

# Notification of Legal Application

## LM Managed Performance Fund ("MPF")

**Application by the Trustee for directions regarding the proposed defence of a claim against the Trustee of the MPF by LM Investment Management Limited (Receivers and Managers Appointed) (in Liquidation) ACN 077 208 461 ("LMIM") as responsible entity for the LM First Mortgage Income Fund ARSN 089 343 288 ("FMIF")**

On 23 December 2014, FMIF commenced proceedings in the Supreme Court of Queensland against six current or former directors ("Directors") of LMIM, LMIM itself and the Trustee of the MPF. FMIF alleges that the Directors breached duties they owed to LMIM and FMIF in relation to the distribution of the proceeds of the settlement of a legal action; that LMIM was knowingly involved in those breaches; and that, the proceeds of the breaches were paid to the MPF. FMIF seeks to recover from the Directors, LMIM and the MPF, \$15,546,147.85, interest on this sum and legal costs.

The purpose of this communication is to notify Unitholders that the Trustee of the MPF has filed an application under section 96 of the *Trusts Act 1973* (Qld) ("**S 96 Application**") in the Supreme Court of Queensland seeking directions as to whether it should defend FMIF's action.

The issues raised in the S 96 Application are explained in a statement of claim, a draft defence and a Statement of Facts, all of which are part of the Court material referred to below.

The Trustee is of the opinion that it is in the best interests of the Unitholders of the MPF if the claim is defended.

If the Trustee's application is successful, the Trustee will defend FMIF's claim against the MPF.

The Trustee's application is set down to be heard on 19 March 2015. The documents relating to the Trustee's S 96 Application (including the application, FMIF's statement of claim, draft defence, Statement of Facts mentioned above and supporting affidavit material) can be found on our website: <http://www.kordamentha.com/creditor-information/australia/109>

Unitholders will also find on the website an order made by Justice Ann Lyons on 18 February 2015 regarding the method by which service of the S 96 Application is to be effected on Unitholders.

Should a Unitholder wish to be heard by the Court in relation to the Trustee's application, they are able to do so by engaging a legal advisor or by contacting the Trustee by email addressed to: [linvestors@kordamentha.com](mailto:linvestors@kordamentha.com)

Yours sincerely

KordaMentha  
Trustee of the MPF