

## TO INVESTORS

15 October 2014

### **EQUITRUST INCOME FUND ARSN 089 079 854 (RECEIVER APPOINTED) (“the Fund” or “EIF”)**

I refer to my previous reports and now provide my 21<sup>st</sup> update to Investors since my appointment as Court appointed Receiver and person responsible for winding up the EIF on 21 November 2011.

## **1. Asset Recoveries**

### **1.1 Property Realisations**

A summary of the property that has settled since my 20<sup>th</sup> update to investors along with a summary of the only remaining property to settle is provided below.

(i) Wirrina Cove, SA

Settlement of the remaining assets at Wirrina Cove, being the Marina St Vincent head lease and three berths, took place on 30 September 2014.

The only remaining matter to be attended to at Wirrina Cove is the resolution of objections to the land tax assessments of certain lots. In this regard, I anticipate a reduction in the taxable site values for 2012/13 and 2013/14 of approximately \$2.9 million and \$2.2 million respectively, which should result in an estimated land tax refund of approximately \$163,000.

(ii) Gold Coast, QLD

As advised in my previous report to investors, this property was subject to possession proceedings with a trial expected to take place over three days in September 2014. However, an agreement has been reached with the defendant with settlement due on 22 October 2014. Should payment not be forthcoming by this date, possession of the property will be granted and a marketing campaign will be commenced to realise the property for the benefit of Investors. As this is a public document and to ensure I do not prejudice completion of the settlement, I will not at this time identify the settlement amount.

### **1.2 Legal Proceedings**

As advised in my 20<sup>th</sup> report to Investors, there are several legal actions currently on foot. I am unable to provide specific details with respect to each matter and the expected outcome of same. However, I provide an overview below:

- Two claims have been filed against the same valuer for negligence and damages in excess of \$10 million. The Court ordered that the plaintiff and defendants provide expert reports that they intend to rely on at trial by 26 September 2014 and that the parties participate in mediation by 31 October 2014. Expert reports have not been finalised as yet as further disclosure has been requested by the defendants to assist in the preparation of their reports.

Any amount recoverable with respect to the claims will be sought against a professional indemnity insurance policy.

- Two other claims have been filed against separate valuers for negligence and damages.

An amended claim and statement of claim has been filed and served on the defendants in one of the actions along with a copy of the retrospective valuation prepared on our behalf.

Discussions are ongoing with legal counsel and the expert valuer with respect to the other claim to establish the loss or damage suffered by the EIF in order to finalise the amended claim and statement of claim.

- Proceedings are ongoing against a bankrupt/related parties to realise an interest in the surplus proceeds that have been realised from the sale of a property. Witness statements and summaries of evidence are currently being finalised in preparation for trial.

Given the nature of these matters, they may take up to twelve months to resolve. However, it is expected that the actions will realise several million dollars for the benefit of Investors.

## **2. Creditor Claims**

### **2.1 Secured Creditors**

As advised in my 20<sup>th</sup> report to Investors, secured creditors' claims have been discharged, with the exception of approximately \$989,000 in respect of bank guarantees issued by the National Australia Bank. The bank guarantees support bonds held by two Councils with respect to certain development sites.

As previously advised, it has been determined that it is not commercial to complete the outstanding works as the costs of the works are likely to significantly exceed the value of the bonds.

### **2.2 Other Creditors**

As previously advised, there are a number of creditors that are required to be paid (or funds retained) before further distributions can be made to Investors, which include:

- Rates in respect of the remaining Gold Coast property (should the settlement agreement noted at section 1.1 above not transpire);
- Trade creditors, which relate to liabilities necessarily incurred in the winding up of the Fund;
- Any other creditors outstanding at the date of my appointment; and
- Receiver's remuneration and outlays.

### **2.3 Claims by the Liquidators of Equititrust Limited ('EL')**

As previously advised, I lodged an application with the Supreme Court of Queensland on 24 July 2013 appealing the decision of the Liquidators of EL (Hall Chadwick) to adjudicate on a proof of debt lodged by the Fund. The matter was heard on 5 December 2013 and the Court determined that the Liquidators had no right to rule on the proof of debt. The Court also awarded costs against the Liquidators.

I continue with efforts to resolve a claim against the Liquidators for the costs incurred in relation to the application in addition to resolving any other claims between the Fund and the Liquidators in respect of 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.

It is hoped that an agreed procedure to resolve the outstanding issues and claims will be finalised in the coming months.

### 3. Receipts and Payments

I provide below a summary of the Receipts and Payments of the Fund for the period from 28 July 2014 to 12 October 2014.

Summary of Receipts and Payments for the Period			
28 July 2014 to 12 October 2014			
		\$	\$
<b>Opening Cash at Bank</b>			<b>12,966,994.50</b>
<b>Receipts</b>			
Interest Income			73,094.08
<i>Loan Recoveries:</i>			
Gonfanon Pty Ltd		844.69	
Wirrina Cove		304,851.00	305,695.69
	<b>Total Receipts</b>		<b>378,789.77</b>
<b>Payments</b>			
Agent's Fees			15,614.30
Bank Charges			198.00
<i>Distressed Loan funding:</i>			
Boothers Pty Ltd		28,815.02	
Corymbia Corporation Pty Ltd		60,297.52	
Corymbia Estates Pty Ltd		44,520.96	
Gamp Developments Pty Ltd		216.67	
Gonfanon Pty Ltd		1,885.00	
Graham Spottiswood (A Bankrupt)		138,099.96	
National Resorts		1,583.83	
Kristine Lorraine Newton		400.83	
Rosea Pty Ltd		3,046.33	
Tweed Central Pty Ltd		2,871.10	
Western Land Corporation		1,503.67	
Wirrina Cove		131,129.25	414,370.14
GST Paid			251,290.00
IT Expenses			10,991.20



Legal Fees	154,573.10
Printing and Stationery	2,247.43
Unit Holders - 5 cent interim distribution	46,347.33
<b>Total Payments</b>	<b>895,631.50</b>
<b>Closing Cash at Bank</b>	<b>12,450,152.77</b>

The 'Distressed Loan Funding' for Boothers Pty Ltd includes:

- Legal fees of approximately \$22,700
- Insurance expenses of approximately \$2,500
- Valuation fees of approximately \$1,500
- Consultant's fees of approximately \$2,000

The 'Distressed Loan Funding' for Corymbia Corporation Pty Ltd relates to costs in pursuing a legal action and includes:

- Legal fees of approximately \$52,900
- Consultant's fees of approximately \$7,400

The 'Distressed Loan Funding' for Corymbia Estates Pty Ltd relates to costs in pursuing a legal action and includes:

- Legal fees of approximately \$40,500
- Consultant's fees of approximately \$4,000

The 'Distressed Loan Funding' for Wirrina Corporation Pty Ltd includes:

- An advance to Wirrina Corporation Pty Ltd to cover trading expenses with respect to Marina St Vincent of approximately \$16,200
- Insurance in relation to Marina St Vincent of approximately \$17,800
- Legal fees of approximately \$19,900
- An advance to Wirrina Corporation Pty Ltd to cover a GST liability of approximately \$74,300
- Agent's commission of \$1,300
- Consultant's fees of \$1,700

The 'Distressed Loan Funding' for Graham Spottiswood (A Bankrupt) includes:

- Legal fees incurred to secure an interest in the surplus proceeds from the sale of a property

The 'Distressed Loan Funding' for the remaining loans primarily relates to legal fees in relation to legal proceedings currently on foot.

The incurring of these costs is considered essential in terms of successfully realising the assets subject to the Fund's securities.

## 4. Estimated Return to Investors

I provide below an overall estimated return to Investors of between 11.2 and 11.4 cents in the dollar as at 12 October 2014 as follows:

	Low	High
	±\$000's	\$000's
Net Estimated Value of Fund Assets as at 12 October 2014	\$14,200	\$14,200
Less: Creditors and Other Payables	(\$2,231)	(\$1,831)
<b>Estimated net amount available to investors as at 12 October 2014</b>	<b>11,969</b>	<b>13,546</b>
Total investor units as at 12 October 2014	184,234	184,234
<b>Estimated Value of Remaining Units as at 12 October 2014</b>	<b>0.065</b>	<b>0.067</b>
5 cent interim distribution paid to investors	\$9,678	\$9,678
Total investor units as at 21 November 2011	193,912	193,912
<b>Overall Estimated Return (Cents in the Dollar)</b>	<b>11.2 cents</b>	<b>11.4 cents</b>

The above table does not take into account future operating costs, future legal fees, future Receiver's fees and future rates for the Gold Coast property (if any). It also excludes any legal recoveries against borrowers, valuers or other third parties.

The estimated return as at 12 October 2014 has been revised downwards slightly from my estimate as at 30 June 2014 of between 11.4 and 12 cents in the dollar.

### 4.1 Distributions to Investors

As advised in my previous report, an interim distribution of 5 cents per unit was made on 20 June 2014. There are a small number of cases where investors' bank account details or postal addresses are not up to date and as a result cheques and electronic fund transfers have been returned. I am endeavouring to contact these investors to obtain up to date information.

The timing of further distributions to Investors continues to be dependent on the timing of the resolution of the legal proceedings currently on foot and the resolution of the claims with the Liquidators of Equititrust Limited.

I anticipate that the winding up of the Fund may take a further twelve to fifteen months to finalise, however, subject to resolving the claims with the Liquidators of Equititrust Limited in a timely manner, I continue to be hopeful that I will be in a position to make a further distribution to Investors during the first half of 2015.

In order to reduce costs, I will issue my next update to Investors in January 2015 when I will update Investors further with respect to the anticipated timing of the next distribution to investors.

## 5. Receiver's Remuneration and Expenses

I attach a summary of my current remuneration and outlays outstanding for the period from 1 July 2014 to 7 October 2014. My remuneration incurred during this period totals \$219,619.00 plus outlays of \$2,190.39 plus GST.

I anticipate that my next application for approval of my remuneration will be heard in November 2014. A copy of my application in this respect will be posted to the websites



[www.equititrust.com.au](http://www.equititrust.com.au) and [www.equitrustincomefund.com.au](http://www.equitrustincomefund.com.au) and Investors will be notified when this application has been lodged.

## 6. 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

## 7. Queries

All queries should be directed to Daniel Tipman of this office who can be contacted as follows;

Phone: 07 3237 5999  
Email: [daniel.tipman@bdo.com.au](mailto:daniel.tipman@bdo.com.au)

Should Investors have any queries in relation to the winding up of the Fund, they should contact my office on (07) 3237 5999 or by email at [info@bdo.com.au](mailto:info@bdo.com.au).

Yours faithfully

A handwritten signature in blue ink, appearing to read 'David Whyte'. The signature is fluid and cursive, with a long horizontal stroke extending to the right.

David Whyte  
Receiver

**REMUNERATION REPORT - Summary of professional fees by category of work for the period 1 July 2014 to 7 October 2014**  
**Equititrust Income Fund (Receiver Appointed)**

Employee	Position	Rate	Totals		Task Area									
			hrs	\$	Assets	Creditors	Trade On	Investigations	Administration	hrs	\$	hrs	\$	
David Whyte	Partner	560	63.6	32,648.00	38.8	21,728.00	1.3	728.00	3.7	2,072.00	1.8	1,008.00	12.7	7,112.00
John Somerville	Senior Manager	440	177.5	69,828.00	127.3	56,012.00	25.3	11,132.00	0.5	220.00			5.6	2,464.00
Michael Dharmaratne	Senior Accountant I	320	0.4	128.00			0.4	128.00						
Daniel Tipman	Senior Accountant I	320	327.1	96,576.00	33.6	10,752.00	202.6	64,832.00	55.6	17,792.00	0.8	256.00	9.2	2,944.00
Nicola Kennedy	Accountant I	225	32.2	6,772.50	7.2	1,620.00	16.7	3,757.50	4.0	900.00			2.2	495.00
Dermot O'Brien	Accountant II	195	59.2	9,282.00			5.8	1,131.00					2.2	495.00
Sarah Cunningham	Financial Assistant	195	0.3	58.50									41.8	8,151.00
Dermot O'Brien	Undergraduate	160	24.8	3,968.00	0.2	32.00	0.3	48.00	5.7	912.00			0.3	58.50
Nicole Jackson	Practice Assistant	155	2.0	310.00			2.0	310.00					18.6	2,976.00
Moirra Hattigh	Administration Assistant	80	0.6	48.00			0.6	48.00						
<b>TOTALS</b>			<b>687.7</b>	<b>219,619.00</b>	<b>207.1</b>	<b>90,144.00</b>	<b>255.0</b>	<b>82,114.50</b>	<b>69.5</b>	<b>21,896.00</b>	<b>2.6</b>	<b>1,264.00</b>	<b>90.4</b>	<b>24,200.50</b>
			GST	21,961.90										
			TOTAL INC GST	241,580.90										
			AVERAGE HOURLY RATE	319	435	322	315	486	268					

**Note:** All amounts exclude GST unless otherwise noted

**Disbursements for the period 1 July 2014 to 7 October 2014**

**Equititrust Income Fund (Receiver Appointed)**

Expense Type	Amount (\$ ex GST)
Parking	117.90
Photocopy	11.70
Postage	2,012.53
Search Fee	48.26
<b>TOTAL</b>	<b>2,190.39</b>
GST	219.04
<b>TOTAL INC GST</b>	<b>2,409.43</b>