

What has happened?

On 12 April 2013, KordaMentha and our affiliated firm Calibre Capital Limited were appointed as Trustees ('the Trustees', 'our', or 'we') of the LM Managed Performance Fund ('the Fund' or 'the MPF') pursuant to an Order of the Supreme Court of Queensland in Brisbane.

LM Investment Management Limited ('Liquidators Appointed') ('LMIM') was previously the trustee of the Fund. John Park and Ginette Muller of FTI Consulting were appointed as Voluntary Administrators of LMIM on 19 March 2013 and Liquidators on 1 August 2013. However, pursuant to our appointment, LMIM has been removed and replaced as trustee of the Fund.

What is the effect on the MPF of LM Administration Pty Ltd ('LMA') entering into liquidation? (Updated)

As you may be aware, John Park and Ginette Muller of FTI Consulting were appointed as Voluntary Administrators of LMA on 19 March 2013. LMA was previously the service entity for various funds in the LM group, including the MPF.

On 26 July 2013, a meeting of creditors was held and a resolution was passed by creditors of LMA to place the company into liquidation. David Clout and Lorraine Smith of David Clout and Associates were appointed Liquidators.

The transition of LMA from administration to liquidation will not result in any significant change for the Fund and its Unitholders, as since our appointment, the Fund has not used LMA as a service entity. The Trustee has previously lodged a Formal Proof of Debt ('POD') with the Administrators of LMA for amounts owing to the Fund of \$17,289,470.19. This claim remains in place despite the transfer to liquidation.

On 19 December 2013 the LMA Liquidators held a meeting of creditors which our representatives attended. The Liquidators proposed a Committee of Creditors be formed. A Committee was formed and the Trustees were elected to the Committee which will provide oversight and input on the Liquidation.

What is the effect on the MPF of LM Investment Management Limited entering into liquidation?

On 1 August 2013 at a meeting of creditors, a resolution was passed placing LMIM into liquidation. The Administrators, John Park and Ginette Muller of FTI Consulting, were appointed Liquidators.

The transition of LMIM from administration to liquidation will not result in any significant change for the Fund and its Unitholders. The Trustees have previously lodged a Formal Proof of Debt ('POD') with the Administrators of LMIM for amounts owing to the Fund of \$12,340,377.87. This claim remains in place despite the change to liquidation.

What changes have occurred in the management of the LM First Mortgage Income Fund ('FMIF') and what is the effect on the MPF? (Updated)

McGrathNicol appointment

On 11 July 2013, Deutsche Bank AG, who have loaned money to FMIF appointed Joseph Hayes and Anthony Connelly of McGrathNicol as Receivers and Managers over LMIM in its capacity as responsible entity of the FMIF.

Our understanding is that Deutsche Bank AG made this appointment to protect the assets subject to its security, which are principally property mortgages of FMIF.

Investors would be aware that with respect to various properties, FMIF holds first ranking mortgages which rank in priority to mortgages held by the MPF.

The appointment of McGrathNicol does not change the mortgage position. We have met with representatives of McGrathNicol and all parties are working cooperatively with them.

BDO appointment

In addition to the above, Unitholders may also be aware that a number of applications were submitted to the Supreme Court of Queensland with respect to the control and management of FMIF. The Trustees were not involved in these applications.

On 8 August 2013, Justice Jean Dalton of the Supreme Court of Queensland ordered that FMIF be wound up and its assets realised on behalf of the FMIF unitholders pursuant to s601ND(1)(a) of the *Corporations Act 2001 (Cth)* ('the Corporations Act').

The Court appointed David Whyte, of BDO Business Recovery & Insolvency ('BDO') as Receiver of the property of the FMIF and our understanding of BDO's role is that it will be to supervise the realisation and management of the assets of FMIF. Whilst LMIM remains as the responsible entity of the FMIF, we understand the ongoing role of LMIM is relatively limited.

Again, the Trustees have met with BDO to discuss how the parties can best work together to obtain optimal outcomes for our respective Unitholders.

The appointment of BDO is concurrent with and applies to the same assets as the McGrathNicol appointment.

As per the McGrathNicol appointment, the BDO appointment does not change the respective mortgage positions of FMIF and MPF. The Trustees do not believe that the changes in the control and management of the FMIF will adversely affect the MPF Unitholders.

LMIM and FTI Consulting have made an application to the Court with respect to the appointment of BDO. The Court continues to consider this matter and is yet to provide its judgement.

Was the Fund registered?

As you may be aware, the majority of Unitholders in MPF are not or were not residents of Australia at the time of investing in the MPF. Under the *Corporations Act*, a managed investment scheme which principally raises its funds internationally is not required to be registered.

The Fund was not a registered fund with the Australian Securities & Investment Commission and therefore does not have the same disclosure and reporting obligations as some of the other LM funds such as the FMIF and AIF.

What assets have been realised so far? (New)

Please refer to Updates to Investors 10 and 11 for a detailed discussion on asset realisations.

Why have Unitholders not received an update for a number of weeks?

The Trustees continue to be focused on a number of investigations and providing briefings to our lawyers with respect to these investigations. Given the complexity and sensitivity of these efforts the Trustees have been careful not to prejudice the Fund's position by disclosing confidential information. The Trustees will continue to release updates on an as needs basis.

What are the Trustees priorities?

Our ongoing priorities as Trustees are to:

- preserve and retain the value of the assets and investments of the Fund
- enable investors' concerns and desires to be communicated
- consider and investigate the previous operation of the Fund including historical application of Unitholder's monies and transactions involving related parties
- enable the position of the Fund to be openly explained to investors
- investigate whether legal actions are appropriate to recover monies for investors.

Our communications with investors contain detailed updates of our progress in relation to these issues.

How will the trustees communicate with investors?

As Trustees, we understand that communication is critical to investors.

On an ongoing basis we will be updating investors in relation to those priority issues listed above and all relevant matters in relation to the Fund and we are committed to providing regular updates via email to investors. If investors are not receiving these emails, they are encouraged to add their email address to our distribution list by emailing their details to our dedicated email address lminvestors@kordamentha.com.

These updates can also be found on our website, please note we have not made available certain updates on the website due to the commercial sensitivity of information contained within these documents. However please email the above address should you wish to obtain the updates not on the website.

Additionally, our Frequently Asked Questions document will be updated regularly and seeks to answer the typical queries of investors.

What is the current status of the Fund?

The Fund is closed. Closure of the Fund was effective 19 March 2013 being the date that the Voluntary Administrators were appointed to the former trustee. The Fund will not be accepting any new investments.

Whilst the Trustees continue to review the Fund's financial position, the Fund is not in a position to process redemptions nor distribute funds (further information below).

What is the financial position of the Fund?

Since the commencement of the Fund in 2001, the monies contributed by investors have been principally invested in loans to third and related parties which are in the main, secured by second ranking mortgage security charges against real property assets.

The Trustees have completed their review of the Fund's loans on an asset by asset basis and are now focused on potential litigation in view of the material losses and limited returns expected from the loans and mortgage security charges held.

We refer you to our circulars to investors which provide more detail on these issues.

Will I receive a return of my investment?

Due to the minimal return received from the underlying investments and loans made by the Fund and the resultant significant shortfall on investor's funds, the Trustees believe that it is necessary to investigate the previous management of the Fund.

Depending on the outcome of these investigations, the Trustees may need to proceed with litigation against the former trustee and other parties. The return to Unitholders will vary greatly depending on the outcome of these recovery actions. Unfortunately like any legal process, the outcome cannot be predicted, nor can the value which may be recovered through these efforts. At this time we expect any return to Unitholders to be less than five cents in a dollar, with the return to Unitholders subject to the outcome of recovery actions, the costs of litigation and the expenses of the administration of the Fund. It is emphasised that any material return to Unitholders will be principally reliant on the costs and outcome of any litigation.

It is emphasised that at this point in time the Trustees view is that the asset value of the loans of the Fund is significantly below that of the total investment contributions of Unitholders. Accordingly, the return on Unitholder's original investment is likely to be materially less than that contributed.

Are interest and redemption payments remaining suspended? When am I going to receive my payments? (Updated)

In accordance with the Fund's Constitution, interest payments and the distribution of capital to investors is at the discretion of the Trustees of the Fund. Until there is further certainty regarding the financial position of the Fund, all payments are suspended. Further, it is not possible for individual Unitholders to withdraw their investment as this would be at the detriment of the other Unitholders and be a breach of the Trustees duties owed to all Unitholders.

Whilst interest accrues against the historical loans made by the Fund, this interest is not being paid in cash to the Fund, meaning that the current income of the Fund to allow any interest payments to investors is nil.

Given the likelihood any material return to Unitholders will be derived from the outcome of future litigation, the Trustees are not able to provide a guidance on a timeframe for distributions (see below for further information on litigation).

Are lodged redemptions being ‘queued’?

Although we have been informed by many Unitholders that the former trustee advised investors that a queue was operating, the Constitution does not have a provision to allow the Trustees to ‘queue’ redemption requests. Accordingly, the Trustees will not be operating a queue for redemptions.

Why have the Trustees not been able to obtain the books and records? (New)

The records of the Fund are held on a single IT platform and are intermingled with those of other funds of the LM Group. This occurred as a result of the former trustee holding and organising records on an ‘asset by asset’ basis rather than a ‘fund by fund’ basis. Further, the majority of documentation and records were held by the former trustee under the name of the borrower which is problematic as multiple LM funds lent to the same borrower.

Accordingly the former trustees claimed that in transferring documents to the Trustees, the former trustee was at risk of transferring documents to the Trustees of the MPF to which they were not entitled thereby prejudicing other LM funds’ interest. Due to the significant amount of records and various records being common to different LM funds, it was not possible to easily separate the documents of each LM fund.

An agreement through the Courts has been reached between the Liquidators of LMIM and the Trustees for a process for the complete transfer of the MPF’s books and records to the Trustees.

The Trustees currently anticipate the books and records being made available to them by the end of February 2014.

Is it possible my investment is part of the quarantined funds? (New)

In a recent update the Trustees noted certain “quarantined” funds still had not been returned. It is anticipated the issue will be considered by the Court during the hearing on 10-12 February 2014.

All individuals with quarantined funds have been contacted by the Trustees.

It is emphasised, quarantined funds are held for parties who sent monies to LMIM prior to or post 19 March 2013 and did not have units issued to them. The Trustees are of the opinion this money should be returned to those respective parties immediately and have always held this opinion.

Accordingly, if you have units in the Fund, your money does not form part of the quarantined funds.

What about investor information?

Previously investors and financial advisors were able to access information such as investor statements and reconciliations of current investments from a LM Information Exchange website. However, this information was removed by the Voluntary Administrators of LMIM as a result of their replacement as trustee of the Fund. The Trustees do not have access to the former trustee's proprietary software to prepare such information.

Going forward, the Trustees will consider the best course of action for providing access to investor information including statements, unit holdings and other relevant information

What are the current valuations/prices of the Fund's investment classes? (Updated)

In view of the material uncertainties surrounding the Fund's financial position, the Trustees will not be providing valuations on any of the Fund's unit classes. The Trustees however advise that consistent with prior Updates to Investors we currently estimate the future return to Unitholders is likely to be less than five cents in a dollar.

Am I able to change the particulars of my Unitholder information?

There have been a number of requests to transfer the title of ownership, contact details, financial advisor, and holding nominee. As outlined above the Trustees, with the assistance of LMIM staff, are undertaking a review of investor information. Whilst this review continues and to reduce additional costs being incurred, the Trustees have placed a freeze on any transfer requests.

Are non-AUD investments being hedged?

All foreign currency hedge positions were closed by the former trustee prior to our appointment as Trustees. The Fund does not have sufficient surplus cash and assets or the continuing income to justify and service any foreign currency hedge positions and thus no hedge positions will be resumed.

Litigation (New)

What is it?

The Trustees are investigating taking legal action against various parties for losses incurred by the Fund on certain mortgages. The aim of the litigation is to recovery monies lost.

Why is it required?

As detailed in previous Updates to Investors the large majority of Unitholder monies was lent to property developers (including related parties) and secured by second mortgagees. The Fund has lost significant amounts of money lending to these borrowers and the underlying value of the asset(s) over which the MPF holds security is minimal.

The Trustees consider that the appropriate course of action to achieve any material return on investor's monies is through investigating and potentially commencing litigation.

What is the likelihood of success? What are the likely returns?

Each potential recovery action will be based on differing circumstances that are currently being investigated. The costs, risks and outcome of all legal action is uncertain, therefore the Trustees will ensure that a thorough process is undertaken prior to commencing any action and will only undertake litigation that the Trustees along with their advisors consider have material grounds for a claim and recovery against a third party.

Unfortunately we are currently unable to provide any guidance on the potential recoveries from litigation. The Trustees will provide relevant information to Unitholders through our Updates to Investors and when possible provide an estimate of the potential recovery from litigation.

What is the timeframe for completion of the litigation?

As outlined in our Update to Investors, the MPF had lent money to 19 separate borrowers and whilst it is unlikely that litigation will be pursued in relation to all loans, the Trustees believe that recovery actions will be made in relation to a number of them. The Trustees do not consider it commercially prudent to simultaneously commence all legal actions.

It is likely to take many months and potentially years to complete our investigations and litigation. The Trustees will continue to update Unitholders on legal actions once relevant information becomes available.

The progress of investigations and litigation has been slowed by the restricted access to the complete set of the Funds books and records (refer above).

How much will the litigation cost?

Whilst legal action is known to be expensive, the Trustees have an obligation to ensure that they engage only in actions which are in the interests of the Fund and its investors. In considering the appropriateness of each claim and prior to undertaking legal actions the Trustees evaluate the:

- Likelihood of obtaining a successful judgement;
- The costs and risks of undertaking the necessary recovery action; and
- The prospect of recovering monies from the other party(ies).

Accordingly, all recovery actions are considered on their merits and based on the likely return to the Fund.

Given the nature of legal action, it is difficult to provide estimates of potential costs. This is exacerbated by the number of potential recovery actions and the fact that to date we have had incomplete books and records to rely upon.

Will the Unitholders be kept up to date with investigations and recovery actions?

Where practical the Trustees will continue to update Unitholders on legal actions.

However we ask that Unitholders bear in mind that much of the information relating to legal action must be kept confidential to ensure that the matter is not prejudiced.

Once the legal action becomes formal i.e. a statement of claim is issued or documents are submitted to Court, the Unitholders will ordinarily be notified as parties to the claim.

It may also be necessary to keep out-of-court settlements confidential should the settlement agreement require this.

Is participation mandatory?

In accordance with the Fund's Constitution and Information Memorandums, the Trustees have the power to take legal action on behalf of all Unitholders. It is not possible for the Trustees to exclude certain Unitholders. Accordingly, should litigation be successful, proceeds after costs are for the benefit of all Unitholders.

Can I take my own action?

All Unitholders have the right to undertake their own legal action if they wish to do so. However the Trustees are not able to provide any guidance in this regard and Unitholders should seek their own legal advice on this matter.

Will commission to financial advisors be paid?

Financial advisors are encouraged to review the terms of any agreement (or similar) they signed in relation to commissions. The counter party to that agreement is the responsible party for any outstanding commissions.

What is the role of the Advisor Committee for Investors ('ACI')?

We are aware that ACI has been formed by various financial advisors.

Although ACI has been formed independent of any involvement of the Trustees, we have no objection of any kind to the formation of this group and value their thoughts and insights in relation to the management of the Fund.

We have met with ACI's representatives on three occasions in Australia and held other discussions with them to obtain their feedback in relation to various issues that we are currently considering as Trustees.

ACI will be treated the same as all other investor representatives who wish to have input in relation to the future of the Fund.

How can I stay informed?

Our dedicated email address is receiving a large amount of requests. A lot of these questions can be answered by perusing our Updates to Investors and/or our Frequently Asked Questions document. Accordingly, investors are referred to those documents in the first instance. We will update our Frequently Asked Questions document with common queries raised in the dedicated email. However in light of the Fund's critical financial status, the Trustee will not be responding to individual email requests in order to reduce costs.

Should investors require further information, please contact the Trustee's office as follows:

- All investors can telephone +61 7 3338 0286
- All investors can access the KordaMentha website at www.kordamentha.com

Additionally, specific questions can be emailed to lminvestors@kordamentha.com.

We will answer your questions as soon as possible.

If your contact details have changed since your initial investment, we ask that you forward these details to the above email address.

Yours sincerely

KordaMentha

In its capacity as Trustee for
LM Managed Performance Fund