

Premium Income Fund

Investor Update: December 2013

Welcome to the Investor Update for the Premium Income Fund. This update outlines key details about the Fund's activities for the period January to December 2013. During this period the Fund has undergone significant activity.



On 8 November 2013, the High Court of Australia granted Special Leave to appeal the decision of the full Federal Court from 28 May 2013.

On 4 March 2013, Justice Sifris of the Supreme Court of Victoria handed down his decision in favour of Perpetual Nominees Limited as custodian of the Premium Income Fund in relation to Forest Resort; the best possible outcome for the Fund.

Unitholders met in a general meeting on 6 June 2013 which was later adjourned to 14 June 2013. Due to an ex parte application made by ASIC in relation to the meeting, Wellington Capital Limited as responsible entity of the Premium Income Fund cancelled the adjourned meeting.

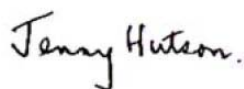
Wellington Capital Limited as responsible entity of the Premium Income Fund entered into an unconditional contract to sell its interest in five assets for \$5.2 million. Completion of the sale occurred on 18 June 2013 with \$1.2 million received at settlement. A further \$100,000 has since been received and payment of the balance \$3.9 million has been extended to 31 March 2014 by agreement.

The Fund also realised its remainder 57.5% interest in the Trust that owns the 168 room Chifley Wollongong Hotel for \$8.9 million, payable over time.

A conditional contract was entered into in the capacity as mortgagee in possession over the property at Oxygen Estate in Duns Creek, New South Wales.

Wellington Capital Limited as responsible entity of the Fund continues to manage the balance assets of the Fund and will continue to strive to maximise the value of these assets and return capital to Unitholders as soon as possible.

Kind regards



Jenny Hutson
Managing Director
Wellington Capital Limited

Investors now have ownership of two different securities:

- Shares in Asset Resolution Limited; and
- Units in the Premium Income Fund

Questions and correspondence in relation to the shareholding in ARL should be directed to:

Phone: 07 3225 4996
Email: info@arlimited.com.au
Postal: PO Box 2353 Brisbane Qld 4001
Website: www.arlimited.com.au

Key Events

- ✿ The Net Asset Backing per Unit in the Premium Income Fund as at 30 June 2013 was 2.4 cents per Unit. The Closing Price on the National Stock Exchange on 28 June 2013 was 1.3 cents per Unit.
- ✿ The Annual Report and Financial Statements for the year ended 30 June 2013 was released on 6 August 2013. The half yearly financial report for 31 December 2012 was released on 1 March 2013.
- ✿ Special Leave to appeal the decision of the full Federal Court of 28 May 2013 was granted by the High Court of Australia.
- ✿ A Unitholders meeting was called for 6 June 2013 which was later adjourned by Unitholders to 14 June 2013. The Unitholders meeting was subsequently cancelled by Wellington Capital Limited.
- ✿ Wellington Capital Limited remains the responsible entity of the Premium Income Fund and Unitholders continue to hold both units in the Premium Income Fund and shares in Asset Resolution Limited.

Despatch of Annual Taxation Statements

Wellington Capital Limited as responsible entity of the Premium Income Fund advises that the Annual Taxation Statements for the financial year ended 30 June 2013 have been finalised and were despatched to all Unitholders.

These statements set out the taxation treatment for the cash payment made to Unitholders on 19 December 2012 and the in-specie distribution that occurred on 5 September 2012.

Financial Statements for the Premium Income Fund for the year ended 30 June 2013

The Annual Report and Financial Statements for the Premium Income Fund for the year ended 30 June 2013 was released to the market on 6 August 2013.

The Auditor of the Premium Income Fund for the period ending 30 June 2013 was Pitcher Partners.



Meeting adjourned to 14 June 2013 cancelled

The Board of Wellington Capital Limited, the responsible entity of the Premium Income Fund, resolved to cancel the adjourned meeting of Unitholders of the Premium Income Fund scheduled to be held on 14 June 2013.

Unitholders should note that as a result of the cancellation of the meeting:

- ✿ the sale of assets to Asset Resolution Limited will not proceed and the contract to sell those assets to Asset Resolution Limited is now at an end;
- ✿ the Premium Income Fund will continue to be listed on the National Stock Exchange of Australia;
- ✿ Wellington Capital Limited in its capacity as Responsible Entity of the Fund, will continue to manage the Fund in the best interests of Unitholders;
- ✿ the Proceeds Payment Deed will not be implemented, and will be at an end;
- ✿ Unitholders will remain unitholders in the Premium Income Fund.

Litigation update

A number of releases have been made on the NSX in relation to legal proceedings involving the Fund. A summary follows:

Wellington Capital Limited granted Special Leave to Appeal to the High Court of Australia

Wellington Capital Limited as Responsible Entity of the Premium Income Fund advises that on 8 November 2013 the High Court of Australia granted Special Leave to appeal the decision of the full Federal Court of 28 May 2013 in relation to Orders made by it at that time, as set out in the announcement of 11 June 2013.

The Australian Securities and Investments Commission had the decision in favour of Wellington Capital Limited before Justice Jagot of the Federal Court overturned on appeal before the full court of the Federal Court. ASIC's appeal sought orders from the full Federal Court to overturn Justice Jagot's decision on the basis that she erred in finding that the in-specie distribution of shares was within the power conferred by the Constitution of the Fund and the Corporations Act.

The Orders made by the full court of the Federal Court are set out below:

'THE COURT ORDERS THAT:

1. The appeal be allowed.
2. The orders made by Jagot J on 17 October 2012 be set aside and orders 3 and 4 below be made in lieu thereof:

THE COURT DECLARES THAT:

3. The in-specie transfer of the shares in Asset Resolution Limited (Shares) from Wellington Capital Limited (Wellington) as Responsible Entity of the Premium Income Fund (Fund) to the unit holders of the Fund was beyond the power of Wellington under the constitution of the Fund.
4. By making an in-specie transfer of the Shares to the unit holders of the Fund, Wellington did not operate the Fund

and perform the functions conferred on it by the Fund's constitution, and contravened s601FB(1) of the *Corporations Act 2001* (Cth).'

A copy of the Judgment of Justices Jacobson, Robertson and Gordon of the full court of the Federal Court in *Australian Securities and Investments Commission v Wellington Capital Limited* [2013] FCAFC 52 is available on the Federal Court of Australia website (www.fedcourt.gov.au) under the Quick Link 'Find a Judgment', or by direct URL <http://www.judgments.fedcourt.gov.au/judgments/Judgments/fca/full/2013/2013fcafc0052>.

Wellington Capital Limited as responsible entity of the Premium Income Fund wishes to advise Unitholders and the market of the following matters in relation to the decision of the full court of the Federal Court.

Asset Resolution Limited shares remain the property of Unitholders

The in-specie distribution of shares in Asset Resolution Limited undertaken on 5 September 2012 remains in place, unchanged and unaffected in any respect by the decision of the full court of the Federal Court.

The decision of the full court involves a declaration of the Court which does not affect third parties being the Unitholders who were the recipients of the Asset Resolution Limited shares in-specie or subsequent purchasers of those shares. The relief sought and obtained was purely declaratory relief and does not touch in any way the in-specie distribution of shares undertaken by Wellington Capital Limited on 5 September 2012.

Premium Income Fund

The decision of the full court of the Federal Court does not affect the operation of the Premium Income Fund, the Unitholders of the Premium Income Fund, nor Wellington Capital Limited as responsible entity of the Premium Income Fund.

Federal Court Proceedings NSD 1004/2013 - ASIC v Wellington Capital & Ors - Discontinued

As announced on 11 June 2013, the Australian Securities and Investments Commission commenced legal proceedings against Wellington Capital Limited in its capacity as responsible entity of the Premium Income Fund and others in the Federal Court.

Pursuant to rule 26.12 of the Federal Court Rules 2011 the proceedings were discontinued by consent and a Notice of Discontinuance by ASIC was filed with the Court.

Litigation Update – RE Claim

A directions hearing in relation to the RE Claim has been set down for 9:30 AM on 16 December 2013 before Justice Wigney of the Federal Court of Australia.

Justice Perram of the Federal Court of Australia had previously ordered that the Class Action and the RE Claim (announced to the NSX on 8 April 2013) would be run and heard together as requested by the Premium Income Fund's lawyers Johnson Winter & Slattery. Johnson Winter & Slattery are also the lawyers representing the Class Action members.

Justice Perram had also indicated that he intended to set the proceedings down for hearing commencing 7





October 2014 for a period of three months. This means that the Class Action and the RE Claim will be heard concurrently and evidence in one will be evidence in the other.

Wellington Capital Limited as responsible entity of the Premium Income Fund earlier advised that an Originating Process and a Statement of Claim had been filed in the New South Wales District Registry of the Federal Court of Australia, against KPMG and the former auditor of the Premium Income Fund's compliance plan.

The Statement of Claim in proceeding NSD557/2013 closely mirrored the claim made in the Premium Income Fund Class Action which was commenced in 2009 by representatives of Unitholders in the Premium Income Fund.

Jenny Hutson, Managing Director said: *'I appreciate how important any compensation is to unitholders who suffered loss as a result of the loan drawdown and investment decisions made by the Fund's former responsible entity.'*

As responsible entity of the Premium Income Fund, Wellington Capital has always been of the view that every legal avenue possible should be pursued to ensure that those unitholders who suffered loss are adequately represented. It is the view of the Directors of Wellington Capital that it is appropriate to commence these proceedings in the Federal Court to ensure that unitholders who suffered loss in 2008 have the best possible chance of compensation being received by them.'

Wellington Capital Limited as responsible entity of the Premium Income Fund is funded by IMF (Australia) Limited (ASX:IMF). IMF is also funding the Class Action members in the Premium Income Fund Class Action. There will be no litigation expense to the Fund in relation to these newly commenced proceedings.

It is the intention of Wellington Capital Limited as responsible entity of the Premium Income Fund that any compensation received as a result of the new Federal Court Proceeding will be made available on a pro-rata basis to unitholders of the Premium Income Fund as at 15 October 2008.

Perpetual Nominees Limited v Rytelle Pty Ltd and Ors – Supreme Court of Victoria Proceedings 6858/2009

Justice Sifris of the Supreme Court of Victoria handed down his decision in favour of Perpetual Nominees Limited as custodian of the Premium Income Fund in Proceedings 6858/2009.

Perpetual Nominees Limited brought a claim to recover the amount of the debt currently due to the Premium Income Fund from the Guarantors of the loan to the Forest Resort group of companies; namely Forest Resort Operations Pty Ltd, Mr James Walsh and Mrs Joan Walsh.

The Defendants counter-claimed against Perpetual Nominees Limited and the former responsible entity of the Fund, ACN 101 634 146 Pty Ltd (In Liquidation).

In the decision, his Honour dismissed the counter-claim by the Guarantors and borrowers against Perpetual Nominees

Limited and the former responsible entity of the Fund. Justice Sifris held that the plaintiffs by counterclaim had failed to establish any claim and no question of reduction or set off in relation to the claim by Perpetual Nominees Limited arose. He further held that accordingly the Guarantors are liable for the currently due debt.

His Honour has ordered the Guarantors are jointly and severally liable to pay to Perpetual Nominees Limited as custodian of the Premium Income Fund \$29,428,757.07. In addition, those parties are required to pay Perpetual Nominees Limited's costs of the proceeding.

Perpetual Nominees Limited will now seek to enforce the order.

Managing Director of Wellington Capital Limited, Jenny Hutson said, *'The decision by His Honour is the best possible outcome for the Fund'*.

Sale of assets

Completion of Sale Announced - 17 April 2013

Wellington Capital Limited as responsible entity of the Premium Income Fund announced on 17 April 2013 that it entered into an unconditional contract to sell its interest in five assets being:

- ✿ the Peppertree joint venture;
- ✿ the units held by it in the Dole Property Trust;
- ✿ the balance due to the Fund in relation to the sale of the security property at Lane Cove;
- ✿ the balance due to the Fund following the sale of the security property at Lithgow, New South Wales; and
- ✿ the loan to Seiza Finance Pty Ltd.

Completion of the sale occurred on 18 June 2013 with \$1.2 million received at settlement. The balance \$4 million was due and payable by 30 September 2013. A further \$100,000 has been received and payment of the balance \$3.9 million has been extended to 31 March 2014 by agreement.

Payment received from Joint Venture - Peppertree at Trinder Avenue, Maroochydore, Queensland

Prior to the above sale, Wellington Capital Limited as responsible entity of the Premium Income Fund previously announced on 20 December 2012 that the Fund has received \$320,000 in payment from the joint venture at the Peppertree development from the sale of 8 lots.



Sale of 57.5% interest in Trust that owns Chifley Wollongong Hotel

Wellington Capital Limited as responsible entity of the Premium Income Fund is pleased to advise that it has realised the Fund's 57.5% interest in the Harbour Street Development Trust that owns the 168 room Chifley Wollongong Hotel.

The Fund has realised its final 57.5% of the units for \$8.9 million, payable over time. The first payment, being \$1.6 million, was paid on 28 February 2013. A further \$3 million will be paid in June 2014, with the remaining \$4.7 million to be paid in December 2014. The payment obligation is supported by a caveat over the Hotel title and power of attorney giving the Fund power to sell the Hotel if payments are not received in accordance with the agreement.

Managing Director, Jenny Hutson, said that *'the sale of the remaining 57.5% of the units in the Trust which owns the Chifley Wollongong Hotel for \$8.9 million is a positive outcome for the Fund. It is the culmination of a very focused effort over four years to maximise value for Unitholders through the completion of the Hotel, rather than selling it as an incomplete asset.'*

Conditional contracts

Mortgagee in Possession Sale - Nelson Bay

Wellington Capital Limited as responsible entity of the Premium Income Fund announced that it had entered into a call option over the security asset held at Nelson Bay.

The Fund is mortgagee in possession of the property, which had a Development Approval for a highrise, medium density residential development comprising up to 33 apartments.

The call option over the property was to be exercised on or before the end of August 2013. The call option was not exercised and subsequently the property is still for sale.

Oxygen Estate in Duns Creek, New South Wales (mortgagee in possession)

Wellington Capital Limited as responsible entity of the Premium Income Fund is pleased to announce it has entered into a conditional contract to sell the land at Oxygen Estate in Duns Creek, New South Wales as mortgagee in possession for \$1.1 million payable over 12 months

Notification to ASIC of potential breach of Compliance Plan

Wellington Capital Limited as Responsible Entity of the Premium Income Fund has notified ASIC of a potential breach of its Compliance Plan.

The legal position will not be finalised until the outcome of the Appeal to the High Court of Australia is certain.

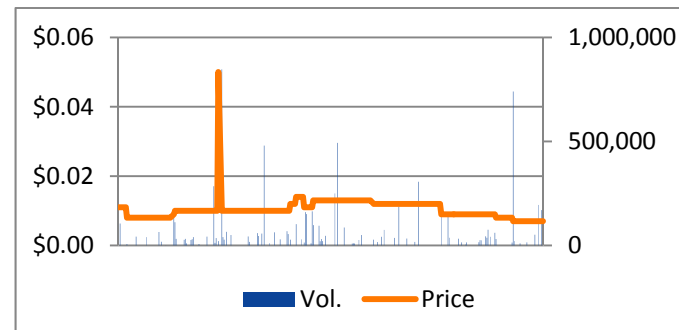
Further announcements will be made as the matter progresses.

National Stock Exchange (NSX) Update

A summary of trading activity from 4 December 2012 to 13 December 2013 is set out below:

High	Low	Volume
5.0 cents	0.7 cents	7,710,821

Trading summary (NSX:PIN) 4 December 2012 to 13 December 2013



Contact | Premium Income Fund

Hotline: 1300 854 885 [+617 3231 0000]
Fax: 1300 854 893 [+617 3231 0093]
Email: investorrelations@newpif.com.au
Web: www.wellcap.com.au

Wellington Capital Limited ACN 114 248 458 AFSL 291 562

