



EQUITITRUST CAPITAL

Equititrust Limited ABN 74 061 383 944
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Continuous Disclosure Statement

Equititrust Income Fund ARSN 089 079 854
Equititrust Limited ACN 061 383 944, AFSL 230471
Equititrust Priority Class Income Fund ARSN 089 079 729
Issued by Equititrust Limited on 3 November 2011

Update on Legal Action by Tucker Super Fund

The legal proceedings instituted by Tucker SF Pty Ltd ATF The Tucker Super Fund ("Tucker") in the Supreme Court (refer to CDS 26/10/11) were adjourned on 27 October 2011. They are currently not expected to be relisted prior to the expiration of the statutory 28 day period stipulated in a recent Notice to Members to Wind-Up the Equititrust Income Fund pursuant to Section 601NC of the Corporations Act 2011 (Cth); this period is to expire in late November 2011.

Equititrust was successful in obtaining an order that Tucker pay Equititrust's costs thrown away by reason of the adjournment of the application.

ASIC Orders of the Supreme Court

On 27 October 2011 the Australian Securities and Investments Commission (ASIC) obtained orders by consent of Equititrust Limited from the Supreme Court that until Equititrust Limited ceases to be in breach of clause 6 of its Australian Financial Services Licence (relating to Net Tangible Assets), and lodges the outstanding audited financial reports and compliance audits for the Equititrust Income Fund and the Equititrust Priority Class Income Fund, Equititrust be restrained from, among other things:

1. Modifying the constitution of EIF.
2. Issuing new interests in EIF or ECPIF.
3. Dealing with any property other than in the ordinary and proper course of business.
4. Entering into any related party transactions without first providing ASIC with 21 days written notice.
5. Renegotiating the terms of any loans, securities and guarantees, other than in the ordinary and proper course of business.
6. Commencing or discontinuing any legal proceedings, other than in the ordinary and proper course of business.

Attached is a complete copy of the draft Orders, which were made with the consent of Equititrust Limited.

The Board confirms that it is cooperating with ASIC in relation to its inquiries and reaffirms its commitment to act independently and appropriately in the best interests of investors.

Undertakings by Mr Mclvor

To safeguard any concerns which may be held regarding the independence of the Board and Board members being subject to influence, Mr Mclvor undertook to the Supreme Court in a recent Affidavit that he will not appoint a new Director to the Board of Equititrust Limited or seek to remove a Director from the Board of Equititrust Limited without:

- (a) Giving 7 days' notice to the existing Board;
- (b) Giving 7 days' notice to the ASIC; and
- (c) Seeking the leave of the Court after the expiry of that notice.

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Mr McIvor also undertook to the Court that he will not seek to interfere with the conduct by the Board of its business and the discharge of its responsibilities on the basis that it is clear that he is entitled to put properly documented proposals before the Board for its consideration at a time which is indicated to Mr McIvor as being suitable by the Board to enable it to consider such proposals; and on the basis that he is entitled, at the Board's invitation to address it about any proposals which he or anyone else makes in a manner and time which the Board considers suitable.

The Board welcomes Mr McIvor's reaffirmation of its independence.

ASIC Hearing on 21 November 2011

On 19 October 2011 the ASIC issued a Notice of Hearing under section 915C of the Corporations Act 2001 (Cth) as it is concerned that Equititrust Limited may have contravened the financial services laws and conditions of its Australian Financial Services Licence.

ASIC's areas of concern include a breach of clause 6 of its Australian Financial Services Licence (relating to Net Tangible Assets), the failure to lodge the outstanding audited financial reports and compliance audits for the Equititrust Income Fund and the Equititrust Priority Class Income Fund.

Equititrust has recently lodged with ASIC a number of Form FS80s – Notification by an AFS Licensee of a significant breach of a Licensee's obligations, in circumstances where a breach has occurred or is likely to occur.

The ASIC hearing is currently expected to take place on 21 November 2011. Equititrust continues to liaise with ASIC in relation to its compliance with its licensing and regulatory obligations.

Updated Unit Prices: KPMG Audit Recommendations and Board Determination

KPMG, the trust auditor, has provided Equititrust Limited with a report detailing further impairments to assets of Equititrust, EIF, EPCIF and the Equititrust Premium Fund (EPF), as at 30 June 2011. These have been adopted by the Board, and will be taken into account as the 2010-2011 Statutory Accounts are finalized. The unit prices in the EIF, EPCIF and EPF are currently in the process of being recalculated. A further Continuous Disclosure Statement will be issued once these recalculations are complete.

The Board is currently looking at any further impairments since 30 June 2011 and will make Continuous Disclosure as required.

End of Financial Year Statement Accounts and Audit – Finalisation

With the impairments adopted, the Board is moving forward with KPMG to finalise the Accounts and Audits as soon as possible. The Board has met with KPMG Auditors last Friday 28 October 2011 to progress this matter.

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SUPREME COURT OF QUEENSLAND

REGISTRY: Brisbane
NUMBER: BS 9694 of 2011

IN THE MATTER OF EQUITITRUST LIMITED ACN 061 383 944

Applicant: **AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION**
AND
Respondent: **EQUITITRUST LIMITED ACN 061 383 944**

ORDER

Before: Justice Martin
Date: 27 October 2011
Initiating document: Application filed 25 October 2011

BY CONSENT THE ORDER OF THE COURT IS THAT:

For the purposes of this order:

"Property" means all real or personal property, assets or interests in property of any kind, within or outside Australia including any property held otherwise than as sole beneficial owner and any property controlled as mortgagee in possession.

"Dealing" means Selling, charging, mortgaging, encumbering, securing, diminishing, disposing of, parting with possession, making any declaration of trust in relation to, exercising any power to vary or modify any trust deed or any interest under any trust in relation to the Property.

1. Until 4.00pm on 12 December 2011 or earlier order of the Court, the Respondent (whether by itself, its employees, servants or agents) be restrained from doing all of the following acts in relation to the operation of the Equititrust Income Fund ARSN 089 079 854 (**EIF**):

- (a) modifying, or repealing and replacing, the constitution of EIF in the absence of a special resolution passed by the members of EIF, without first providing

ORDER
Filed on behalf of the Applicant

Australian Securities & Investments Commission
Hugh Copley, Litigation Counsel

Form 59 Rule 661

Level 20, 240 Queen Street, Brisbane Qld 4000
Tel: (07) 3867 4700
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Ref: K Rodgers (11-40025)

21 days written notice to the Applicant of the intention to modify, or repeal and replace, the constitution of EIF together with the terms of the intended modification, repeal and replacement, of the said constitution;

- (b) issuing new interests in EIF, without first providing 21 days written notice to the Applicant of the intention to issue a new interest, together with a full description of the new interest intended to be issued;
- (c) redeeming, cancelling or modifying existing members' interests in EIF, without first providing the Applicant with 21 days written notice of the intention to do the act, together with a full description of the redemption, cancellation or modification of members interests in EIF which is intended;
- (d) dealing with any Property held or controlled by the Respondent in its capacity as responsible entity of EIF, other than in the ordinary and proper course of business, including paying business expenses and repaying debts bona fide and properly incurred by the Respondent as the responsible entity for EIF;
- (e) dealing with any Property held or controlled by the Respondent in its own capacity, other than in the ordinary and proper course of business, including paying business expenses and repaying debts bona fide and properly incurred by the Respondent in its own capacity, or as the responsible entity for EIF;
- (f) entering into any contracts, deeds or agreements in respect of or in relation to any Property held or controlled by the Respondent in its capacity as responsible entity of EIF, with any person or entity that is a related party (as defined in section 228 of the *Corporations Act 2001*) (**the Act**) or related entity (as defined in section 9 of the Act) to the Respondent, without first providing the Applicant with 21 days written notice of the intention to enter into the contracts, deeds or agreements, together with the terms of the proposed contracts, deeds or agreements;
- (g) renegotiating the terms of loans made or controlled by, or securities and guarantees held or controlled by, the Respondent in its capacity as responsible entity of EIF, other than in the ordinary and proper course of business;
- (h) commencing or discontinuing legal proceedings in respect of loans made by, or securities and guarantees held or controlled by, the Respondent in its capacity as responsible entity of EIF, other than in the ordinary and proper course of business.

2. Until 4.00pm on 12 December 2011 or earlier order of the Court, the Respondent:
 - (a) provide to the Applicant copies of notices and correspondence sent to members of EIF after the date of this order, forthwith upon those notices or correspondence being sent to the said members;
 - (b) provide to the Applicant forthwith (to the extent the resolutions exist or upon such resolutions being passed in the future) copies of any resolution of the Board of Directors of the Respondent which rescinds, alters, modifies or actions in anyway the resolutions of the Board of Directors of the Respondent made 12 October 2011 to the following effect:
 - i. that the purposes of EIF could not be accomplished; and
 - ii. to take steps to wind up EIF in accordance with section 601NC of the Act.
3. Until 4.00pm on 12 December 2011 or earlier order of the Court, the Respondent (whether by itself, its employees, servants or agents) be restrained from issuing new interests in Equititrust Priority Class Income Fund ARSN 089 079 729 (**EPCIF**), without first providing 21 days written notice to the Applicant of the intention to issue a new interest, together with a full description of the new interest intended to be issued.
4. Until 4.00pm on 12 December 2011 or earlier order of the Court, the Respondent provide to the Applicant forthwith (to the extent the resolutions exist or upon such resolutions being passed in the future) copies of any resolution of the Board of Directors of the Respondent which rescinds, alters, modifies or actions in anyway the resolutions of the Board of Directors of the Respondent made 12 October 2011 to the following effect:
 - (a) that the purposes of EPCIF could not be accomplished; and
 - (b) to take steps to wind up EPCIF in accordance with section 601NC of the Act.
5. That there be liberty to apply on 48 hours written notice.
6. Costs reserved.

Signed: