

**TO THE MEMBERS OF THE LM WHOLESALE FIRST MORTGAGE INCOME FUND ARSN 099 857 511 (WFMIF)**

TAKE NOTICE that Trilogy, as the Responsible Entity of the WFMIF, and Trust Company as the Custodian of the property of the WFMIF, have applied to the Supreme Court of Queensland for directions as to whether they are justified:-

1. in settling Supreme Court of Queensland Proceedings 13534 of 2016 (**the Feeder Fund Proceedings**) on the terms set out in a Deed of Settlement and Release as varied by a Deed of Variation (**Deed of Settlement**);
2. in causing Trilogy as responsible entity of the WFMIF and Trust Company as Custodian of the property of the WFMIF to enter into and perform the Deed of Settlement.

The Feeder Fund Proceedings are proceedings that were commenced by Mr Whyte, the person appointed pursuant to section 601NF of the *Corporations Act 2001* (Cth) to take responsibility for ensuring that the FMIF is wound up in accordance with its constitution and as receiver of the property of the FMIF (**Mr Whyte**), in the name of LMIM as responsible entity of the FMIF, seeking relief which:

- (a) would permit Mr Whyte and/or LMIM to withhold further distributions to the LM Currency Protected Australian Income Fund ARSN 110 247 875 (**CPAIF**), WFMIF and the LM Institutional Currency Protected Australian Income Fund ARSN 122 052 868 (**ICPAIF**) to the extent of the value of redemptions that were allowed in their favour at a time when redemptions were suspended other than in circumstances of hardship, namely between 11 May 2009 and 31 January 2013. Mr Whyte alleges that these redemptions had been allowed by LMIM without power under the constitution and/or in breach of trust. Relief is also sought to authorise Mr Whyte to reinstate those redeemed units to the CPAIF, the ICPAIF and the WFMIF;
- (b) would authorise Mr Whyte to cancel the further units issued to each of the CPAIF, the WFMIF and the ICPAIF between 1 July 2011 and 1 November 2012 as the purported reinvestment of income distributions, at a time when there was no Distributable Income. Mr Whyte alleges that these distributions were without power and in breach of trust;
- (c) would provide for adjustments for consequential overpayment or underpayment of capital distributions made in February and June 2013.

The Feeder Fund Proceedings are defended by Trilogy as responsible entity of the WFMIF and Trust Company as Custodian of the property of the WFMIF and by Mr Said Jahani as the receiver of the assets of the CPAIF and the ICPAIF (**Mr Jahani**). Each of them disputes that LMIM is entitled to any of the relief sought in the Feeder Fund Proceedings.

On 4, 5 and 20 November 2018, Trilogy and Trust Company participated in a mediation of the Feeder Fund Proceedings that was also attended by representatives of Mr Whyte and by Mr Jahani.

The mediation was successful, and Mr Whyte, Mr Jahani, Trilogy and Trust Company have agreed terms of settlement that are documented in the Deed of Settlement. Those terms are subject to a number of conditions precedent, including that the Court make the directions sought by this application.

**This application is set down to be heard by the Supreme Court of Queensland at Brisbane on 2 May 2019 at 9.30am.**

Copies of the non-confidential court documents in respect of the application will be made available on the website <https://www.trilogyfunds.com.au/lm-wholesale-first-mortgage-income-fund/>. Non-confidential court documents will be made available progressively, as and when they are filed with the Court.

Certain other affidavits that Trilogy and Trust Company will rely upon are confidential, and therefore will not be posted on the website. Any unitholder who wishes to receive copies of the confidential affidavits available to unitholders, or who reasonably requires a hard copy of the application and non-confidential affidavits, should call Trilogy on +61 7 3039 2828

Dated: 22 March 2019

Trilogy Funds Management Limited