

TO INVESTORS AS ADDRESSED

23 October 2019

**EQUITITRUST INCOME FUND
(RECEIVER APPOINTED) (the Fund or EIF)
ARSN 089 079 854**

1. INTRODUCTION

I refer to my previous reports and provide my 35th update to Investors since my appointment as Court appointed Receiver and person responsible for winding up the EIF on 21 November 2011. This report should be read in conjunction with my previous reports to Investors.

In summary:

- There have been three distributions to Investors to date totalling 11 cents in the dollar and based on the reducing number of units held. This equates to 10.6 cents in the dollar of the units held at the date of my appointment on 21 November 2011
- The current total estimated return to Investors is between 12.4 and 12.6 cents in the dollar as detailed at Section 5 of this report, with the further estimated distributions of between 1.8 and 2 cents in the dollar
- The Liquidators of Equititrust Ltd (In Liquidation) (Receivers and Managers Appointed) (EL) have resolved the proceedings against the directors of EL and the auditors of the Fund. The parties to the litigation attended a mediation in September 2018 and after ongoing negotiations, executed a confidential Settlement Deed on 17 December 2018. The Liquidators made an application to seek judicial advice in relation to the Settlement Deed that was heard on 21 June 2019 and 28 June 2019. This was subsequently approved by Justice Jagot on 28 June 2019 and orders were made on 9 July 2019. The Liquidators have advised that the settlement will not provide a recovery for unitholders or creditors in the EIF or the EPF (refer Section 2)

The remaining matters to be completed in order to finalise the winding up, are as follows:

- Resolve the claims by the Liquidators (refer Section 3.2)
- Seek authority from the Court to pay an equalisation payment to Investors who did not receive a return of capital in the 2011 financial year (refer Section 5.2) and pay a final distribution (including the equalisation payment) to Investors to finalise the receivership

2. LEGAL PROCEEDINGS

Liquidators' claim against the Auditors and Directors and Officers

As previously advised, a Claim and Statement of Claim was filed in the Federal Court on 27 September 2013 by the Liquidators of EL against the Auditors, Directors and EL in its own capacity for breach of duties. The claim includes the claims that were originally contemplated as being made on behalf of the Investors of the Fund as a class action.

A summary of the key events are detailed below:

- The parties to the litigation attended a mediation in September 2018 and after ongoing negotiations, executed a confidential Settlement Deed on 17 December 2018.
- The Liquidators made an application to seek judicial advice in relation to the Settlement Deed that was heard on 21 and 28 June 2019. This was subsequently approved by Justice Jagot on 28 June 2019 and orders were made on 9 July 2019.

The Liquidators' of EL issued a report to creditors dated 20 August 2019 (the EL Report) which provides an update in respect of the settlement of the EIF Proceedings (2013). A copy of the EL Report can be found on the website www.equititrust.com.au within the updates page under the heading "Liquidator's Reports".

As stated in the EL Report, the EIF Proceedings (2013) have now been settled and the Liquidators have now received judicial advice from the Federal Court of Australia approving EL entry into the Settlement Deed.

Investors can find a copy of that decision here -

<https://www.judgments.fedcourt.gov.au/judgments/Judgments/fca/single/2019/2019fca1063>

As explained by the Liquidators in the EL Report, the settlement did not provide any recovery for unitholders or creditors (secured or unsecured) because the entirety of the funds received as a result of that settlement were distributed to the litigation funder by way of a "*funding commission and reimbursement of legal fees and payment of liquidators' remuneration paid by the litigation funder over the course of the past six years*" (see page 2 of the EL Report).

The EL Report states that the settlement represented, in the Liquidators' opinion, the maximum amount that could be recovered without proceeding to trial with its associated risks and costs.

As investors will recall, I have previously advised that the timing of the equalisation payment and final distribution to investors was subject to the liquidators resolving this outstanding proceeding.

Now that it has been resolved, I can now proceed to take steps to finalise the winding up of the EIF.

3. CREDITOR CLAIMS

3.1. Other Creditors

As previously advised, there are a number of creditors that are required to be paid before the equalisation payment and the final distribution can be made to Investors, which include:

- Trade creditors, which relate to liabilities necessarily incurred in the winding up of the Fund
- Potential claims against the Fund made by the Liquidators of EL (refer Section 3.2 below)
- Receiver's remuneration and outlays.

3.2. Claims by the Liquidators of EL and Claims by Creditors

As advised in my last report to Investors, repeated attempts have been made to resolve all claims between the Fund and the Liquidators in respect of a costs order awarded against EL in the proof of debt proceedings and the amount owing at the date of their appointment (where I consider monies are owing to the Fund) and any amount due to the Liquidators after their appointment in relation to costs reasonably and properly incurred by them pursuant to the terms of the Fund's constitution.

I provided a detailed update regarding this matter in my last report to Investors which formed the background of an application I caused to be made to Court on 3 August 2018 in which I sought directions to resolve any outstanding claims against the EIF.

That application was (part) heard by Justice Boddice in the Supreme Court of Queensland on 12 October 2018.

Justice Boddice made orders in those proceedings on 2 April 2019 (Order). A copy of the Order made by Justice Boddice on 2 April 2019 is attached to this update.

As you will see, the Order directs the liquidators, amongst other things, to:

- a) ascertain the debts payable by, and claims against, EL (excluding any claim by any unitholders of the EIF and any claim against EL by the liquidators or former administrators of EL);
- b) adjudicate upon those debts and claims; and
- c) identify whether EL has a claim for indemnity from the EIF in respect of those debts and claims.

The application was otherwise adjourned to a date to be fixed.

The Order specifically excludes any claim by unitholders of the EIF and any claim by the liquidators or former administrators of EL (see paragraphs 1 and 2 of the Order).

In accordance with the Order, on 27 August 2019, the liquidators invited non-unitholder creditors of EL (whose debts or claims had not already been admitted) to submit a proof of debt in the liquidation of EL on or before Wednesday, 11 September 2019 by delivering to the liquidators a formal proof of debt or claim in accordance with Form 535.

3.3. Claims by Unitholders

I am informed by the liquidators' solicitors that following the invitation, and not unexpectedly given the invitation was to non-unitholder creditors, no proofs of debt were received from unitholders.

As far as I am aware, no unitholder makes a claim as a "creditor" of EL, separate to their claim to be paid an equalisation payment (as the case may be) or a final distribution as a unitholder from the EIF.

In light of that, I do not consider it necessary that unitholders separately lodge proofs of debt in the liquidation of EL as "creditors", where the basis of the relevant unitholders' claim is an entitlement as a unitholder of the EIF to a distribution from the EIF.

Notwithstanding this, if any unitholder does consider they have a claim as a "creditor" of EL (that is, a claim which is separate to their entitlement to receive an equalisation payment or a final distribution as a unitholder from the EIF), then I invite that unitholder to write to me to explain the basis for their claim so that I may consider this further.

Please let me have any response within 14 days.

4. RECEIPTS AND PAYMENTS

I provide below a summary of the Receipts and Payments of the Fund for the period from 1 March 2019 to 30 September 2019.

Summary of Receipts and Payments for the period	
1 March 2019 to 30 September 2019	
	(\$)
Opening Cashbook Balance	7,684,295.61
Receipts	
Interest Income	95,381.18
GST Received	7,611.00
Total Receipts	102,992.18
Payments	
Bank Charges	(70.00)
IT Expenses	(12,177.00)
Legal Fees	(197,910.57)
Printing & Stationery Expenses	(1,669.97)
Total Payments	(211,827.54)
Closing Cashbook Balance	(7,575,460.25)

I note the following in relation to the above receipts and payments of the Fund:

- IT expenses include the cost of hosting and maintaining the Equititrust server and licence fees for the Investor management database
- Legal fees primarily relate to:
 - dealing with the claims by the Liquidators of EL (see Section 3.2)
 - dealing with the claim by the Liquidators of EL against the directors of EL and the auditors of the Fund (see section 2)
- Printing and stationery expenses relate to the external cost of copying and issuing correspondence and notices to Investors.

The incurring of these costs is considered essential in terms of finalising the outstanding matters to enable the administration to be finalised.

5. ESTIMATED RETURN TO INVESTORS

To date the following distributions have been paid to Investors:

- First interim distribution of 5 cents per unit paid in June 2014 totalling \$9.696 million
- Second interim distribution of 3 cents per unit paid in June 2015 totalling \$5.526 million
- Third interim distribution of 3 cents per unit paid in September 2015 totalling \$5.36 million.

As previously advised, the Fund recorded an accounting and tax loss for the year ended 30 June 2011. Accordingly, the Fund had no surplus income available to distribute to Investors in the 2011 financial year. All payments to Investors other than payments of interest accrued as at 30 June 2010 were deemed by the Fund as a partial repayment of capital.

Prior to my appointment, the Fund accounted for this partial repayment of capital as a corresponding reduction in the unit balance of the Fund. The accounting treatment for the first, second and third interim distributions paid by me in June 2014, June 2015 and September 2015, respectively, has remained the same (i.e. as distributions are made, the number of units in the Fund continue to decrease in accordance with the amount distributed to Investors). Therefore, the cents per unit return for each distribution is calculated based on the units in the Fund at that point in time.

In light of the above, I provide below the overall estimated return to Investors of between 12.4 cents and 12.6 cents per unit as at 30 September 2019 as follows:

Estimated Return to Investors	Low	High
	\$000's	\$000's
Cash at Bank as at 30 September 2019	7,575	7,575
Estimated Value of Fund Assets as at 30 September 2019	7,575	7,575
Less:		
Estimated Creditors and Other Payables	(540)	(290)

Estimated Return to Investors	Low	High
	\$000's	\$000's
Estimated Receiver's Remuneration (1 November 2018 to 30 September 2019)	(154)	(154)
Estimated Receiver's Disbursements (1 November 2018 to 30 September 2019)	(3)	(3)
Estimated Receiver's Remuneration (1 October 2019 to 31 March 2020)	(200)	(130)
Estimated Receiver's Disbursements (1 October 2019 to 31 March 2020)	(10)	(5)
Estimated Receiver's Costs (e.g. legal fees, IT fees etc.)	(196)	(128)
Estimated Equalisation Payment	(2,924)	(2,924)
Estimated Net Amount Available to Investors as at 30 September 2019	3,548	3,942
Add:		
3 cent Interim Distribution paid September 2015	5,360	5,360
3 cent Interim Distribution paid June 2015	5,526	5,526
5 cent Interim Distribution paid June 2014	9,696	9,696
Total Funds Available for Distribution to Investors	24,130	24,524
Total Investor Units as at 21 November 2011	193,912	193,912
Overall Estimated Return to Investors per Unit	12.4	12.6

Please note the above amounts exclude GST unless stated otherwise.

The above estimate is prepared on the following basis:

- It includes all estimated future recoveries, Receiver's fees and costs.
- That the winding up of the Fund will be finalised by 31 March 2020. If the winding up of the Fund extends beyond 31 March 2020, the estimated return to Investors may change.

5.1. Future Updates and Distributions to Investors

As previously advised, I will not be in a position to make further distributions to Investors until the claims by the Liquidators of EL have been resolved (see Section 3.2).

I anticipate that the winding up of the Fund may take a further six months or more to finalise. This timeframe is subject to the claims made by the Liquidators of EL being resolved in a timely manner. If these matters are disputed or drawn out by the Liquidators, the estimated timeframe to distribute funds to Investors and finalise the winding up will increase. The timing of the final distribution to Investors is

therefore uncertain. I will continue to hold all funds in an interest bearing account until the final distribution is ready to be made.

I will continue to provide updates to Investors on the winding up progress and the timing of future distributions.

5.2. Equalisation Payment to Investors

As previously advised, an equalisation payment is proposed to Investors who did not receive a partial repayment of capital during the period from 1 July 2010 up until the cessation of distribution payments in March 2011. These Investors include Investors that elected to receive distribution payments annually and where their investments did not mature during this period.

The equalisation payment is also proposed to ensure an equitable return of capital is paid to all Investors given the different interest rates applicable for each class of unit which was used in calculating the partial return of capital paid at the relevant time.

In this regard, I have calculated the total equalisation payment to Investors to be \$2.924M across 2,447 separate Investor accounts. An adjustment for the equalisation payment is reflected in the estimated return to Investors at Section 5 and is in line with the estimate in my previous reports to Investors.

My solicitors had commenced preparing the relevant material for the Court application to approve the equalisation payment. However, as I am also required to seek orders from the Court in relation to the finalisation of the winding up of the Fund (including payment of a final distribution), I have determined, in conjunction with my solicitors, that it would be more appropriate to join the applications and seek orders to distribute both the equalisation payment and a final distribution at the same time.

This means that there will be one final distribution instead of two small distributions, which will save on both professional and external costs in applying for and distributing separate amounts to Investors.

6. RECEIVER'S REMUNERATION AND EXPENSES

I attach a summary of my current remuneration and outlays incurred since my last report to Investors, which covers the period from 1 March 2019 to 30 September 2019 totalling \$90,586.50 plus outlays of \$82.81 (both excluding GST).

The main tasks undertaken during the period 1 March 2019 to 30 September 2019 were:

- Correspondence with Investors, including:
 - Confirmation of unit holding balance
 - Change of details
 - Transfer of units.
- Ongoing maintenance and updating of the Investor database
- Correspondence with Investors and their financial advisors seeking updates in relation to the Fund
- Reviewing correspondence from the Liquidators and their solicitors in relation to the claim against the auditors and directors and EL
- Preparing and lodging statutory returns
- Review and payment of costs incurred on behalf of the EIF, including legal, IT and printing costs

- Preparing updates to Investors in relation to the winding up of the Fund
- Liaising with my solicitors and corresponding with the Liquidators regarding their claim for remuneration and expenses from the Fund and the directions hearing.

7. UPDATING YOUR CONTACT DETAILS

If Investors wish to update their postal address or bank details, a request should be submitted in writing to the following address.

Equititrust Income Fund (Receiver Appointed)
C/- BDO
GPO Box 457
Brisbane QLD 4001

8. PROGRESSING THE WINDING UP

I will otherwise now take steps to seek appropriate orders from the Court to progress the finalisation of the winding up of the EIF, including orders which facilitate the resolution of the liquidators' claim for an indemnity from the EIF for their remuneration and expenses as administrators and liquidators of EL (which does not form part of the Orders) and directions and/or declarations regarding the distribution of both an equalisation payment and final distribution to unitholders.

This process will also address any separate claims by unitholders as "creditors" of EL.

Investors will be advised of the application(s) in due course and a copy of the relevant documentation will be uploaded to the websites www.equititrustincomefund.com.au and www.equititrust.com.au.

9. QUERIES

All queries should be directed to this office, as follows:

Phone: (07) 3237 5999
Email: equititrust@bdo.com.au

All updates to Investors are posted to the websites; www.equititrustincomefund.com.au and www.equititrust.com.au.

Yours faithfully



David Whyte
Receiver

REMUNERATION REPORT - Summary of professional fees by category of work for the period 1 March 2019 to 30 September 2019

Equititrust Income Fund (Receiver Appointed)

Employee	Position	Rate	Totals		Task Area									
			hrs	\$	Assets		Creditors		Trade On		Investigations		Administration	
					hrs	\$	hrs	\$	hrs	\$	hrs	\$	hrs	\$
David Whyte	Partner	615	19.4	11,931.00	1.3	799.50	5.0	3,075.00	12.8	7,872.00			0.3	184.50
David Whyte	Partner	595	14.7	8,746.50	8.2	4,879.00	2.4	1,428.00	4.1	2,439.50				
Charles Haines	Associate Director	525	2.8	1,470.00			2.3	1,207.50					0.5	262.50
Charles Haines	Associate Director	510	1.3	663.00			1.1	561.00					0.2	102.00
Jayden Coulston	Manager	460	11.3	5,198.00			8.1	3,726.00	1.0	460.00	0.1	46.00	2.1	966.00
Jayden Coulston	Manager	445	16.5	7,342.50	0.3	133.50	13.0	5,785.00	0.7	311.50	1.1	489.50	1.4	623.00
James Schloss	Senior Accountant	320	0.2	64.00			0.2	64.00						
Antoinette Fielding	Accountant	275	0.7	192.50	0.1	27.50	0.3	82.50					0.3	82.50
Ryan Whyte	Accountant	275	43.3	11,907.50	0.7	192.50	38.1	10,477.50					4.5	1,237.50
George Lethbridge	Accountant	275	6.4	1,760.00			6.4	1,760.00						
Antoinette Fielding	Accountant	265	1.0	265.00	0.1	26.50	0.6	159.00					0.3	79.50
Jordan Devery	Accountant	225	72.3	16,267.50			66.8	15,030.00					5.5	1,237.50
Sarah Cunningham	Accounting Assistant	225	1.0	225.00									1.0	225.00
Ryan Whyte	Accountant	220	37.6	8,272.00			32.3	7,106.00					5.3	1,166.00
George Lethbridge	Accountant	220	9.8	2,156.00			9.8	2,156.00						
Sarah Cunningham	Accounting Assistant	220	0.4	88.00									0.4	88.00
Amy Glubb	Accountant	220	3.8	836.00			2.8	616.00					1.0	220.00
Liam Landrigan	Undergraduate	185	6.8	1,258.00			6.6	1,221.00					0.2	37.00
Liam Landrigan	Undergraduate	180	4.9	882.00			4.6	828.00					0.3	54.00
Jordan Devery	Undergraduate	180	54.3	9,774.00			51.1	9,198.00					3.2	576.00
Moira Hattingh	Practice Assistant	105	5.6	588.00									5.6	588.00
Moira Hattingh	Practice Assistant	100	7.0	700.00									7.0	700.00
TOTALS			321.1	90,586.50	10.7	6,058.50	251.5	64,480.50	18.6	11,083.00	1.2	535.50	39.1	8,429.00
			GST	9,058.65										
			TOTAL INC GST	99,645.15										
			AVERAGE HOURLY RATE	282	566	256	596	446	216					

Note: All amounts exclude GST unless otherwise noted

Disbursements for the period 1 March 2019 to 30 September 2019

Equititrust Income Fund (Receiver Appointed)

Expense Type	Amount (\$ ex GST)
Searches	
Postage	82.81
TOTAL	82.81
GST	8.28
TOTAL INC GST	91.09