

**TO THE INVESTOR AS ADDRESSED**

30 September 2019

**LM FIRST MORTGAGE INCOME FUND (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 27<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 2019 to 30 June 2019 (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.lmfimif.com](http://www.lmfimif.com).

## 1. Executive Summary

There has been significant progress made in the winding up of the FMIF in the following respects:

- Following the retirement of the Deutsche Bank receivers on 10 December 2018, I applied to Court on 1 February 2019 seeking authority to make an interim distribution to investors and seeking declarations as to the proper method of calculating the entitlements of foreign currency investors. The application was heard on 13 March 2019 and **judgment is reserved** (refer to section 5.2);
- The Feeder Funds claim was successfully mediated, and a Deed of Settlement signed by all parties. I applied to Court on 1 February 2019 seeking judicial advice on the settlement which was heard on 2 and 3 May 2019. The application was approved by the Court on 22 May 2019 (refer to section 2.1.4);
- The trial of the proceedings against LMIM, certain directors of LMIM and the MPF was heard between 1 and 9 April 2019 **with the decision reserved** (refer to section 2.1.1);
- The parties to the claim against the former auditors participated in a mediation on 4 and 5 March 2019. No resolution was reached at the mediation and the matter will now progress to trial. A hearing for directions on this matter was heard on 13 June 2019 including a Leave Application **with the decision reserved** (refer to section 2.1.2).

A summary of the other matters covered in this report is as follows:

- Cash at bank as at 30 June 2019 was \$63.94 million;
- The estimated return to investors at 30 June 2019 is 12.6 cents per unit before taking into account future costs and recoveries from legal proceedings on foot;
- For the settlement of the Bellpac Liquidator's \$8M Bonds litigation, discussions are currently ongoing in relation to extending the Sunset Date for complying with the remaining condition precedent beyond 31 March 2019 and the terms to apply to the same (refer to section 2.1.3);
- A Second Remuneration Application filed on 17 July 2018 by FTI sought \$743,889.89 from the property of the FMIF. I opposed certain parts of the application. The application was heard on 6 September 2018 and 3 October 2018, and **judgement was reserved** (refer to section 2.1.6.2);
- FTI may have a further claim against the Fund for expenses (refer to section 2.1.6.4);
- An application was filed on 10 October 2018 by FTI seeking directions in relation to the dual appointments of Mr Park (FTI) and myself in relation to the winding up the FMIF. The application was heard on 10 December 2018 and **judgement has been reserved** (refer to section 2.1.6.5).

As you will see from the above there are currently five decisions awaited from the Court that are causing delays in the winding up of the Fund and including allowing me to pay the 6.5 cents distribution to investors. I have been advised today that judgement will be handed down on 2 October 2019 in relation to FTI's remuneration application, FTI's application relating to the dual appointments and my application to pay the interim distribution.

## 2. Progress and Status of the Winding Up

### 2.1 Legal Actions/Potential Recoveries

#### 2.1.1 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 and a

number of directors of LMIM, in respect of loss allegedly suffered by the FMIF as a result of an amount paid to the MPF in the Bellpac litigation matter. The claim is for approximately \$15.5M plus interest.

In accordance with Court directions the proceedings were set down for a two week trial from 1 April 2019.

Prior to the trial, an agreement was reached with the MPF in order to settle the claim as against the MPF Trustee, as well as other claims between the FMIF and the MPF Trustee. The terms of that agreement (which are confidential) have now been completed and as a consequence, orders were made on 27 March 2019 that the plaintiff have leave to discontinue the proceeding as against the MPF Trustee, and that as between the Plaintiff and the MPF Trustee, there be no order as to costs.

The trial otherwise proceeded on 1 April 2019 as against the director defendants and was heard over 5 days from 1 April 2019 to 9 April 2019 (with the matter not sitting on 4 or 5 April 2019). The Judge reserved his decision and we are awaiting Judgment.

An update will be provided in the next report.

### 2.1.2 Claim against the former auditors (EY Proceeding)

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

- The proceedings were reviewed by the Court on 18 March 2019 and orders were made for:
  - The plaintiff to deliver any further and better particulars of the Sixth Further Amended Statement of Claim (the **6FASOC**) by 29 March 2019;
  - The defendants to advise by 12 April 2019 whether they consent to leave being granted to the plaintiff for the 6FASOC to be filed, and if not, the parties liaise to have the matter re-listed for a hearing regarding leave to file the 6FASOC;
  - The defendants file and serve their defence or defences to the 6FASOC by 31 May 2019;
  - The matter be listed for further review on a date to be fixed during the week commencing 10 June 2019.
- On 12 April 2019, the defendants advised they did not oppose the plaintiff filing the 6FASOC.
- The 6FASOC was filed on 15 April 2019.
- Subsequent orders were made by the Court timetabling the ongoing conduct of the Proceedings.
- In accordance with these orders:
  - on 10 June 2019 the defendants applied to be excused from certain pleading requirements under the Court rules in relation to their defence on the basis of a claim for privilege (**Relief Application**);
  - on 21 June 2019, the defendants applied for leave to proceed against LMIM under section 500 of the *Corporations Act 2001* (Cth) (**Leave Application**); and
  - on 21 June 2019, I applied to be joined to the proceedings constituted by the Third Party Notice filed by the defendants (**Representation Application**).

Each of the Relief Application, the Leave Application and the Representation Application were heard by the Supreme Court on 26 July 2019.

In respect of the Relief Application, an amended application was filed by the defendants and orders have now been made by the Court timetabling the delivery of the defendants' defence, and the challenge to any claim for privilege which is made by the defendants in that defence. The defendants defence was received on 21 September 2019.

In respect of the Leave Application, judgment has been reserved.

The Representation Application has been adjourned to a date to be fixed.

The proceedings are ongoing and an update will be provided in the next report.

### **2.1.3 Bellpac Proceedings - Wollongong Coal Ltd (WCL)**

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.

Since my last update to investors the remaining condition precedent (Sunset Date) to the settlement with WCL has been extended several times and the Liquidator was successful in negotiating, as part of the agreement to extend the Sunset Date, that WCL will pay interest at 3% p.a. from 2 October 2017 until settlement. The Liquidator last entered into a further agreement with WCL, extending the sunset date to satisfy the conditions precedent to 31 March 2019. To date WCL has paid \$2.5M towards the settlement into their solicitors' trust account, which is to be released upon receiving shareholder approval of the settlement. Discussions are ongoing in relation to extending the Sunset Date beyond 31 March 2019 and the terms to apply to same. To date no further extensions have been granted and no further payments have been made by WCL into their solicitors' trust account.

A further update will be provided in the next report.

### **2.1.4 Redemptions and Distributions paid to Class B Unit Holders (Feeder Funds)**

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 (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 claim is for declarations that the FMIF is entitled to withhold from distributions or payments otherwise payable to the Feeder Funds an amount in excess of \$55 million (for redemptions paid to the Feeder Funds when the FMIF suspended redemptions to all other investors, apart from genuine approved hardship cases), as adjusted for the amount which the Feeder Funds would otherwise have been entitled as pleaded in the statement of claim. The claim seeks a declaration cancelling approximately 35 million units issued to the Feeder Funds (which were a consequence of re-investment of distributions made to the Feeder Funds) which were issued after the FMIF suspended distributions to other investors.
- The Feeder Funds claim was successfully mediated on 5, 6 and 20 November 2018, and a Deed of Settlement, subject to several conditions precedent, was executed by all parties in December 2018.
- The terms of the deed are confidential and were subject to several conditions precedent, including:
  - Myself, Mr Jahani, Trilogy Funds Management Limited (“Trilogy”) and the Trust Company Limited were each to apply for, and obtain judicial advice to the effect that the relevant party making the application is justified in entering into and performing the deed (**Judicial Advice Application**). Each party was obliged to apply for such judicial advice by 1 February 2019 and to use best endeavours to have the application heard by 15 March 2019;
  - orders are made giving authority for an interim distribution to be made to FMIF members (**Authority Application**). I was obliged to make this application by 1 February 2019 and use my best endeavours to have it heard by 15 March 2019;
  - The interim distribution is to be made within three weeks of the Court delivering judgment in relation to the Authority Application.
- The above parties filed their Judicial Advice Application and I filed the Distribution Application. The Judicial Advice Applications were heard by the Court on 2 and 3 May 2019 and the Distribution Application was heard on 13 March 2019.
- The Court subsequently handed down its decision in respect of the Judicial Advice Application and on 22 May 2019 the Court directed that:
  - I am, along with the other parties, justified in entering into and performing the terms of the I Deed of Settlement and Release, and
  - I am justified in making an interim distribution to the members of the FMIF, if I am conferred with this authority in the Authority Application.

I am awaiting the decision as to whether I am conferred with the authority to make an interim distribution. If I am given that authority, I will make a distribution of 6.5 cents in the dollar within 21 days of the decision being handed down.

The financial impact of the settlement if it proceeds, which is subject to satisfaction of all of the conditions precedent, is as follows:

- The claims totalling approximately \$56M are settled for total amounts of up to \$28M by withholding distributions to the three feeder funds. For the first \$66M of distributions to investors, 40% of the amount due to the CPAIF and the ICPAIF will be withheld and 11.6% will be withheld from the WFMIF;
- For the next \$60M of distributions (if achieved), 56%, 100% and 20.8% of distributions will be withheld from the CPAIF, ICPAIF and WFMIF respectively.

A further update will be provided in the next report.

#### **2.1.5 Claims against guarantors**

There are only two remaining matters, that can be summarised, as follows:

- A deed of settlement has been entered into with a guarantor for \$100,000 payable over the period to 1 November 2019 with \$42,000 paid to date. A revised payment plan was negotiated with the balance of \$58,000 due to be received by 1 July 2020.
- PTAL as custodian of the FMIF obtained judgment against a guarantor, for approximately \$3 million, plus interest and costs. The trustee in bankruptcy has identified potential recoveries for the benefit of creditors of which the Fund is a major creditor. I continue to liaise with the trustee in regard to his continuing investigations. The bankrupt, along with other parties, contributed land to a development. The land was subdivided, developed and sold, and the net proceeds of sale in the sum of approximately \$12 million is presently held in a solicitors trust account on an interim basis, protected by certain undertakings given by the solicitor holding the funds. The trustee claims an entitlement in respect of at least a portion of the funds held in the solicitors trust account however, other parties to the dispute allege that associated entities of the bankrupt are entitled to the funds. I have instructed PTAL as custodian of the FMIF to enter into a Deed of Indemnity to fund a public examination and any agreed recovery proceedings in respect of this matter. An application to issue summonses for a public examination and supporting material was filed in the Federal Court. The Court has issued Summonses for a public examination, which is scheduled to be held on 7, 12, 13, 18 and 19 November 2019.

The matters are ongoing and an update will be provided in the next report.

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

##### **2.1.6.1 Remuneration claim and expenses claim**

I refer to my previous reports to investors.

The judgement regarding and orders made in relation to FTI's first 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).

### 2.1.6.2 Second FTI Remuneration Application

On 17 July 2018, Mr Park of FTI, who is now the sole Liquidator of LMIM, filed an application in the Court seeking payment of remuneration of \$743,889.89 inclusive of GST from property of the FMIF, relating to various periods between 19 March 2013 and 30 June 2018. I opposed certain parts of the application. The application was heard on 6 September 2018 and 3 October 2018.

Judgement is reserved on the Second FTI Remuneration Application.

### 2.1.6.3 Indemnity claim against the Fund and 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, or if certain other types of claims for indemnity from the FMIF are identified by FTI, I summarise the required process as outlined in the Orders made on 17 December 2015, as follows:

- FTI must notify me within 14 days of the identification 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.

FTI have informed me they have identified Creditor Indemnity Claims with respect to a proof of debt lodged by Norton Rose for the sum of \$315,601.21 (**Norton Rose Proof**) and a proof of debt lodged by EY in the sum of \$158,896.51 (**First EY Proof**).

I have written to FTI rejecting the Creditor Indemnity Claim made in respect of the claim notified by the Norton Rose Proof and provided reasons for my decision.

I am awaiting the provision of further information in relation to the First EY Proof before the time period for me to accept or reject that Creditor Indemnity Claim begins to run. EY subsequently filed and served a Third Party Notice in the EY Proceeding to advance the claim notified by the First EY Proof, and has sought leave to proceed. The Court is reserved on that question.

FTI have notified me that they have received a proof of debt lodged by EY for the sum of approximately \$180 million (**Second EY Proof**). That proof asserts that, to the extent that the claims made by LMIM as RE of the FMIF against EY in the claim against the former auditors are successful, EY will suffer loss or damage which is recoverable from LMIM. FTI have requested further information in relation to the Second EY Proof and they have not yet notified me of whether a Creditor Indemnity Claim has been identified in respect of the claim notified by the Second EY Proof. EY subsequently

pleaded and sought an indemnity for this claim in the Third Party Notice filed in the EY Proceeding, but later withdrew that claim and now only pursue this claim in the EY Proceeding by way of set-off. On 7 August 2019, FTI notified me of a claim for indemnity made against the FMIF with respect to an invoice from Russells to LMIM dated 31 July 2019 in the sum of \$74,494.70, with respect to the EY Proceeding. On 20 August 2019, I wrote to FTI to query whether this claim ought to be submitted to the Court for approval, rather than notified to me under the orders made on 17 December 2015, and, on the assumption that the claim for indemnity was intended to be notified to me under the orders made on 17 December 2015, requesting certain further information to enable me to make a decision with respect to this indemnity claim in accordance with the orders made on 17 December 2015.

These claims for indemnity may be subject to the “clear accounts rule” as described in previous reports to investors, and if so, a set off against that claim may be available.

An update will be provided to investors in relation to this matter in my next report.

#### **2.1.6.4 Further Expenses or Remuneration**

FTI’s solicitors have notified my solicitors that FTI intends to claim indemnity from the FMIF (and other funds) for a portion of certain corporate expenses incurred during the administration and Liquidation of LMIM. The precise amount of this claim is not yet known although I have been advised by FTI that their solicitors have outstanding work in progress of \$474,649.76 as at 30 June 2019 that they consider may relate to the Fund.

Further remuneration applications will be made in due course and may incorporate remuneration of \$110,352.55 that I have been advised was incurred during the period from 1 July 2018 to 30 June 2019.

#### **2.1.6.5 Further application by FTI for directions**

On 10 October 2018, Mr Park filed an application seeking directions in relation to the dual appointments of Mr Park and I to wind up the FMIF including directions to the effect that:

- My appointment continues only in relation to certain specific legal proceedings and Mr Park take responsibility for ensuring the FMIF is wound up in accordance with its Constitution;
- That Mr Park is directed to act as contradictor to the claim filed against LMIM referred to in section 2.1.6.6, and the Feeder Fund Proceedings;
- That Mr Park and I each submit budgets of remuneration and expenses to the conclusion of the winding up, that the remuneration of the Liquidator and the Receiver be fixed or determined on the hearing of the application in the amount of 50% of the amount stated in the relevant budget and paid during the course of the winding up, with all other remuneration and expenses of the Liquidator and Receiver to be deferred and sought at the conclusion of the winding up at which time the amounts stated in the budgets can be reduced, increased or stay the same.

The application was heard on 10 December 2018. Judgement is reserved.

An update will be provided to investors in relation to this matter in the next report.

#### **2.1.6.6 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, which were not authorised by the Constitution of the FMIF;
- 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;

On 25 July 2018, the Court directed that I represent the interests of LMIM as RE of the FMIF, that Mr Park represent the interests of LMIM in its own capacity, granted leave to proceed with this claim and ordered that the claim be stayed until further order. A stay of the proceeding was sought because at the time, the creditors of the FMIF had not been identified as the Liquidator had not called for proofs, there was no one identified as willing and able to fund a defence of the Claim, and it was unclear whether there would be a practical need for the claims made in the proceeding to be fully litigated.

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.

The current status of this claim is that it remains stayed until further order. My solicitors have recently written to the solicitors for LMIM to seek further information to assist me to consider how this proceeding ought to be dealt with. I will keep investors updated as to the progress of this claim.

### 3. Financial Position of the Fund

The management accounts for the year ending 30 June 2019 are available on the website [www.lmfimif.com](http://www.lmfimif.com) on the page titled ‘Financial Statements & Other Key Documents’.

A summary of the financial position of the Fund as at 30 June 2019 is provided below.

Description	30 June 2019
<b>ASSETS</b>	<b>\$</b>
Cash and cash equivalents	63,940,278
Receivables	90,769
Loans & Receivables	60,000
<b>TOTAL ASSETS</b>	<b>64,091,047</b>
<b>LIABILITIES</b>	
Payables	2,615,911
Distributions payable	1,372,036



Description	30 June 2019
Total liabilities excluding net assets attributable to unitholders	3,987,947
<b>NET ASSETS</b>	<b>60,103,100</b>

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

### 3.1 Fund Assets

The total assets of the Fund as at 30 June 2019 were \$64,091,047.

The balance includes cash at bank of \$63,940,278, receivables of \$90,769 and net default loans of \$60,000.

### 3.2 Fund Liabilities

The total liabilities of the Fund as at 30 June 2019 were \$3,987,947.

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 been returned.

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 2019.

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

### 3.3 Net Assets Attributable to Unit Holders

Net assets attributable to unit holders as at 30 June 2019 were \$60,103,100.

The net assets of the Fund and number of units on issue as at 30 June 2019 and 31 December 2018 is detailed in the table below.

Description	30 June 2019	31 December 2018
Estimated net amount of assets available to investors as at 30 June 2019 (\$)	60,103,100	63,688,150
Total investor units (# of units)	478,100,386	478,100,386
<b>Estimated net asset amount per unit available to investors as at period end (cents in the dollar)</b>	<b>12.6 cents</b>	<b>13.3 cents</b>

This does not include the estimated benefit of the Feeder Funds settlement up to the amount of the net amount of assets as at 30 June 2019. Therefore, below is an estimate that includes the benefit of the Feeder Funds settlement up to the amount of the net amount of assets at 30 June 2019.

Description	30 June 2019
Estimated net amount of assets available to investors as at period end (\$)	60,103,100
Benefit of Feeder Fund settlement of amounts withheld	8,887,860

Description	30 June 2019
Total investor units (AUD Equivalent as at 30 June 2019)	493,393,167
<b>Estimated return in the dollar</b>	<b>14 cents</b>

If further recoveries are made this will increase the amount due from the Feeder Funds settlement.

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.

The Feeder Fund settlement will reduce the amount of cash to be paid to the Feeder Funds as set out at section 2.1.4 above. Based on the amounts in the above table, I attach at Annexure 1 calculations showing the net amounts payable to the Feeder Funds, as follows:

Feeder Fund	Estimated return
LM Currency Protected Australian Income Fund ("CPAIF")	8.4 cents
LM Institutional Currency Protected Australian Income Fund ("ICPAIF")	8.4 cents
LM Wholesale First Mortgage Income Fund ("WFMIF")	12.4 cents

These are the amounts that would be paid to the responsible entities of each of the Feeder Funds, the costs and expenses of the Feeder Funds would need to be distributed from the net cash that is paid to each of the Feeder Funds before distributions are made to Feeder Fund investors.

#### 4. Receipts and Payments of the Fund

All receipts and payments for the Fund since McGrathNicol's appointment on 10 July 2013 until their retirement on 10 December 2018 are on the website [www.lmfimf.com](http://www.lmfimf.com) under Financial Statements & Other Key Documents.

Now that the Receivers and Managers have retired and relinquished control of the bank accounts, I have taken over responsibility for all receipts and payments and will upload copies of the Receipts and Payments lodged with ASIC from time to time.

The receipts and payments of the Fund, for the period 1 January 2019 to 30 June 2019 is summarised in the table below.

Description	\$
<b>Receipts</b>	
Interest	666,149.07
GST received	206,167.85
Loan Reductions	40,000.00
Litigation recoveries	100,000.00

Description	\$
Refunds from legal costs	77,378.95
<b>Total receipts</b>	<b>1,089,695.87</b>
<b>Payments</b>	
Bank charges	17.80
Consultant Fees	19,102.95
Custodian fees	16,500.00
Bankrupt Trustee's fees in relation to the public examination to be held with respect to the Bankrupt Estate of Guarantor and matters incidental thereto	136,854.38
Legal fees	2,156,310.35
IT expenses	59,123.00
Printing and stationary	16,167.77
Record management and storage	7,346.53
Litigation liabilities	937,500.00
<b>Total payments</b>	<b>3,348,922.78</b>
<b>Net receipts/(payments)</b>	<b>(2,259,226.91)</b>

## 5. Investor Information

### 5.1 Estimated Unit Price as at 30 June 2019

The estimated unit price as at 30 June 2019 is 12.6 cents.

Description	\$
Total Value of Fund Assets as at 30 June 2019	64,091,047
Less Creditors and Other Payables	3,987,947
<b>Total Net Value of Fund Assets</b>	<b>60,103,100</b>
<b>Total Number of Units</b>	<b>478,100,386</b>
<b>Unit Price Estimate</b>	<b>12.6 cents</b>

I *attach* a copy of a letter confirming the unit price as at 30 June 2019, which may be forwarded to Centrelink to assist with the review of investors' pensions.



## **5.2 Distributions to Investors and investments made in Foreign Currencies**

Investigations undertaken by BDO 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.

I applied to court on 1 February 2019 seeking authority to make an interim distribution to investors and seeking orders as to the treatment of the foreign currency investors in that distribution. The application was heard on 13 March 2019 with the decision reserved. I am hoping this will be received shortly with the distribution of 6.5 cents in the dollar to be made within 21 days of the decision being handed down.

## **5.3 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 5.4 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 December 2019.

## **5.4 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

## 6. Receiver's Remuneration and Expenses

There have been eleven applications to Court to date to approve my remuneration from the date of my appointment on 8 August 2013 until 30 April 2019.

The eleventh application for the approval of my remuneration for the period 1 November 2018 to 30 April 2019 was heard by the Court on 2 July 2019. My remuneration for this period was approved in the amount of \$1,248,853.10 (inclusive of GST) in relation to my role as the person responsible for ensuring the FMIF is wound up in accordance with its constitution. My outlays for this period were \$24,994.15 (inclusive of GST).

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 previously approved by the Court and the eleventh application set out above, I calculate that, on a time basis, I have incurred further remuneration of \$304,703.00 (exclusive of GST) plus outlays of \$9,284.97 (exclusive of GST) from 1 May 2019 to 31 August 2019 as detailed in the attached summaries.

My next application to Court for the approval of my remuneration is likely to cover the period 1 May 2019 to 30 October 2019. A copy of my application in this respect will be posted to the website [www.lmfmif.com](http://www.lmfmif.com) and investors will be notified when this application has been lodged.

### 6.1 Actions taken during the Period

I provide below a summary of actions taken during the period from 1 January 2019 to 30 June 2019:

- Work undertaken in relation to the litigation matters detailed at Section 2.1 of this report;
- Liaising with various parties in relation to the DB Receivers' retirement by the Secured Creditor;
- Maintaining the management accounts of the Fund and preparation of management accounts for the half-year ended 31 December 2018 and for the year ended 30 June 2019;
- Undertaking the investor management function for approximately 4,600 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 2018 to 30 April 2019;
- Investigations into the migration of the Composer investor management database to the AX investor management database and determining steps to be taken in relation to membership records for 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 31 December 2018 and 30 June 2019; and
- Preparation of update reports to investors in March and July 2019.

## **6.2 Proposed actions 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 progress/finalise the various ongoing litigation matters outlined in this report, including receiving the judgments that have been reserved by the Court and considering same;
- Continue to monitor and assist the Bellpac liquidator to achieve finalisation of the recovery in the \$8M bonds claim;
- Finalise all claims against guarantors;
- Receive and then resolve or have determined FTI's foreshadowed further indemnity claim against the Fund;
- Maintain the accounts of the Fund and prepare management accounts for the half-year ending 31 December 2019 and year ending 30 June 2020;
- Maintain the investor management database;
- Process an interim distribution to investors after obtaining the Court order conferring me with the authority to do so;
- 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.

## **6.3 Key actions required to complete the winding up of the Fund**

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

- Finalise all litigation currently on foot and contemplated;
- Resolve or have determined FTI's further remuneration or indemnity claim against the Fund;
- Discharge all liabilities of the Fund;
- 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 12 to 24 months, however, this may vary subject to the progression of the outstanding legal matters detailed in this report.

## **7. 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

A handwritten signature in black ink, appearing to read 'David Whyte', with a stylized flourish at the end.

David Whyte  
Receiver



**ANNEXURE 1**  
**ESTIMATED RETURN TO FEEDER FUNDS**

Feeder Fund	Number of Units	Estimated Return to Feeder Funds as at 30 June 2019			
		Distribution (\$)	Amounts withheld (\$)	Net Amount Paid (\$)	Net Cents per Unit
CPAIF	120,702,630	16,877,798	6,751,119	10,126,679	0.084
ICPAIF	9,350,802	1,307,519	523,007	784,511	0.084
WFMIF	99,488,929	13,911,495	1,613,733	12,297,762	0.124
<b>Total</b>	<b>229,542,361</b>	<b>32,096,812</b>	<b>8,887,859</b>	<b>23,208,952</b>	



**REMUNERATION REPORT - Summary of professional fees by category of work for the period 1 May 2019 to 31 August 2019**  
**LM First Mortgage Income Fund (Receiver Appointed)**

Employee	Position	Rate	Totals		Task Area									
			hrs	\$	Assets		Creditors		Trade On		Dividends		Administration	
					hrs	\$	hrs	\$	hrs	\$	hrs	\$	hrs	\$
David Whyte	Partner	615	74.0	45,510.00	45.6	28,044.00	6.5	3,997.50	15.2	9,348.00			6.7	4,120.50
Clark Jarrold	Partner	615	14.9	9,163.50	14.9	9,163.50								
Gerry Collins	Partner	595	15.3	9,103.50									15.3	9,103.50
David Whyte	Partner	595	68.6	40,817.00	37.4	22,253.00	2.7	1,606.50	2.4	1,428.00			26.1	15,529.50
Clark Jarrold	Partner	595	5.9	3,510.50	5.9	3,510.50								
Mark Whittaker	Partner	580	1.6	928.00	1.6	928.00								
Charles Haines	Associate Director	525	16.1	8,452.50			12.3	6,457.50					3.8	1,995.00
Craig Jenkins	Partner	525	2.7	1,417.50	2.7	1,417.50								
Charles Haines	Associate Director	510	2.0	1,020.00			2.0	1,020.00						
Arthur Taylor	Senior Manager	500	0.9	450.00					0.9	450.00				
Alastair Raphael	Associate Director	485	14.4	6,984.00	13.4	6,499.00	0.7	339.50			0.3	145.50		
Arthur Taylor	Senior Manager	485	35.9	17,411.50	12.5	6,062.50			23.4	11,349.00				
Jayden Coulston	Manager	460	13.2	6,072.00			11.7	5,382.00	1.4	644.00			0.1	46.00
Julie Pagcu	Associate Director	450	13.8	6,210.00	13.8	6,210.00								
Jayden Coulston	Manager	445	46.4	20,648.00			46.1	20,514.50					0.3	133.50
Ryan Whyte	Accountant	275	98.6	27,115.00			59.0	16,225.00			2.9	797.50	36.7	10,092.50
George Lethbridge	Accountant	275	12.4	3,410.00			9.5	2,612.50			0.2	55.00	2.7	742.50
Antoinette Fielding	Accountant	275	0.1	27.50			0.1	27.50						
Antoinette Fielding	Accountant	265	0.3	79.50			0.3	79.50						
Sarah Cunningham	Accounting Assistant	225	4.2	945.00									4.2	945.00
Jordan Devery	Graduate Accountant	225	143.8	32,355.00			143.8	32,355.00						
Ryan Whyte	Accountant	220	104.9	23,078.00	1.1	242.00	75.5	16,610.00			9.4	2,068.00	18.9	4,158.00
Sarah Cunningham	Accounting Assistant	220	5.0	1,100.00									5.0	1,100.00
George Lethbridge	Accountant	220	4.1	902.00	0.3	66.00	3.6	792.00					0.2	44.00
Liam Landrigan	Undergraduate	185	45.8	8,473.00			45.8	8,473.00						
Jordan Devery	Graduate Accountant	180	113.1	20,358.00			113.1	20,358.00						
Liam Landrigan	Undergraduate	180	26.7	4,806.00			26.7	4,806.00						
Moira Hattingh	Practice Assistant	105	19.2	2,016.00									19.2	2,016.00
Moira Hattingh	Practice Assistant	100	23.4	2,340.00									23.4	2,340.00
<b>TOTALS</b>			<b>927.3</b>	<b>304,703.00</b>	<b>149.2</b>	<b>84,396.00</b>	<b>559.4</b>	<b>141,656.00</b>	<b>43.3</b>	<b>23,219.00</b>	<b>12.8</b>	<b>3,066.00</b>	<b>162.6</b>	<b>52,366.00</b>
			<b>GST</b>	<b>30,470.30</b>										
			<b>TOTAL INC GST</b>	<b>335,173.30</b>										
<b>AVERAGE HOURLY RATE</b>			<b>329</b>		<b>566</b>		<b>253</b>		<b>536</b>		<b>240</b>		<b>322</b>	

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



**Disbursements for the period 1 May 2019 to 31 August 2019**  
**LM First Mortgage Income Fund (Receiver Appointed)**

<b>Expense Type</b>	<b>Amount (\$ ex GST)</b>
Postage	9,284.97
<b>TOTAL</b>	<b>9,284.97</b>
<b>GST</b>	<b>928.50</b>
<b>TOTAL INC GST</b>	<b>10,213.47</b>

30 September 2019

**TO WHOM IT MAY CONCERN**

**LM FIRST MORTGAGE INCOME FUND (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 2019, calculated as follows:

Description	\$
Total Value of Fund Assets as at 31 December 2018	64,091,047
Less Creditors and Other Payables	3,987,947
<b>Total Net Value of Fund Assets</b>	<b>60,103,100</b>
<b>Total Number of Units</b>	<b>478,100,386</b>
<b>Unit Price Estimate</b>	<b>12.6 cents</b>

Should you have any queries in respect of the above, please contact my office on (07) 3237 5999 or [enquiries@lmfmif.com.au](mailto:enquiries@lmfmif.com.au).

Yours faithfully,



David Whyte  
Receiver