

TO THE INVESTOR AS ADDRESSED

30 September 2024

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

## 1. Introduction

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 47<sup>th</sup> update report to investors. This report is prepared in accordance with the relief granted by the Australian Securities and Investments Commission (ASIC Exemption) on 1 March 2024 in relation to financial reporting obligations of the Fund for the 2024 and 2025 financial years. 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 2024, within three months of the end of each period, which includes the following information (unless disclosure of that information would be prejudicial to the winding up):

- (i) Information about the progress and status of the winding up of the Fund, including details (as applicable) 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, the period 1 January 2024 to 30 June 2024 (the Period). A notice explaining the instrument of relief together with a copy of the ASIC instrument can be found on the home page of the website [www.lmfimf.com](http://www.lmfimf.com).

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

### **2.1 Legal Proceedings**

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

I refer to my previous reports to members in relation to this proceeding (BS12317/14) and the Liquidator's proceeding (BS14389/22) which are summarised at paragraph 3.1.1 of my report to investors dated 28 March 2024.

As previously advised, the Court ordered that the parties attend a further mediation in respect of Proceeding BS14389/22, which was held on 30 October 2023 and was adjourned and was to resume by 13 February 2024, with the matter listed for a review by the Court on 19 February 2024.

The mediation was scheduled to resume on 12 February 2024 but was cancelled by agreement between the parties.

The parties agreed to consent orders to resolve Proceeding BS14389/22.

On 19 February 2024, the Court made, inter alia, orders to the following effect:

- An order that I be empowered to cause LMIM as RE of the FMIF to carry out the settlement with the Director Defendants in relation to Proceeding BS12317/14;
- The Proceeding be dismissed;
- My costs of the Proceeding (including of the Application, the Counterclaim and the strike out application) be paid out of the FMIF; and
- The plaintiffs' costs of the Proceeding (including of the Application, and the Counterclaim) be paid from the assets of the Fund on the indemnity basis.

The Costs awarded in favour of the first to fourth, sixth and seventh defendants in respect of Proceeding BS12317/14, and the appeal, have been paid in accordance with the terms of the settlement as have my costs and the plaintiffs' costs of Proceeding BS14389/22.

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

##### **2.1.2.1 Remuneration claim and expenses claim**

I refer to my previous reports to investors, which summarise the outcomes of prior remuneration and expenses claims by the Liquidator of LMIM.

The judgement and orders made with respect to FTI's previous remuneration application and expenses application are summarised in paragraph 2.1.3.2 of my report to investors dated 22 December 2022.

An application by the Liquidator for payment of his outstanding remuneration and expenses and covering the period until conclusion of the winding up was heard together with my Finalisation Application on 27 May 2024. This is further discussed at Section 2.1.3 below.

##### **2.1.2.2 Claim filed against LMIM**

The claims made in this proceeding and the key steps to date in the proceeding, are summarised in paragraph 2.1.5.6 of my report to investors dated 19 December 2019. The claim had remained stayed until further order. An order was sought and granted that I would be justified causing LMIM as RE of the

FMIF to discontinue the proceedings, as part of my Finalisation Application which is discussed further at section 2.1.3 below. On 11 June 2024, this proceeding was discontinued.

### 2.1.3 Finalisation Application

An application to Court by me to obtain orders to finalise the winding up and pay the final distribution to members was filed on 12 April 2024 and a notice to members was issued on 24 April 2024 notifying members of this and Mr Park's application (the liquidator of the responsible entity of the Fund) for payment of his remuneration and expenses.

Both applications were heard by the Supreme Court of Queensland on 27 May 2024 when the requested orders were made. Relevant material in relation to both applications can be found at [www.lmfmf.com](http://www.lmfmf.com), including the orders made.

The orders made by the Court on 27 May 2024 included the following:

- Orders for payment of Mr Park's remuneration and expenses;
- Orders for payment of my remuneration;
- Directions to confirm that I am justified in discontinuing the claim against LM Investment Management Ltd (In Liquidation) (LMIM) in Supreme Court of Queensland Proceeding 11560/16 (referred to in paragraph 2.1.6.6 of my report dated 19 December 2019);
- An order that LMIM as RE of the FMIF is not required to have the final accounts of the Fund audited;
- Directions as to steps to be taken in relation to certain liability accounts of the FMIF;
- Orders authorising me to make a final distribution to FMIF members; and
- Orders discharging and releasing me from my appointments, once certain steps have been taken as detailed in the orders.

Members should refer to the orders made on 27 May 2024 in proceedings 3383/13 and 3508/15 which are available on the website [www.lmfmf.com](http://www.lmfmf.com) for full details.

All of the necessary work to adhere to the above orders has largely been completed. The remaining work to be completed to conclude the winding up of the Fund is:

- Remit the unclaimed, undistributed, or returned moneys to ASIC including where payments have bounced, members details are out of date, or it has not been possible to pay outstanding amounts or the final distribution to members;
- Issue my final report to investors (as required by the ASIC Exemption) for the period 1 July 2024 to completion of the winding up, enclosing the Fund's final management accounts;
- Prepare and lodge the final returns and notice of completion of the winding up with ASIC to conclude the winding up; and
- An affidavit is to be filed in the Court notifying the Court once the winding up of the FMIF has been completed.

### 3. Financial Position of the Fund

The management accounts for the year ended 30 June 2024 are available on the website [www.lmfmf.com](http://www.lmfmf.com) under the tab titled “Financial Statements & Other Key Documents”.

A summary of the financial position of the Fund as at 30 June 2024 is provided below.

Description	30 June 2024
<b>ASSETS</b>	<b>\$</b>
Cash and cash equivalents	53,051,620
Receivables	-
<b>TOTAL ASSETS</b>	<b>53,051,620</b>
<b>LIABILITIES</b>	<b>\$</b>
Payables and accrued expenses	406,182
Distributions payable	2,408,582
<b>Total liabilities excluding net assets attributable to unitholders</b>	<b>2,814,764</b>
<b>NET ASSETS</b>	<b>50,236,856</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 2024 were \$53,051,620 and relates entirely to cash at bank.

#### 3.2 Fund Liabilities

The total liabilities of the Fund as at 30 June 2024 were \$2,814,764 consisting of payables of \$406,182 and distributions payable of \$2,408,582.

The distributions payable balance is made up of:

- \$1,317,381 relates to distributions that appear to have been declared prior to the date of the Court Receiver’s appointment which were not paid, or have not cleared or were returned unclaimed. The Court orders dated 27 May 2024 gave directions as to the steps to be taken to address these unpaid distributions; and
- \$1,091,201 relates to distributions that were returned/unclaimed from the interim capital distribution to investors paid by BDO in October 2019 in accordance with the Court order dated 2 October 2019.

The Payables and accrued expenses balance of \$406,182 primarily consists of an accrual in respect of, legal fees, receiver’s fees and fees and expenses claimed by FTI, which remained unpaid as at 30 June 2024.

### 3.3 Net Assets Attributable to Unit Holders

Net assets attributable to unit holders as at 30 June 2024 were \$50,236,856.

The net assets of the Fund and number of units on issue as at 30 June 2024 and 30 June 2023 is detailed in the table below.

Description	30 June 2024	30 June 2023
Estimated net amount of assets available to investors (\$)	50,236,856	50,257,613
Total investor units (# of units)	492,125,624	492,125,624
Estimated net asset amount per unit available to investors as at period end (cents in the dollar)	10.2 cents	10.2 cents

The above table does not include the estimated benefit of the Feeder Funds settlement in the estimated amount of the net amount of assets as at 30 June 2024.

After taking into account the benefit of the Feeder Funds settlement, a final distribution of 11.9 cents per unit was paid to the Fund's members in August 2024.

## 4. Receipts and Payments of the Fund

All receipts and payments for the Fund since McGrath Nicol'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.

Following McGrath Nicol's retirement and relinquishment of control of the bank accounts, I took over responsibility for all receipts and payments and upload copies of the Receipts and Payments lodged with ASIC to the [www.lmfimf.com](http://www.lmfimf.com) website from time to time.

The receipts and payments of the Fund, for the period 1 January 2024 to 30 June 2024 is summarised in the table below.

Description	\$
<b>Receipts</b>	
Interest	2,161,482
GST received	483,610
<b>Total receipts</b>	<b>2,645,092</b>
<b>Payments</b>	
ASIC assessment of relief application	(6,974)
Custodian fees	(11,000)
Directors' Proceedings - Cost Orders	(5,000,000)
Legal and other fees	(1,014,112)
Liquidators' of LMIM expenses (FTI)	(1,133,018)
IT expenses	(9,411)

Description	\$
Printing and stationary	(16,208)
Receiver's fees and disbursements (BDO)	(1,519,765)
Record management and storage	(47,053)
<b>Total payments</b>	<b>(8,757,541)</b>
<b>Net receipts/(payments)</b>	<b>(6,112,449)</b>

## 5. Investor Information

### 5.1 Estimated Return to Investors

#### 5.1.1 Unit Price as at 30 June 2024

The estimated unit price as at 30 June 2024 is 10.2 cents per unit and a total estimated return of 16.7 cents per unit taking into account the interim distribution paid of 6.5 cents per unit.

Description	\$
<b>Total Net Value of Fund Assets</b>	<b>50,236,856</b>
<b>Total Number of Units</b>	<b>492,125,624</b>
<b>Unit Price Estimate</b>	<b>10.2 cents</b>
Add: Distributions to date	6.5 cents
<b>Total estimated return in the dollar</b>	<b>16.7 cents</b>

After taking into account the benefit of the Feeder Funds settlement, a final distribution of 11.9 cents per unit was paid to the Fund's members in August 2024, resulting in a total return of 18.4 cents per unit to members.

### 5.2 Distributions to Investors

The Court authorised and empowered me on 2 October 2019 to make an interim capital distribution of 6.5 cents per unit to investors of the LM First Mortgage Income Fund. The interim distribution was paid to investors in October 2019.

As mentioned above, an application to Court for me to obtain orders to finalise the winding up and including for me to pay the final distribution to members was heard and approved on 27 May 2024. The final distribution to members of 11.9 cents was paid in August 2024.

## **6. Actions taken during the Period**

I provide below a summary of actions taken during the period from 1 January 2024 to 30 June 2024:

- Work undertaken in relation to the legal proceedings detailed at section 2 of this report;
- Maintaining the financial records of the Fund and preparation of management accounts for the half-year ended 31 December 2023;
- 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;
- Adjudicating on certain ledgers of the Fund as approved by the Court on 27 May 2024. These ledgers were paid shortly after the Period in accordance with my adjudication and the Court Orders received;
- Paying accrued liabilities and prepayment of expenses of the Fund where possible in preparation for calculation and payment of the final distribution to members;
- Preparation of unit price calculation as at 31 December 2023; and
- Preparation of report to investors in March 2024.

## **7. Proposed actions to be taken to complete the winding up of the Fund and estimated timeframe to complete winding up**

The following requires to be completed to conclude the winding up and are proposed to be taken within the next 12 months:

- Maintaining the financial records of the Fund and preparing the report required by the ASIC Exemption and the management accounts for the period from 1 July 2024 to completion of the winding up;
- Paying unclaimed, undistributed or returned monies to ASIC;
- Lodging receipts and payments of the Fund with ASIC;
- Notifying ASIC that the winding up has been completed; and
- An affidavit is to be filed in the Court notifying the Court once the winding up of the FMIF has been completed.

I estimate that the winding up of the FMIF will be completed by 31 October 2024.

## **8. Completion of Winding Up/Lodgement of Unclaimed Monies with ASIC**

As advised above, the final distribution has been paid to members and the winding up of the Fund is about to be completed.

Any members who have not received the final distribution or other payments due to them and may have outstanding unclaimed monies should visit the ASIC Unclaimed Monies website at <https://asic.gov.au/for-consumers/unclaimed-money> or phone 1300 301 198 for details on how to claim funds paid to ASIC unclaimed monies.



I have submitted an application and provided necessary information to ASIC unclaimed monies for remaining investor funds held. The commencement date for investors to initiate their claims for funds paid to ASIC is subject to ASIC's timeframe to accept the Receiver's application. Accordingly, I am unable to advise investors of when they can commence their claims.

Should unit holders 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: [lmfmif@bdo.com.au](mailto:lmfmif@bdo.com.au)

Yours faithfully

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

David Whyte  
Receiver