relation to redemptions and distributions paid to Class B unitholders;
  - Progressing claims against guarantors;
  - Dealing with FTI's proceedings to review the rejection of parts of their claims for indemnity against the assets of the Fund for expenses and costs incurred in their capacity as liquidators of the responsible entity;
  - Progressing the claim against LMIM;
- Liaising with various parties in relation to the potential for the DB Receiver's retirement;
- Finalising the Western Union matter;
- Maintaining the management accounts of the Fund;
- Undertaking the investor management function for approximately 4,500 investors including answering queries on the winding up of the Fund and maintaining the investment database, including any change in details or transfer of units;
- Progressing the investigation of the AX files to determine the alternatives to resolving the incorrect conversion of foreign investors units into AX;

- Preparing affidavit and supporting material for an application to Court for approval of the receiver's remuneration for the period 1 May 2017 to 31 October 2017;
- Finalising outstanding residual matters from the sale of five retirement villages, including tax compliance issues.

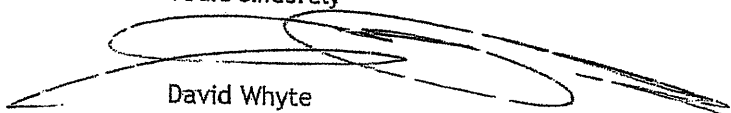
I anticipate that my next application to Court for the approval of my remuneration will be made in May/June 2018 covering the period 1 November 2017 to 30 April 2018. A copy of my application in this respect will be posted to the website [www.lmfmf.com](http://www.lmfmf.com) and investors will be notified when this application has been lodged.

### 10. Queries

Should unit holders wish to advise of any changes in details or require further information, please contact BDO as follows:

BDO  
GPO Box 457  
Brisbane QLD 4001  
Phone: +61 7 3237 5999  
Fax: +61 7 3221 9227  
Email: [enquiries@lmfmif.com](mailto:enquiries@lmfmif.com)

Yours sincerely



David Whyte  
Receiver



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REMUNERATION REPORT - Summary of professional fees by category of work for the period 1 November 2017 to 30 November 2017  
 LM First Mortgage Income Fund (Receivers & Managers Appointed)

EMPLOYEE	POSITION	RATE		ASSETS		LIABILITIES		CREDITS		DEBITS		TASIS FEES		INVESTMENTS		CALCULATION			
		Rate	hrs	hrs	\$	hrs	\$	hrs	\$	hrs	\$	hrs	\$	hrs	\$	hrs	\$	hrs	\$
Clark Jarrold	Partner	580	31.1	18,038.00	31.1	18,038.00	2.7	1,566.00	7.6	4,408.00	26.4	15,312.00							
David Whyte	Partner	580	49.3	28,594.00	12.6	7,308.00	13.1	7,336.00	13.1	7,336.00									
Mark Whitaker	Partner	560	16.7	9,352.00	3.6	2,016.00													
Craig Jenkins	Partner	500	11.8	5,900.00	11.8	5,900.00	11.1	5,494.50	50.7	25,096.50	0.2	99.00							
Eric Leeuwendaal	Executive Director	495	150.5	74,497.50	78.6	38,907.00													
Chris Demeyere	Manager	430	6.6	2,838.00	6.6	2,838.00													
Julie Pagcu	Senior Manager	385	24.4	9,394.00	24.4	9,394.00													
Ainsley Watt	Senior Accountant I	350	92.4	32,340.00	6.3	2,205.00	65.2	22,820.00	7.7	2,695.00	11.2	3,920.00							
Andrew Hack	Analyst I	225	2.4	540.00	2.4	540.00													
Andrew Whitaker	Accountant II	215	52.3	11,244.50	3.9	882.50	49.4	10,621.00	0.8	140.00	0.4	86.00							
Ryan Whyte	Undergraduate	175	120.5	21,087.50	3.9	682.50	87.1	15,242.50	1.0	175.00	19.0	3,325.00							
Antoinette Fielding	Undergraduate	175	53.2	9,310.00	5.5	962.50	49.0	8,575.00			3.2	560.00							
George Lethbridge	Undergraduate	175	37.1	6,492.50	0.4	48.00	28.5	4,987.50			0.7	122.50							
Emma Sheehy	Junior Practice Assistan	120	0.4	48.00															
Mofra Hattighh	Team Assistant	95	11.2	1,064.00	0.4	48.00													
<b>TOTALS</b>			<b>659.9</b>	<b>230,740.00</b>	<b>187.7</b>	<b>88,559.00</b>	<b>298.0</b>	<b>69,306.50</b>	<b>60.9</b>	<b>30,050.50</b>	<b>25.6</b>	<b>1,064.00</b>							
			<b>GST</b>	<b>23,074.00</b>															
			<b>TOTAL INC GST</b>	<b>253,814.00</b>															
			<b>AVERAGE HOURLY RATE</b>	<b>159</b>				<b>237</b>											

Note: All amounts exclude GST unless otherwise noted





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Disbursements for the period 1 November 2017 to 30 November 2017

LM First Mortgage Income Fund (Receivers & Managers Appointed)

Expense Type	Amount (5 ex GST)
Postage	3,106.22
Printing	325.20
<b>TOTAL</b>	<b>3,431.42</b>
<b>GST</b>	<b>343.14</b>
<b>TOTAL INC GST</b>	<b>3,774.56</b>



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**REMUNERATION REPORT - Summary of professional fees by category of work for the period 1 November 2017 to 30 November 2017**  
**Bridgewater Lake Estate Pty Ltd (Receivers & Managers Appointed)**

Employee	Position	Rate	Totals		Trade On		Task Fees	
			hrs	\$	hrs	\$	hrs	\$
Eric Leeuwendal	Executive Director	495	0.8	396.00	0.8	396.00		
Ainsley Watt	Senior Accountant I	350	1.1	385.00	0.2	70.00		0.9
Ryan Whyte	Undergraduate	175	0.5	87.50				0.5
Maira Hattingh	Team Assistant	95	0.2	19.00				0.2
<b>TOTALS</b>			<b>2.6</b>	<b>867.50</b>	<b>1.0</b>	<b>466.00</b>		<b>1.6</b>
			<b>GST</b>	<b>68.75</b>				
			<b>TOTAL INC GST</b>	<b>936.25</b>				
			<b>AVERAGE HOURLY RATE</b>	<b>341</b>	<b>466</b>			

Note: All amounts exclude GST unless otherwise noted



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**REMUNERATION REPORT - Summary of professional fees by category of work for the period 1 November 2017 to 30 November 2017**  
**Cameo Estates Lifestyle Villages (Launceston) Pty Ltd (Receivers & Managers Appointed)**

Employee	Position	Rate	Hrs	Total	
				\$	hrs
Ryan Whyte	Undergraduate	175	0.5	87.50	0.5
Maira Hattingh	Team Assistant	95	0.3	28.50	0.3
<b>TOTALS</b>			<b>0.8</b>	<b>116.00</b>	<b>0.8</b>
				GST	11.60
				<b>TOTAL INC GST</b>	<b>127.60</b>
				<b>AVERAGE HOURLY RATE</b>	<b>157.25</b>

Note: All amounts exclude GST unless otherwise noted



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REMUNERATION REPORT - Summary of professional fees by category for the period 1 November 2017 to 30 November 2017  
 Pinevale Villas Morayfield Pty Ltd (Receivers & Managers Appointed)

Employee	Position	Rate	hrs	\$	Total	Task Area
Ainsley Watt	Senior Accountant I	350	0.5	175.00	175.00	Administration
Ryan Whyte	Undergraduate	175	0.5	87.50	87.50	Administration
Maira Hattingh	Team Assistant	95	0.1	9.50	9.50	Administration
TOTALS			1.1	272.00	272.00	
			GST	27.20		
			TOTAL INC GST	299.20		
			AVERAGE HOURLY RATE	247		

Note: All amounts exclude GST unless otherwise noted



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REMUNERATION REPORT - Summary of professional fees by category of work for the period 1 November 2017 to 30 November 2017  
 OVST Pty Ltd (Receivers & Managers Appointed)

Employee	Position	Rate	Totals		Assets		Creditors		Task Area		Trade Off		Administration	
			hrs	\$	hrs	\$	hrs	\$	hrs	\$	hrs	\$	hrs	\$
Leisa Rafter	Partner	680	0.3	204.00								0.3	204.00	
Eric Leeuwendal	Executive Director	495	0.9	445.50								0.9	445.50	
Samuel Alexander	Manager	450	1.7	765.00								1.7	765.00	
Ainsley Watt	Senior Accountant I	350	2.5	875.00								1.4	490.00	0.5
Reuben Tham	Consultant I	240	6.1	1,464.00								6.1	1,464.00	
Sarah Cunningham	Team Assistant	215	0.4	86.00										0.4
Ryan Whyte	Undergraduate	175	0.7	122.50										0.7
Sarah Matthews	Team Assistant	150	0.1	15.00								0.1	15.00	
<b>TOTALS</b>			<b>12.7</b>	<b>3,977.00</b>	<b>0.4</b>	<b>140.00</b>	<b>0.2</b>	<b>70.00</b>	<b>10.5</b>	<b>3,183.50</b>	<b>10.5</b>	<b>3,183.50</b>	<b>10.5</b>	<b>3,183.50</b>
<b>TOTALS</b>			<b>12.7</b>	<b>3,977.00</b>	<b>0.4</b>	<b>140.00</b>	<b>0.2</b>	<b>70.00</b>	<b>10.5</b>	<b>3,183.50</b>	<b>10.5</b>	<b>3,183.50</b>	<b>10.5</b>	<b>3,183.50</b>
<b>TOTALING GST</b>														
<b>AVERAGE HOURLY RATE</b>														

Note: All amounts exclude GST unless otherwise noted



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**REMUNERATION REPORT - Summary of professional fees by category of work for the period 1 November 2017 to 30 November 2017**  
**Redland Bay Leisure Life Pty Ltd (Receivers & Managers Appointed)**

EMPLOYEE	Position	Rate	Totals		Task Area	
			Hrs	\$	Administration	Hrs
Ainsley Watt	Senior Accountant I	350	0.5	175.00	0.5	175.00
Ryan Whyte	Undergraduate	175	0.5	87.50	0.5	87.50
Moira Hattingh	Team Assistant	95	0.3	28.50	0.3	28.50
<b>TOTALS</b>			1.3	291.00	1.3	291.00
			GST	29.10		
			<b>TOTAL INC GST</b>	320.10		
			<b>AVERAGE HOURLY RATE</b>	224		224

Note: All amounts exclude GST unless otherwise noted



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REMUNERATION REPORT - Summary of professional fees by category of work for the period 1 November 2017 to 30 November 2017

Redland Bay Leisure Life Development Pty Ltd (Receivers & Managers Appointed)

Employee	Position	Rate	hrs	Totals		Task Area	
				\$	hrs	Administration	Other
Ainsley Watt	Senior Accountant I	350	0.5	175.00	0.5	175.00	
Ryan Whyte	Undergraduate	175	0.5	87.50	0.5	87.50	
Maira Hattirgh	Team Assistant	95	0.3	28.50	0.3	28.50	
<b>TOTALS</b>				<b>291.00</b>	<b>1.3</b>	<b>291.00</b>	<b>291.00</b>
				<b>28.10</b>	<b>GST</b>	<b>28.10</b>	
				<b>320.10</b>	<b>TOTAL INC GST</b>	<b>320.10</b>	
				<b>224</b>	<b>AVERAGE HOURLY RATE</b>	<b>224</b>	

Note: All amounts exclude GST unless otherwise noted

TO THE INVESTOR AS ADDRESSED

29 March 2018

**LM FIRST MORTGAGE INCOME FUND (RECEIVERS AND MANAGERS APPOINTED) (RECEIVER APPOINTED)**  
**ARSN 089 343 288 ('the Fund' or 'FMIF')**

I refer to my appointment as the Receiver of the Fund's assets and the person responsible for ensuring the winding up of the Fund in accordance with the terms of its constitution by Order of the Supreme Court of Queensland on 8 August 2013.

I now provide my 21<sup>st</sup> update to investors. This report is prepared in accordance with the Exemption granted by the Australian Securities and Investments Commission (ASIC Exemption) in relation to financial reporting obligations of the Fund. In this regard, the ASIC Exemption requires a report to be made available to investors for each period of six months starting on 1 January 2016, which includes the following information:

- (i) Information about the progress and status of the winding up of the Fund, including details of:
  - A. The actions taken during the period;
  - B. The actions required to complete the winding up;
  - C. The actions proposed to be taken in the next 12 months; and
  - D. The expected time to complete the winding up.
- (ii) The financial position of the Fund as at the last day of the relevant period (based on available information);
- (iii) Financial information about receipts (and payments) of the Fund during the period; and
- (iv) The following information at the end of the period:
  - A. The value of the Fund's property; and
  - B. The potential return to investors.

This report covers, inter alia, the period 1 July 2017 to 31 December 2017 (the Period). On 15 March 2018 ASIC extended the exemption on financial reporting obligations of the Fund until 16 March 2020. A copy of the exemption (relief instrument) is available for viewing at [www.lmfimf.com](http://www.lmfimf.com)





## **1. Progress and Status of the Winding Up**

### **1.1 Position of the Secured Creditor, the potential claim by KordaMentha, the trustee of the LM Managed Performance Fund ('MPF') and claims filed against the Fund**

#### **1.1.1 Proceedings by the Trustee of the MPF against LMIM and the Fund**

##### **1.1.1.1 Assigned Loans Claims**

I refer to my previous updates to investors in relation to these proceedings, in which the Trustee of the MPF is the plaintiff, and the defendants are LMIM, and myself as Receiver of the property of the FMIF.

The relief claimed by the Trustee of the MPF (MPF) in these proceedings includes equitable compensation against LMIM and claims against assets of the FMIF in the total sum of about \$24.1 million plus interest.

At the review hearing on 16 December 2016, the proceedings were adjourned to a date to be fixed as the parties wished to continue negotiations to settle the litigation in conjunction with the proceedings in both sections 1.1.1.2 and 1.1.2 below. However, given that the proceedings have not settled, I intend to take steps to progress the matter. In this regard, I have written to the MPF seeking an update on whether the MPF intend to proceed with the proceedings and if so, an approach will be made to the court to have the matter listed for a review hearing to set a timetable for the prosecution of the proceedings. I have not received a response to date.

##### **1.1.1.2 AIIS Loan Claim**

I refer to my previous updates to investors in relation to this proceeding in which the Trustee of the MPF is the plaintiff, and LMIM is the defendant.

The MPF Trustee has claimed approximately \$16.82 million as equitable compensation against LMIM and relief against the assets of the FMIF for approximately \$3.9 million (this may be increased to \$4.1 million) being alleged interest paid by the MPF to the FMIF in respect of the loan made by the FMIF to AIIS in 2005.

As with the proceedings in 1.1.1.1 above, these proceedings had also not progressed as negotiations to settle these proceedings were continuing. However, given the matters have not settled, I intend to take steps to progress the matter. However, as no step in the proceeding has been made by MPF for 12 months, the MPF is required to give one month's notice before taking any further steps in the proceeding.

##### **1.1.1.3 Position of the Secured Creditor**

I refer to my comments in my previous updates to investors. The DB Receivers have advised the matter precluding their retirement is that prior to retiring, they request the provision of a release by the MPF Trustee, with respect to various claims that the MPF Trustee has made or foreshadowed.

I continue to liaise with the DB Receivers about their ongoing role and the possibility of their retirement. Given that the DB Receivers have sold the remaining property held as security for a FMIF loan and they will retire as controllers of that property shortly, I will again be pursuing the retirement of the DB Receivers' as soon as possible.

#### **1.1.2 Proceedings against the MPF, LMIM and the Directors of LMIM**

I refer to my previous updates to investors in relation to a statement of claim I caused to be filed in the Supreme Court of Queensland, against a number of parties, including the MPF Trustee, in respect of loss allegedly suffered by the FMIF as a result of an amount paid to MPF in the Bellpac litigation matter. The claim is for \$15.5M plus interest.

Whilst attempts to settle the proceedings had been continuing in relation to these proceedings and those proceedings referred to in section 1.1.1 above, I continued to take steps to progress the proceedings including:

- Requiring the director defendants to file amended defences pursuant to the Court rules. As at 31 December 2017, all director defendants, except for Peter Drake, had filed amended defences;
- I have filed Replies to the amended defences received and made requests for further particulars which have all now been responded to;
- Obtaining orders enabling me to disclose for the purposes of these proceedings relevant transcripts obtained during the public examinations and documents produced for the public examinations by the former auditors.

As previously advised, the proceedings have not settled. As settlement discussions did not resolve the proceedings, I am now taking further steps to progress these proceedings to a trial. A review hearing was held on 14 March 2018 and orders were made setting a timetable for the next steps in the proceedings including the following:

- the 1<sup>st</sup> director defendant (being Peter Drake) has now filed his amended defence;
- by 29 March 2018, I am to file and serve any reply to the further amended defences of the 3<sup>rd</sup> and 4<sup>th</sup> defendants which were received on 12 March 2018;
- by 6 April 2018, I am to file and serve any reply to the amended defence of the 1st defendant;
- by 20 April 2018, I am to file and serve any reply to the amended defences of the 2nd, 6th and 8th defendants (which amended defences are to be filed by 6 April 2018);
- by 20 April 2018, I am to deliver any further disclosure (with all parties required to exchange disclosure on this date);
- various orders in relation to preparation of and producing document bundles for trial and production of any expert report are to be completed by mid-May 2018;
- the next review hearing date is set for 16 August 2018.

As the proceedings are ongoing, an update will be provided to investors in relation to this matter in my next report.

## 1.2 Legal Actions/Potential Recoveries

I provide an update in relation to other legal proceedings on foot and further work to be done, as follows:

### 1.2.1 Claim against the former auditors

I refer to my previous updates to investors and briefly summarise the background as follows:

- A public examination (PE) of the former auditors and certain directors and former directors (Directors) of LM Investment Management Limited (In Liquidation) was conducted in 2015;
- Following the PEs, a further amended statement of claim was filed by me and served on the former auditors of the Fund on 14 April 2016;
- The former auditors lodged and served on me a strike-out application and supporting affidavit on 27 April 2016 seeking orders to strike-out certain parts of the statement of claim;
- At the hearing of the former auditors' strike out application, the Court granted my application and placed the proceedings on the commercial list and reserved its decision on the auditor's strike out application;
- The reserved decision from the hearing of the strike out application was handed down on 8 May 2017. Orders were made that the statement of claim be amended to delete certain causes of action and to include details of the quantification of loss;
- In accordance with the Court's judgment, the parties were required to agree the form of orders including a timetable for the filing of a further amended statement of claim and the costs of the former auditors' strike-out application;
- The amended statement of claim was filed on 20 November 2017 and served on the former auditors. Details of the loss has been included in the amended statement of claim which has been calculated (at its highest) in excess of \$200 million. A significant amount of work has been undertaken in this regard, including quantifying the loss at 6 monthly hypothetical winding up dates between 1 July 2009 and 1 January 2013 being the estimated additional costs and expenses incurred by the Fund as a consequence of the alleged delay in winding up the Fund;
- I have received a number of requests pursuant to Rule 222 of the Court Rules (Rules) from the former auditors to provide documents referred to in the amended statement of claim which requests have been responded to.

I summarise developments since my last update to investors as follows:

- All of the documents requested in accordance with Rule 222 have now been provided to the former auditors.

The next steps in the proceedings are expected to include the following:

- seeking leave from the court to amend the claim and directions from the Court to progress the claim;
- dealing with any request from the former auditors for further and better particulars; and

- the filing by the former auditors of a defence to the amended claim.

The proceedings are ongoing and an update will be provided to investors in relation to this matter in my next report.

### 1.2.2 Bellpac Proceedings

In addition to the claim filed and served against the MPF in relation to a loss suffered by the Fund from litigation pertaining to the Bellpac loan noted at 1.1.2 above, there is another matter relating to Bellpac that has been progressed during the Period, as detailed below.

#### Wollongong Coal Ltd (WCL) - \$10 million Convertible Bonds

I refer to my previous updates to investors and provide a brief summary as follows:

- The liquidator of Bellpac has received the settlement amount of \$2 million from WCL in relation to the claim for redemption of the \$2 million Bonds held in WCL;
- The Bellpac liquidator applied for the conversion of the remaining \$8 million Bonds to shares. As WCL did not issue all of the shares as required under the terms of the Bonds, the Bellpac Liquidator brought proceedings against WCL;
- The Bellpac liquidator and WCL entered into a binding heads of agreement (HOA) to settle the litigation commenced against WCL. The terms of the heads of agreement include that WCL will pay to Bellpac a settlement sum of \$6.3 million in return for certain releases and Bellpac returning or cancelling the WCL shares issued to Bellpac;
- A final condition precedent to the settlement with WCL has been delayed as WCL is now required to seek shareholder approval however, certain documents needed to support the proposal to shareholders has taken longer than expected;
- The remaining condition precedent (Sunset Date) to the settlement with WCL had been extended to March 2018 and the Liquidator was successful in negotiating as part of the agreement to extend the Sunset Date that WCL pay interest at 3% p.a. from 2 October 2017 until settlement. This is expected to realise \$6.3 million plus interest from 2 October 2017 for the benefit of investors;
- The MPF has demanded from the Liquidator approximately \$680K plus interest out of the proceeds of the Bonds litigation for repayment of funding the MPF allegedly made for the Bonds litigation from late 2010 to early 2013. The MPF has also reserved its rights in relation to claiming 35% of the funds realised from the successful Bonds proceedings. I have disputed the MPF's entitlement to a priority ahead of the Fund's first ranking security over the proceeds from the Bellpac bonds;
- Although there has been correspondence between the parties, no resolution has been reached in respect of the MPF claim to the proceeds of the bonds.

Developments since my last update to investors is as follows:

- The Bellpac liquidator received an update from WCL on additional time required to obtain and prepare documentation for shareholders for the meeting of shareholders to approve the