

SUPREME COURT OF QUEENSLAND

REGISTRY: BRISBANE
NUMBER: BS 10478 OF 2011

IN THE MATTER OF EQUITITRUST LIMITED ACN 061 383 944

Applicant: **EQUITITRUST LIMITED ACN 061 383 944**

AND

Respondents: **THE MEMBERS OF THE EQUITITRUST INCOME FUND ARSN 089 079 854 AND THE MEMBERS OF THE EQUITITRUST PRIORITY CLASS INCOME FUND ARSN 089 079 729**

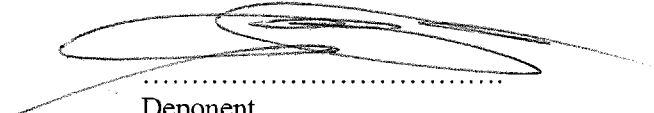
CERTIFICATE OF EXHIBIT

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VOLUME 3 OF 3

Exhibits "DW-7" to "DW-13" to the affidavit of **DAVID WHYTE** sworn at Brisbane on this 2nd day of December 2016.

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DW-8	Hourly charge out rates for BDO Business Recovery & Insolvency (Qld) Pty Ltd for the 2015/16 financial year and BDO Business Restructuring Pty Ltd for the 2016/17 financial year	457 – 459
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Deponent


Solicitor

Jacqueline Suzanne Ogden
Solicitor

Certificate of Exhibit
Filed on behalf of the Court Appointed Receiver
Form 47 R.435

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SZC:JSO:201204781

BDO Business Recovery & Insolvency (Qld)**SCALE OF INSOLVENCY HOURLY CHARGE OUT RATES**

FEES	\$ (Exc GST)	\$ (Inc GST)
Partner	560	616
Associate Director	495	545
Senior Manager	440	484
Manager	400	440
Supervisor	360	396
Senior Accountant I	320	352
Senior Accountant II	280	308
Accountant I	225	248
Accountant II	195	215
Financial Assistant	195	204
Undergraduate	160	176
Practice Assistant	155	171
Administration Assistant	80	88
OUTLAYS		
Postage	At cost	At cost
Phone	At cost	At cost
Photocopying	30c a copy	33c a copy
Fax	\$1 per page	\$1.10 per page
Company Search	At cost	At cost
Property Search	25	27.50
File Setup & Document Storage	60	66

These rates are current from 1 July 2015.



The Partners of BDO Business Recovery & Insolvency (Qld) are members of the Australian Restructuring Insolvency & Turnaround Association ("ARITA") and follow ARITA's Statement of Best Practice - Remuneration.

A copy of this statement may be found on the ARITA website (www.arita.com.au).

It is considered appropriate to keep and maintain a number of different staff levels. This is a reflection of the different levels of staff required and experience necessary in order to undertake the various tasks in an insolvency appointment.



BDO Business Restructuring

SCALE OF INSOLVENCY HOURLY CHARGE OUT RATES

FEES	\$ (Exc GST)	\$ (Inc GST)
Partner	580	638
Associate Director	495	545
Senior Manager	455	501
Manager	415	457
Supervisor	375	413
Senior Accountant I	330	363
Senior Accountant II	290	319
Accountant I	235	259
Accountant II	200	220
Financial Assistant	200	220
Undergraduate	165	182
Practice Assistant	160	176
Administration Assistant	85	94

OUTLAYS		
Postage	At cost	At cost
Phone	At cost	At cost
Photocopying	30c a copy	33c a copy
Fax	\$1 per page	\$1.10 per page
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It is considered appropriate to keep and maintain a number of different staff levels. This is a reflection of the different levels of staff required and experience necessary in order to undertake the various tasks in an insolvency appointment.

BDO Business Restructuring Pty Ltd ABN 90 134 036 507 is a member of a national association of independent entities which are all members of BDO Australia Ltd ABN 77 050 110 275, an Australian company limited by guarantee. BDO Business Restructuring Pty Ltd and BDO Australia Ltd are members of BDO International Ltd, a UK company limited by guarantee, and form part of the international BDO network of independent member firms. Liability limited by a scheme approved under Professional Standards Legislation, other than for the acts or omissions of financial services licensees.

14 Necessary and Proper Remuneration

Principle 10: A Practitioner is entitled to claim Remuneration and Disbursements, in respect of necessary work, properly performed in an Administration.

A Practitioner's right to be paid is recognised under the legislation and at general law and is given a high priority of payment from the Insolvent's funds.

The entitlement to Remuneration exists only in respect of work done that was necessary and was properly performed.

14.1 Necessary Work

A Practitioner is entitled to Remuneration only in respect of work done that was necessary for the Administration. The term '*necessary*' means work that was:

- connected with the Administration; and
- done in furtherance of the exercise of the powers and performance of the duties of a Practitioner as required by the Legislation, Code and applicable professional standards.

Example

- report to creditors;
- investigations of conduct of directors;
- protection and recovery of assets;
- preparing and filing a S533 report to ASIC;
- if the company has trading operations throughout Australia, it will generally be necessary for the Practitioner to make relevant searches of property titles in all States and Territories;
- if the company is a small local operation only, it would not be necessary to make international enquiries; and
- reconstruction of financial statements.

The examination of claims for Remuneration will necessarily be made with the benefit of hindsight. However a Practitioner may claim for work that may not have produced a positive outcome provided there was a proper exercise of professional judgment in the Practitioner deciding to do the work at the time the work was undertaken. Refer to section 18.2 for guidance on work papers and maintenance of Administration files.

Once that is established, the work will remain '*necessary*' for the purposes of a Remuneration claim, even if subsequent events show that the work was not necessary.

Example

- searches revealing no assets;
- examination of directors resulting in no new information; or
- unsuccessful claims for preference recovery or insolvent trading.

Before a decision is made to claim for Remuneration, the Practitioner must ensure that work that was done, by him or herself, or by staff members, was necessary.

Example

In a provisional liquidation, there are limits on the work required to be done. If work is done beyond those limits it may not be regarded as necessary.

14.2 Properly performed

In order to claim Remuneration for necessary work, the Practitioner will need to establish that the work was properly performed.

Work done poorly, or, at worst, improperly and needing to be reworked should not be charged.

Example

- It may have been necessary to inquire of all property titles countrywide, but if the staff member doing that work pursued inquiries through the wrong agency because of ignorance or inattention, then that work was not done properly.
- It may have been necessary for the Practitioner to have convened a meeting of creditors, but if work done in convening that meeting took an inordinate amount of time, through the inexperience of the staff member, it was not done properly. While an allowance is made for junior staff through the lower hourly rate, where activity is redone, care should be taken to ensure that the amount charged reflects the true value of the work.
- Work performed to convene an invalid meeting would not be properly performed.

Creditors are entitled to expect that Administration funds are not expended on work that was not properly performed.

All time spent for necessary work properly performed should be recorded against the Appointment using an appropriate system.

Before claiming Remuneration, the Practitioner must identify any work and time that should not be claimed.

The Remuneration requirements of the Code for work that is necessary and properly performed are consistent with, or impose a higher standard than, the Legislation.

Prior approval of fees does not remove the obligation to establish that the work was necessary and properly performed. The mere approval does not give the right to draw Remuneration if the work was not necessary or was not properly done.

14.3 Deciding what work to undertake

The Practitioner should exercise professional and commercial judgment in considering whether work is to be performed. Clearly, work that improves the return for creditors should be undertaken.

Example

A judgment will need to be made in relation to the pursuit of unfair preference claims or other voidable transactions in terms of the likely cost and likely return. This may involve consultation with creditors, and, if appropriate, legal advice, or reference to the court.

Not all work is associated with directly seeking a return for creditors. Many of the general statutory tasks of a Practitioner – for example in reporting to creditors, lodging documents with ASIC, and maintaining accounts – are properly performed and charged even though the Remuneration charged will not produce a financial return and will reduce the funds available for distribution.

In a liquidation, a Practitioner is not obliged to do work unless there are funds available for their Remuneration, except for certain statutory tasks that must be undertaken regardless of available funds. Practitioners should have regard to any assistance that may be available from the Regulators.

14.4 Outsourcing

A Practitioner may outsource work subject to the restrictions on delegation (e.g. decision making and exercise of judgment remain the Practitioner's responsibility and cannot be delegated or outsourced).

The decision to outsource is a matter of commercial judgment for the Practitioner, based on such considerations as:

- geography and location (the business may have its operations spread throughout the country and it may be commercially necessary to appoint local agents to deal with particular tasks);
- time constraints; or
- costs considerations (the external source may be able to attend to an urgent task quickly, or more cheaply).

If work is outsourced, the Practitioner's obligations under this Code remain the same as if the Practitioner or members of staff had performed the work.

For guidance on whether outsourced work is Remuneration or a Disbursement refer to 14.10.2.

Practitioners should have regard to APES GN 30 – Outsourced Services. A copy of GN 30 can be accessed from the Accounting and Ethical Standards Board website (www.apesb.org.au).

14.5 Work that cannot be remunerated

If a Practitioner, other than a bankruptcy trustee, seeks to be remunerated for work that is outside the scope of the powers of the Practitioner or undertaken prior to the Appointment, approval can only be sought from the court.

Example

A Practitioner may claim that pre-appointment work was necessary for the Administration and would have had to be undertaken, but it is undertaken prior to the Appointment and thus the Practitioner must seek court approval if remuneration is to be claimed. However, case law indicates such approval is unlikely to be obtained.

An exception is if it relates to a transitioning Appointment and the Legislation allows Remuneration relating to the prior Administration.

It is not sufficient in itself to obtain approval from a committee or from the creditors. These restrictions are a threshold test before applying the '*necessary and properly performed*' test.

A Practitioner appointed as a bankruptcy trustee may draw Remuneration for pre-appointment work where that work is approved in accordance with the Bankruptcy Act.

Remuneration must not be claimed for work that results in, or is the result of, a breach of the Practitioner's duties.

14.6 Staff levels and numbers

In time-based charging, the Practitioner must ensure that the number and qualifications of staff allocated to an Administration is appropriate for the nature of the work being performed so that the Administration is completed in the most efficient and effective manner.

Example

An experienced liquidator generally would not attend to more routine tasks – such as preparing notices for a meeting – given that such tasks could be done as well and at a lower charge-out rate by a more junior member of staff.

This will require commercial and professional judgment. While a particular task may be appropriate to a particular level of employee, the Practitioner may consider that, even though charging at a higher hourly rate than the employee, he or she may be able to do the work in one quarter of the time.

Example

It may be more cost effective for the Practitioner to prepare and finalise a report for creditors, if the report is required urgently and requires the Practitioner's input.

Care should be taken in allocating the appropriate number and level of staff to an Administration or task, particularly when travel is required. This is a balance between having sufficient staff available to undertake the required tasks and over servicing the Administration.

14.7 Setting hourly rates

In time based charging, the Practitioner should ensure that appropriate hourly rates are set for the Administration.

Generally, market forces will ensure that a Practitioner sets appropriate standard hourly rates which are generally applied to Administrations. However, a Practitioner should ensure the appropriateness of these standard hourly rates is specifically considered for each Administration. Factors that may result in a variation of the standard hourly rates include:

- complexity of the Administration;
- location of the business operations of the Insolvent and the scale of the rates that would normally be applied in that location;
- risk associated with the Administration; and/or
- the specialised nature of the Administration (if any).

14.8 Costs of claiming Remuneration

Practitioners may claim the necessary and proper costs of record keeping and seeking approval or determination of their claim for Remuneration.

If additional costs are incurred because of inadequacies of the Practitioner or Firm's time recording systems, or due to staff not properly recording their time, these costs would not be necessary and proper. It is not appropriate to charge this additional cost to the Administration and it should not form part of the claim for Remuneration.

Example

- Necessary and proper remuneration costs may include the cost of producing a report for creditors to allow creditors to make an informed decision whether to approve the remuneration or the costs of applying to the court (subject to any order of the court).
- Reworking information produced from an inadequate time recording system in order to prepare a remuneration report for creditors is not necessary and proper.

14.9 Costs of communicating with Regulators or professional bodies

A Practitioner must not claim Remuneration for time spent:

- communicating with Regulators or professional bodies regarding complaints about the Practitioner or the conduct of a particular Administration;
- on Regulator surveillance, professional audits or inspection of files, or on peer reviews; or
- unsuccessfully defending a breach of the law or this Code, subject to any order of the court.

14.10 Disbursements

Disbursements may only be claimed if they were necessary and properly incurred.

In incurring Disbursements, a Practitioner must use their commercial judgment, adopting the perspective of, and acting with the same care as, a reasonable person exercising care and skill would act in incurring expenses on their own behalf.

While Practitioners must account to creditors for Disbursements, the reimbursement for the payment of Disbursements does not require creditor approval before being drawn. Thus, the categorisation of activity as Remuneration or Disbursement is significant.

14.10.1 What is a Disbursement?

The Practitioner needs to determine whether the claim for payment is in the nature of a Disbursement, or whether it represents Remuneration. Disbursements are:

- costs paid from the Administration's bank account directly to third parties; or
- costs paid to third parties by the Practitioner and later claimed back from the Administration; or
- costs claimed by the Practitioner for non-professional services provided by the Firm and/or outlays incurred by their staff in the proper conduct of the Administration.

A Practitioner should separate Disbursements from the expenses of running their practice which may only be recovered through Remuneration (for example, in the case of time based remuneration by factoring overheads into the hourly charge-out rate and in fixed fees, by factoring overheads into the fixed fee calculation).

Table 2: Disbursement types

Disbursement type	Criteria	Examples	Rationale
Professional			
External advice, non-insolvency	<p>These are fees that satisfy both the following criteria. They are:</p> <p>(a) for professional services (non-insolvency services) relating to specific tasks required to be done during the Administration; and</p> <p>(b) are properly incurred by independent outside consultants engaged by, and not associated with, the Practitioner and their Firm.</p>	<ul style="list-style-type: none"> • independent lawyers, • auctioneers, valuers, real estate agents, • independent tax advisors or accountants. 	<p>This is a Disbursement because it involves the Practitioner retaining an external advisor for work to be done in the Administration, at an agreed fee or rate. These expenses are claimed from the Administration at cost.</p>
Non-professional			
External	<p>These are costs that satisfy all the following criteria. They are:</p> <p>(a) not for professional services; and</p> <p>(b) incurred with a third party in relation to work required to be done during the Administration.</p>	<ul style="list-style-type: none"> • administration advertising, • travel and accommodation for staff, • room hire, • document storage, • photocopying and printing, • external word processing and secretarial services. 	<p>These are typical Disbursements because they involve an outlay in relation to the Administration. These expenses are claimed from the Administration at cost.</p>
Internal	<p>These are costs that satisfy all the following criteria:</p> <p>(a) they are not for professional services;</p> <p>(b) they are for goods or services properly provided by the Practitioner or their staff in the Administration; and</p> <p>(c) they are not overheads covered in the Remuneration claim.</p>	<p>Reasonable costs of:</p> <ul style="list-style-type: none"> • telephone calls, • postage, • stationery, • photocopying and printing, • data room hosting. 	<p>These are also typical Disbursements, except they are incurred internally by the Firm. These expenses, if charged to the Administration, would generally be charged at cost; though some expenses such as telephone calls, photocopying and printing may be charged at a rate which recoups both variable and fixed costs.</p>

14.10.2 What are not Disbursements?

Given the significance of a claim for payment by a Practitioner being classified as a Disbursement, it is useful to list what are not Disbursements:

A. Overheads

An overhead is not a Disbursement. It is a cost that can only be charged for and recovered across all the administrations handled by the Practitioner's Firm.

In contrast, an out of pocket expense is an expense actually incurred in respect of that Administration. It can be claimed as a Disbursement. The Practitioner must be able to show how the expense:

- is uniquely and directly attributable to the Administration; and
- was calculated and allocated to the Administration.

Example

Rent, insurance, professional indemnity insurance, professional memberships, staff costs, training, depreciation are examples of overheads.

B. Internal non-insolvency professional costs

A Practitioner may engage internal non-insolvency related professional services only after proper commercial consideration to that decision has been given that such an engagement is in the interests of creditors and the efficient conduct of the Administration. This includes non-insolvency professional services provided by another practice within a federated practice structure or associated practice.

The point to consider is whether the benefit of the engagement fee will be received by the Practitioner, the Practitioner's Firm or an entity related to the Practitioner or perceived to be related to the Practitioner.

These items are Remuneration and must be disclosed and approved in the same manner as insolvency services (refer to Remuneration Report template for further guidance).

Example

Legal advice, tax advice, real estate valuations, auctioneering provided by a Practitioner's Firm are examples of internal professional costs.

C. External insolvency professional costs

If a Practitioner outsources insolvency tasks, the fees charged to the Practitioner may only be claimed as Remuneration, notwithstanding that the fees may be payable before the claim for Remuneration can be made. The necessary and properly performed test applies.

It is not always clear whether the out-sourced work is better categorised as insolvency work (which is claimed as Remuneration), or general non-insolvency work (which is classified as a Disbursement).

Factors to be taken into account when making this assessment include:

- was the contractor an insolvency firm?
- was there a regular resource sharing/provision arrangement?
- would the Practitioner have done the work if there had been sufficient resources?

Where the task involves standard expertise and skills of an insolvency practitioner, the outsourced costs will be a Remuneration claim of the Practitioner. Where the task involves more general or particular skills that are not insolvency specific, then the outsourcing costs will be a Disbursement.

Example

- A stocktake is required in an Administration. It is a matter for the Practitioner's judgment either to use his or her own Firm's staff, or contract out the work to a suitably qualified specialist; or
- There is a branch of the company's business that is in an outlying country area. The Practitioner may choose to have the stocktake done by a local firm because it would be cheaper than sending the Practitioner's staff to do the stocktake;
- In that country area, the Practitioner considered using a professional stocktaking firm to undertake the stocktake, but selected a local accounting firm. In this instance there are arguments both ways for the costs of the local accountant to be remuneration or a disbursement.
- Similarly, the Practitioner's Firm may have valuation expertise (chargeable as remuneration) but the Practitioner may choose to engage an external valuer (disbursement). This will be a matter for the practitioner's professional judgment having regard to the interests of creditors.

When a Practitioner makes a decision that an expense of this nature is a Disbursement rather than Remuneration, the invoices received for the services should detail the work performed and it should be clear from the description that the services were not insolvency services.

D. Late lodgement fees

Any late fee or penalty imposed by a court, Regulator or agency for late lodgement or other default should be borne by the Practitioner.

Late lodgement fees imposed by ASIC or AFSA must not be charged to the Administration.

E. Unreasonable Travel Costs

Travel should be bought on the best commercial terms and the style of travel and accommodation should be appropriate for the trip being undertaken.

Care should be taken in claiming the costs of travel by the Practitioner between offices of his or her firm for the purposes of a particular Administration.

Where there are geographically spread locations for a particular Administration, consideration should be given to the retention of local staff or agents to carry out tasks which are appropriate and capable of delegation, in order to minimise the costs to the Administration. However, it may well be appropriate for the Practitioner and/or his or her staff to attend at these locations and incur the relevant travel costs.

Every Firm should have a policy on travel (including time charged and Disbursements), which should be made available to creditors on request. This policy can be Administration specific or a general policy.

Example

- Travel costs to and from an Administration's place of business is normal and chargeable;
- If the Administration's business is conducted around Australia, or internationally, it may be appropriate for the Practitioner to personally attend at each location, depending on the size and nature of the business, even if the practitioner has offices around Australia or internationally.

F. Pre-appointment expenses

Any expenses incurred prior to the Appointment must not be claimed from the Administration as a Disbursement. Practitioners are only entitled to claim Disbursements incurred after their Appointment.

14.10.3 Necessarily and properly incurred

A. Professional Disbursements

A Practitioner may engage external professional services (refer to the table at section 14.10.1) as Disbursements without creditor approval, but only after exercising proper commercial consideration.

The Practitioner should consider issues of:

- expertise;
- quality;
- timeliness; and
- reasonable and appropriate cost.

Practitioners must assess each engagement of a professional service provider in terms of the interests of creditors and their fiduciary responsibilities.

Unless the Disbursement is insignificant, the Practitioner should document the decision making process identifying why the work was necessary and why the particular firm or professional was engaged. While the approval of creditors is not required, creditors are entitled to be informed of and to understand the decision process if the issue is raised.

Before authorising payment of Disbursements, the Practitioner must ensure that:

- the task has been properly performed; and
- the quantum of the professional service fee is as agreed or is reasonable.

Example

- Legal advice, the service provided being assessed on quoted price or time charges, quality and focus of advice, and timeliness of delivery; and
- Agent's sale of property, the service provided being assessed on commission rate, sale price and any quoted expenses.

B. Non-professional Disbursements

A Practitioner may incur non-professional Disbursements, both internal and external, (refer to the table at section 14.10.1) without creditor approval, but only after exercising proper commercial consideration. While the approval of creditors is not required, creditors are entitled to be informed of and to understand the decision process if the issue is raised.

For internal Disbursements:

- the recovery basis must be set on commercial terms;
- creditors must be advised as part of the initial advice to creditors on Remuneration (refer 15.3.2 and 23.2.1), details of the basis of charging for these types of Disbursements; and
- details of actual internal Disbursements paid (eg. quantity and total cost) must be reported to creditors in each Remuneration report (refer 15.3.2 and 23.2.2).

The Practitioner should consider the reasonableness and appropriateness of the cost of the non-professional Disbursement before authorising the Disbursement. This is equally applicable to internally provided and externally provided non-professional Disbursements.

Practitioners must assess each Disbursement for an Administration in terms of the interests of creditors and their fiduciary responsibilities.

Before authorising payment of Disbursements, the Practitioner must ensure that:

- the benefit has been provided to the Administration; and
- the quantum of the fee is as agreed or is reasonable.

15 Meaningful disclosure in Remuneration claims

Principle 11: A claim by a Practitioner for Remuneration must provide sufficient, meaningful, open and clear disclosure to the Approving body so as to allow that body to make an informed decision as to whether the proposed Remuneration is reasonable.

A Remuneration claim requires information to be conveyed to the Approving body (creditors, committee of creditors, committee of inspection, or the court). That information encompasses a number of elements:

- a system of recording that information (refer section 15.1);
- a basis for calculating Remuneration (refer section 15.2);
- sufficient detail to justify the amount of Remuneration (refer section 15.3); and
- relevant timing of the information being provided (refer section 15.3).

15.1 Recording of Work Done

Regardless of the Remuneration method to be applied, the Practitioner must maintain a proper record of work that was done on an Administration in order to:

- claim Remuneration; and
- report to creditors on the progress of the Administration.

The Practitioner should maintain a system that requires staff to record:

- the period of time spent;
- the categories of the work performed (see Remuneration Report Template);
- details of the work being performed; and
- contemporaneously at the time the work is done in order to maximise accuracy.

Time recording provides good practice management information, even though time data will not be required for reporting to creditors in claims for fixed fee or percentage based Remuneration.

ARITA's Remuneration Report Template provides a description of some common work categories that should be used (refer section 23.2.2).

15.2 Bases of calculation

There are several bases by which Remuneration can be calculated (refer sections 15.2.1, 15.2.2, 15.2.3, 15.2.4 and 15.2.5). ARITA has no preference as to the method of calculating fees. Practitioners must be transparent and fully explain to creditors the main bases by which Remuneration can be calculated, the method proposed to be used in the Administration and the reasons for selecting that particular basis (refer to section 15.3.2).

The terms of that Remuneration are a matter for the Approving Body, upon full disclosure of the arrangement being explained to them by the Practitioner.

15.2.1 Time based charging

Time based is a common form of charging. Practitioners calculate Remuneration by reference to the hourly or time unit rate which is applied to the time spent on necessary work properly performed.

A Practitioner should ensure that regular reviews of the WIP on an Administration are performed to ensure that only time spent on necessary work, properly performed is retained on the WIP. Such a review must be performed prior to issuing any Remuneration requests for approval.

15.2.2 Prospective Fee Approval

A Practitioner may seek approval from creditors for time based Remuneration to be determined in advance of the work to be performed. The approved amount must have a Cap to a nominated limit.

The claim for Remuneration will subsequently be calculated on a time basis for necessary work properly performed and can be drawn without further approval of creditors up to the Cap.

The hourly rates to be applied may be increased by an agreed formula where the escalation factors are objectively and independently determinable. If a Practitioner wants to be able to increase hourly rates that are charged on an Administration in the future without having to obtain creditor approval, a specific formula must be included in the resolution for the approval of the prospective Remuneration (for example, rates are increased annually by the CPI amount). A reference to changes in rates from time to time (or similar) must not be included in resolutions to approve prospective fees.

Any increase approved does not apply to the capped total, only to the hourly charge rate.

If a Practitioner wishes to change the capped amount, or the hourly rate scale other than as agreed, a Practitioner will need to seek Approving body approval (refer section 15.3.2 for reporting obligations).

15.2.3 Fixed fee

A Practitioner may claim Remuneration based on a quoted fixed amount with creditor approval. A fixed fee arrangement provides certainty to creditors about how much the Remuneration claim will be. The risk of excessive time spent is transferred to the Practitioner.

Once a fee is fixed for an agreed task, set of tasks or the conduct of the Administration, it remains fixed and a Practitioner must not seek further approval if the original estimate is wrong.

Examples

- In a small Administration, where the issues can reasonably be anticipated, the Practitioner may wish to have remuneration approved for a fixed amount.
- Towards the end of an Administration where remuneration has been based on a time basis, a Practitioner may choose to charge a fixed fee for work to be done in finalising the Administration, rather than obtaining prospective approval on an hourly basis to a capped amount.

15.2.4 Percentage

A Practitioner may claim Remuneration based on a percentage of a particular factor, usually assets disclosed, or assets realised.

15.2.5 Success or Contingency Fees

A Practitioner must not seek Remuneration on the basis that they will receive a specified bonus, success fee, super-profit or additional percentage as Remuneration, in the event that a specified contingent future event occurs or particular circumstances arise, if that arrangement would place the Practitioner in a position of conflict, or generate a perception of a lack of independence.

This is based on the principles that:

- no additional incentive should be required or offered in order to have the Practitioner perform duties that are required;
- the independence and objectivity of the Practitioner, even if only as perceived, may be compromised by such an arrangement; and
- the arrangement must not be inconsistent with the fiduciary obligations of a Practitioner.

Example

An example of a duty that may not be a required duty is the pursuit of litigation. The decision to pursue litigation is a matter of professional judgment for the Practitioner, particularly in instances where there are no funds on hand in the Administration and no ready source of funding.

When considering whether a proposed fee arrangement is acceptable, the Practitioner must consider whether the arrangement could be perceived as the Practitioner acting in his or her own interests rather than the interests of the creditors.

If a Practitioner is intending to use this type of fee arrangement, full disclosure of the terms of the proposed arrangement must be made to creditors and the consent of the creditors obtained prior to work commencing under a proposed contingent fee arrangement.

If an arrangement is in breach of this Code, the arrangement will still constitute a breach even if creditors have approved the arrangement.

When considering whether a contingent fee arrangement might be a suitable fee arrangement in a particular Administration, the Practitioner should consider:

- any restrictions that may apply under the relevant legislation;
- funds available in the Administration;
- funding from alternate sources such as creditors or a litigation funder;
- costs of the alternate source of funds compared to a contingent fee arrangement;
- risk associated with the tasks to be undertaken for the contingent fee; and
- the appropriateness of the possible contingent fee amount considering the nature of the Administration and the risk associated with the task to be undertaken.

Example

An example of an acceptable contingent fee arrangement is discounting standard hourly rates until a certain objective is achieved. If that objective is achieved, standard hourly rates will then be charged.

15.3 Information to be disclosed and when

Information on the particular basis of Remuneration claimed should be provided to creditors at two main points of time in an Administration.

- First, soon after the appointment, in order to advise creditors of the available bases by which Remuneration can be calculated and the proposed basis upon which Remuneration will be claimed for the Administration. This will generally be with the notice of first meeting of creditors in a voluntary administration or a creditors' voluntary liquidation, or a Part X agreement; or by including it in the first circular sent to creditors in other Administrations.

This is the equivalent of an Initial Remuneration Notice (IRN) in relation to a personal Administration.

- Second, before any meeting is held at which approval for the Remuneration is to be sought. The information should be sent to creditors in the normal course with any reports and other documents required for the conduct of that meeting in the time frames required by the legislation.

This is the equivalent of an Remuneration Approval Notice (RAN) in relation to a personal Administration.

The table below summarises the timing of the provision of information for each Remuneration basis.

Basis	First communication after appointment	During the Administration
Time based	Advice on the basis chosen. Estimate of fees and comparison to pre-appointment estimate, if one provided.	Report on work undertaken and request approval of quantum. Comparison to initial estimate of fees provided to creditors.
Prospective Fee (time based)	Advice on the basis chosen. Request for approval for time based charging to a capped amount.	Report on work undertaken and request further approvals.
Fixed fee	Advice on the basis chosen. Request for approval of the quantum.	Report on achievement of milestones for the drawing of Remuneration.
Percentage	Advice on the basis chosen. Request for approval of the percentage	Report on the factors underlying the entitlement to claim the Remuneration.
Contingency	Advice on the basis chosen. Request for approval of the arrangement.	Report on the achievement of the contingency event or otherwise.
<p>Note: Mixed Fee Arrangements: There will be circumstances where a Practitioner will seek approval for a different basis of Remuneration for a particular aspect of an appointment or finalisation of the appointment; the appropriate information (refer section 15.3.2) will need to be provided at the time of seeking the creditors' approval of that arrangement.</p>		

The Remuneration reporting requirements do not apply to Controllers. A Controller should report to their appointor in the manner requested by their appointor. The guidance in this section of the Code may still be of assistance to Controllers when preparing their Remuneration reports.

15.3.1 Court requirements

In addition, where an application is made to a court for an order that a company be wound up or for an official liquidator to be appointed as a provisional liquidator of a company, regard must be had to any additional requirements of the courts. For example, with the Consent to Act, Practitioners may be required to disclose their hourly rates. The same applies in relation to Part X agreements under the Bankruptcy Act.

15.3.2 Information to be provided for all Remuneration bases

	Basis of Fee Approval				
	Time – Retrospective	Time – Prospective	Fixed	Percentage	Contingent
Initial Notification to creditors	<p>A Practitioner must provide the following information to creditors regarding Remuneration in their first communication with creditors (refer section 23.2.1):</p> <ul style="list-style-type: none"> • a brief explanation of the types of methods that can be used to calculate Remuneration; • the particular method or methods that the Practitioner intends to use to calculate Remuneration in the Administration; • why the Practitioner considers this method to be suitable for the Administration; • details of the basis of any internally generated Disbursements that will be charged to the Administration (e.g. Page rate for photocopying done internally); • details of any estimate or fee provided to directors/Insolvent prior to the appointment (refer 6.13); and • if the estimate or fee provided to the directors/Insolvent is no longer appropriate, an explanation of the change from the pre-appointment information provided. <p>Examples of reasoning for choosing time based Remuneration:</p> <ul style="list-style-type: none"> • It ensures that creditors are only charged for work that is performed. • The Practitioner is required to perform a number of tasks which do not relate to the realisation of assets, for example responding to creditor enquiries, reporting to ASIC, distributing funds in accordance with the provisions of the Corporations Act or the Bankruptcy Act. • The practitioner is unable to estimate with certainty the total amount of fees necessary to complete all tasks required in the Administration. <p>In respect of Disbursements, a Practitioner must provide general information on the classes of Disbursements and information on the</p>				

	Basis of Fee Approval				
	Time – Retrospective	Time – Prospective	Fixed	Percentage	Contingent
	basis of recovering internal Disbursements.				
	<p>If a Practitioner is intending to use time based Remuneration (either retrospectively or prospectively), they must also provide:</p> <p>the scale of rates that will be used, including qualifications and experience generally of staff at each level; and</p> <p>a best estimate of the costs of the Administration to completion, or to a specific milestone.</p> <p>If rates change or the estimate is no longer reliable, the Practitioner must notify creditors and advise new rates or a new estimate and provide an explanation to creditors as to why previous estimates have changed.</p>				
Remuneration Approval Request	<p>Details of the Remuneration claimed</p> <p>ARITA's Recommended Remuneration Report template (refer section 23.2.2) , as adapted for the facts and circumstances of the particular Administration, should be used as the means of giving creditors the information they need to make an informed decision at the meeting as to the reasonableness of the Remuneration. It is a guide for time based Remuneration claims and may assist with other bases of Remuneration claims. If broadly followed, the proposed format constitutes good practice.</p>				
	Where a time based Remuneration claim for retrospective fees is being made, the Practitioner will	Where a time based Remuneration claim for prospective fees is being made, the	Where a fixed fee is claimed, the Practitioner will need to report to the relevant	Where a percentage based claim is made, information must be provided to the relevant	If a contingency arrangement within the scope of this Code is proposed, there must

Basis of Fee Approval					
	Time – Retrospective	Time – Prospective	Fixed	Percentage	Contingent
	<p>need to report to the relevant Approving body on:</p> <ul style="list-style-type: none"> the amount of time spent; a description of work performed on an Administration, broken down into the broad categories of work performed; the classification of staff engaged on the Administration for each broad category of work; and the Remuneration incurred for each broad category of work. <p>The Practitioner will also need to compare the estimated Remuneration provided in the initial advice with the actual Remuneration approval sought and provide an</p>	<p>Practitioner will need to report to the relevant Approving body on:</p> <ul style="list-style-type: none"> a summary description of the major tasks still remaining to be done on the Administration for the period that the Remuneration is sought (e.g. to completion or other relevant milestone); an explanation of the estimated fees remaining to complete the Administration (or to the next major milestone) including the estimated fees for each major task; a monetary 'cap' on the Remuneration; an explanation as to what the monetary 	<p>Approving body on:</p> <ul style="list-style-type: none"> the amount of the fixed fee proposed; the basis upon which the fee has been calculated (work to be undertaken and the costs for each category of work and scope of work) in the same manner as for prospective fees; the services to be provided for the fixed fee amount in sufficient detail for the Approving body to make an informed decision about why the fee is reasonable; what services will not be included in the fixed fee and the basis of 	<p>Approving body to enable it to make an informed assessment of whether the percentage is reasonable. The following information must be provided:</p> <ul style="list-style-type: none"> the percentage proposed; the nature and estimated value of the individual assets realised or to be realised (or if the percentage is to be applied to another factor, the value of that factor); the formula to be applied for calculation of the Remuneration; what services are to be provided for this percentage amount and the tasks that will comprise this work; 	<p>be full disclosure of the proposed arrangement to the relevant Approving body, including:</p> <ul style="list-style-type: none"> exactly what the arrangement is contingent upon; how achievement of the contingency will be assessed; what the Practitioner's Remuneration will be in the event that the contingency is or is not achieved; why a contingency arrangement is in the best interests of creditors; and when the Remuneration will be drawn.

	Basis of Fee Approval				
	Time – Retrospective	Time – Prospective	Fixed	Percentage	Contingent
explanation for any variance.		capped amount represents; and <ul style="list-style-type: none"> when it is proposed that the fees be drawn (for example, monthly). 	charging for these excluded services; and <ul style="list-style-type: none"> the milestones as to when Remuneration will be drawn from the Administration. Note: a Practitioner must not draw fixed fee Remuneration up-front. A Practitioner seeking a fixed fee basis for Remuneration must include in the quote for the fixed fee the: <ul style="list-style-type: none"> costs of all statutory investigations; costs of reporting to the creditors and Regulators; cost of issuing letters of demand for preferences; and 	<ul style="list-style-type: none"> what work has been, or is intended to be outsourced that would normally be carried out by the Practitioner or their staff and whether this outsourced work will be billed separately or included in the percentage based Remuneration claim; the milestones for when the Remuneration will be drawn from the Administration; and the expected range of possible Remuneration outcomes. Full disclosure of the terms of the arrangement, and the expected Remuneration	

	Basis of Fee Approval				
	Time – Retrospective	Time – Prospective	Fixed	Percentage	Contingent
			<ul style="list-style-type: none"> costs of meeting all statutory obligations. <p>Example</p> <p>Acceptable exclusions</p> <ul style="list-style-type: none"> litigation for recovery of preference payments. litigation for insolvent trading. <p>If a Practitioner is intending to make a claim for Remuneration on a fixed fee basis, this must be done at the first opportunity after the Practitioner is appointed. The only exceptions to this are where a Practitioner chooses to make a claim for a fixed fee to enable finalisation of the Administration, or</p>	<p>outcome, or range of possible outcomes must be made clear to creditors to minimise any perception of conflict of interest.</p>	

	Basis of Fee Approval				
	Time – Retrospective	Time – Prospective	Fixed	Percentage	Contingent
			for a specific aspect of the Administration.		
	<p>Statement of Remuneration claim – The practitioner should clearly:</p> <ul style="list-style-type: none"> state the precise terms of the agreement(s) sought from the committee or the resolution(s) sought from creditors including the amount to be approved and when the Remuneration will be drawn. Separate statements of Remuneration claim are required for each distinct remuneration period (e.g. retrospective and prospective); set out the total Remuneration previously determined; and indicate whether they will be seeking the determination of further Remuneration at some time in the future. <p>A summary of receipts and payments to and from the Administration bank account must be provided. The receipts and payments summary should be prepared up to a date that is as close as possible to the date on which the notice and report is given to creditors. The summary should be clearly labelled as being prepared ‘as at’ a particular date or for a specified period. If large or exceptional receipts and payments are received or made after the report is prepared but before the meeting at which the Remuneration claim is to be considered, the Practitioner should provide additional information to committee members or creditors at the meeting.</p> <p>Details of Disbursements paid from the Administration, including:</p> <ul style="list-style-type: none"> general information on the different classes of Disbursements; a declaration that the Disbursements were necessary and proper; in relation to Disbursements paid to the Firm, whether directly or in reimbursement of a payment to a third party: <ul style="list-style-type: none"> who the Disbursement was paid to (only for externally provided professional services); what the Disbursement was for; the quantity and rate (only for internal Disbursements); and the amount paid; and details of the basis of any internal Disbursements that will be charged to the Administration in the future (eg. Page rate for 				

	Basis of Fee Approval				
	Time – Retrospective	Time – Prospective	Fixed	Percentage	Contingent
	<p>photocopying done internally).</p> <p>Note that payments direct to third parties from the Administration bank account only need to be clearly included in the receipts and payments.</p> <p>Practitioners should always support their Remuneration report with a general report providing the creditors with information about the progress of the Administration, detailing matters resolved and those matters still outstanding.</p> <p>The general report should assist creditors with understanding:</p> <ul style="list-style-type: none"> • matters that may have contributed to the Remuneration claim; • complexities or difficulties that have been faced by the Practitioner; • goals that have been achieved since the last report; • outcomes including explanations as to why that outcome was better or worse than originally predicted; and • future tasks to be undertaken and why they need to be done. • for corporate Administrations, information on how to access the Creditor Information Sheet on approving Remuneration in external administrations (if not previously provided). <p>The Creditor Information Sheet is designed to fully inform creditors about:</p> <ul style="list-style-type: none"> • the process of determining Remuneration; and • the rights and responsibilities of Practitioners, committee members and creditors. <p>The Information Sheet (or advice as to how creditors can access this information sheet online) must be provided to creditors before approval of Remuneration is sought. It may be provided to creditors at the time of advising them of the basis on which Remuneration will be charged.</p>				

	Basis of Fee Approval				
	Time – Retrospective	Time – Prospective	Fixed	Percentage	Contingent
Future reporting and/or further Remuneration approval requests	Any further Remuneration approval requests for retrospective fees on time basis have the same reporting requirements as the first Remuneration approval request.	<p>Any further fee approval requests for prospective fees on a time basis have the same reporting requirements as the first Remuneration approval. In addition, the Approving body must be advised on:</p> <ul style="list-style-type: none"> • Remuneration already drawn under the prospective approval; • comparison of actual fees to the estimated fees provided in the original Remuneration approval report; • tasks undertaken; and • tasks remaining to be completed. <p>The above applies even</p>	<p>Once a fee is fixed for an agreed task, set of tasks or the conduct of the Administration, it remains fixed and a Practitioner must not seek further approval if the original estimate is wrong.</p> <p>After approval of a fixed fee, Remuneration reporting will focus on the progress of the work in the Administration, for example by way of explaining milestone achievements, and the work still to be done.</p>	Future reporting to creditors will need to focus on the factors underlying the entitlement to claim the Remuneration, for example by way of reporting on asset realisations and the percentage taken from those realisations to pay Remuneration.	Future reporting to creditors will need to include information on whether the Practitioner has achieved the contingency and the effect on the calculation of the Practitioner's Remuneration.

	Basis of Fee Approval				
	Time – Retrospective	Time – Prospective	Fixed	Percentage	Contingent
		<p>if the Practitioner is only seeking an increase in the previously set capped amount. If the Practitioner is seeking an increase in the capped amount, they will need to provide the Approving body with an explanation as to the reason for the change in the capped amount.</p> <p>If a Practitioner wishes to change the rate scale other than as agreed, the Practitioner will need to seek Approving body approval and provide the Approving body with an explanation as to the reason for the change in the rate scale.</p>			

15.4 Sources of Funding

15.4.1 Department of Employment payments

A. Corporate Administrations

Funding received from the Department of Employment (DE) to facilitate a FEG or GEERS distribution by Appointees may be a limited or partial funding agreement. As such, where higher fees are incurred than the amount agreed with DE there is no restriction in the administration being charged for the shortfall on the basis that all Remuneration claimed is necessary and properly incurred in accordance with ARITA's Code.

While the money received from DE is not subject to creditor approval and can be paid directly to the practitioner, any shortfall must be appropriately approved in accordance with the relevant legislation prior to drawing. In seeking creditor approval for any shortfall, Practitioners must provide separate disclosure of the total time charged, DE receipt(s) and any shortfall amount in the Remuneration report.

Practitioners must ensure that they do not "double dip" in relation to FEG or GEERS Remuneration and that the amount received from DE is allocated to the Administration. To facilitate this, Practitioners must ensure that any work undertaken in relation FEG or GEERS distributions is appropriately identified in their time recording system, including an adjustment for any direct payments from DE.

B. Personal insolvency Administrations

Practitioners must have regard to guidance issued by AFSA in respect of the requirements for approval of funding received from DE or any shortfall.

15.4.2 Assetless Administration funding

Funding received from ASIC under the Assetless Administration Fund may be a limited or partial funding agreement. As such, if higher fees are incurred than the amount agreed with ASIC there is no restriction in the administration being charged for the shortfall on the basis that all Remuneration claimed is necessary and properly incurred in accordance with ARITA's Code.

Some funding received from ASIC from the assetless administration fund requires creditor approval prior to drawing and some types of funding can be paid directly to the practitioner without creditor approval. Practitioners should refer to RG 109 for ASIC guidance on when approval is required for assetless administration funding.

If approval is not required, any shortfall must be appropriately approved in accordance with the Corporations Act prior to drawing. In seeking creditor approval for any shortfall, Practitioners must provide separate disclosure of the total time charged, ASIC receipt(s) and any shortfall amount in the Remuneration report.

Practitioners must ensure that they do not "double dip" in relation to this Remuneration and that the amount received from ASIC is allocated to the Administration. To facilitate this Practitioners must ensure that any work undertaken for ASIC in relation the Assetless Administration Fund is appropriately identified in their time recording system, including an adjustment for any direct payments from ASIC.

15.4.3 Litigation funding

Remuneration from litigation funding from any source, must be:

- paid into and drawn from the Administration bank account; and
- disclosed and approved in accordance with the requirements detailed at chapters 14 and 15.

15.4.4 Creditor funding

Remuneration from funding by creditors provided for any purpose, must be:

- paid into and drawn from the Administration bank account; and
- disclosed and approved in accordance with the requirements detailed at chapters 14 and 15.

15.4.5 Secured creditor funding

Where secured assets are realised in the course of an Administration, except for Appointments as a Controller, any Remuneration in relation to the realisations, including funds withheld from realisations or payments made directly by the Secured creditor, must be:

- paid into and drawn from the Administration bank account; and
- disclosed and approved in accordance with the requirements detailed at chapters 14 and 15.

15.4.6 Indemnities and up-front payments

Remuneration drawn from an indemnity or an up-front payment provided for any purpose, must be disclosed and approved in accordance with the requirements detailed at chapters 14 and 15.

15.5 General guidance on reporting

The provision to creditors of voluminous detailed information is not a substitute for a clear and concise report. It is the *relevance, quality and focus* of the information rather than the quantity and detail that is important. Creditors and even committees are not necessarily conversant with insolvency issues and processes, nor do they have the capacity or time to understand WIP records. Creditors have the right to ask questions and have them answered and to inspect supporting documentation if requested.

The information provided to creditors must be:

- Sufficient – be in enough detail for the purposes for which it is prepared and in the context of the work done in the Administration;
- Meaningful - be presented in a way that allows creditors to understand what was done and why it was done;
- Clear - use non-technical terms so that what is being claimed is readily understandable;
- Relevant - limited to what is needed; and
- Concise.

A Practitioner should:

- provide information that is specific to the Administration, rather than generic;

- try and ensure that the level of information is proportionate to the size and complexity of the Administration;
- try to assist committee members or creditors by highlighting the key components of the Remuneration claim and any areas that committee members or creditors are likely to view as contentious; and
- provide a summary of relevant information.

Questions from creditors should be anticipated and not discouraged.

Additional information should be provided if requested.

15.6 At the meeting

At a meeting at which a request for approval of Remuneration is being considered, a Practitioner must:

- table the information provided to creditors/the committee in support of the Remuneration request; and
- ask creditors whether there are any questions before putting the resolutions for approval of Remuneration to the meeting.

It is not acceptable to wait until the meeting to provide the required information to creditors. Additional information provided at the meeting should be limited to:

- responding to creditors' questions; or
- clarifying information that has already been provided.

Introducing new information at the meeting disadvantages creditors who did not attend the meeting, or who provided proxies for the meeting based on the information provided prior to the meeting.

Refer to Chapter 24 for further information about meeting requirements.

15.7 Changing basis of Remuneration

The basis for claiming Remuneration may be changed with creditor consent, however changing the basis to time based is only possible if proper records have been kept of time and activity. Note the restriction on fixed fees in section 15.2.3.

Example

A percentage of realisations basis does not require recording of time spent. To change to a time basis would only be possible if proper records of time spent had been kept.

16 Approval before drawing Remuneration

Principle 12: A Practitioner is only entitled to draw Remuneration once it is approved and according to the terms of the approval.

16.1 Drawing of Remuneration

A Practitioner is only entitled to draw Remuneration once it is approved, subject to the terms of the approval.

Evidence of the approval must be recorded and maintained on the file. In the case of a resolution of a meeting of creditors, or of the committee, the minutes must be prepared and lodged where required (for example, with ASIC for corporate Administrations). In the case of court-approved Remuneration, the court order must be obtained.

If a Practitioner draws Remuneration in accordance with the default provisions under the Corporations Act or Bankruptcy Act, this must be clearly documented on the Administration file.

If fees have been approved prospectively, in terms that allow them to be drawn at nominated hourly rates, the Practitioner must only draw the Remuneration progressively, on completion of the work, unless it is the final Remuneration account for the finalisation of the Administration.

In respect of percentage-based Remuneration, it is acceptable for the Practitioner to draw his or her Remuneration from each nominated realisation, provided that there are sufficient funds available to meet higher-ranking priority debts.

In respect of a contingency arrangement, fees may be drawn on the basis approved by creditors. Any conditions imposed by creditors when approving a contingency arrangement, (for example, independent assessment of the achievement of a result) must be satisfied before Remuneration is drawn.

In respect of fixed fees, the terms approved by creditors should be that the fixed amount may be drawn only at the conclusion of the Administration; or in specified amounts at nominated milestones in the Administration. Practitioners must not draw fixed fee Remuneration 'up-front'.

16.2 Monies received in advance

If a Practitioner is provided with money in advance for the costs of conducting a formal insolvency Administration, the Practitioner is not entitled to apply those monies against their Remuneration until their Remuneration is approved by the Approving body. For details of when it is acceptable to receive monies in advance refer to section 6.14.

16.3 Remuneration drawn inappropriately

If a Practitioner becomes aware that fees have been improperly taken, because, for example, the correct process has not been followed, the Practitioner must immediately repay the amount in question into the Administration account.



Remuneration may then only be redrawn on approval being obtained and an explanation as to why the fees were improperly taken must be provided to creditors at that time.

Fees and expenses incurred in rectifying inappropriately drawn fees must be borne by the Practitioner.

TO INVESTORS AS ADRESSED

22 December 2015

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

I refer to my previous reports and now provide my 25th 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

As advised in my 24th update to Investors, all real property assets of the Fund have now been realised. Since my appointment, 46 properties have been realised with a total gross realisation of approximately \$59.26 million.

1.2 Legal Proceedings

Provided below is an update on the status of the remaining legal actions.

- The remaining claim filed against a valuer for negligence and damages is progressing. My expert has delivered his expert valuation report. The defendant was required to deliver their expert's report(s) by 30 October 2015, however they advised that their expert was unable to complete the expert report within the Court timeframe due to an inability to finalise their investigations in relation to access to the subject property. A lending expert's report was served on me on 16 December 2015. As a result, the Court timeframe has been revised as follows
 - the Defendant is to deliver to the Plaintiff any expert valuation report on which it intends to rely on at trial by 29 February 2016
 - Mediation is to be completed by 21 March 2016
 - If the mediation is unsuccessful, all experts in the same discipline are to produce a joint report by 18 April 2016
 - If the matter has not been resolved, the parties are to file a request for a trial date by 30 April 2016

I am hopeful that this matter is resolved at mediation in March 2016.

1.3 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 Equititrust Limited (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.

Since my last report to investors, the Liquidators of EL have been unable to obtain leave from the Court to file and serve amendments to the claim and statement of claim. In this regard, the

solicitors for the Liquidators have advised that they are presently involved in a protracted interlocutory contest with three directors in relation to aspects of the amended pleading.

The proceedings are listed for a further case management hearing before the Judge in the Federal Court on 16 December 2015.

I understand that if leave is granted for the amendments to the pleading, the defendants will have to file amended defences and the next substantive step in the proceeding will be discovery. Because of the large number of documents involved, it is anticipated that this will take several weeks to complete; following which it is likely that orders will be made for the parties to put on their evidence.

The matter has not yet been given a trial date and no mediation has been scheduled.

As previously advised, the Liquidators entered into a litigation funding deed with a litigation funder, which has been approved by the Court, to fund the action against the Auditors, Directors and EL in its own capacity. Therefore, the Fund is not bearing any costs of the litigation; however any funds realised from this claim that relate to the EIF will be paid to the Fund (after deducting the costs of the litigation). Please note that I will not be in a position to make a final distribution and finalise the winding up of the Fund until this litigation has been resolved.

2. Creditor Claims

2.1 Secured Creditors

As advised in my 24th report to investors, the Fund's indebtedness to the National Australia Bank (NAB) has now been extinguished in full.

As the NAB has been repaid in full, I understand that the Receivers and Managers appointed by NAB over EL will be retiring shortly.

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:

- 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;
- 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 was awarded costs against the Liquidators of EL in relation to my application objecting to their decision to rule on a proof of debt ('proof of debt proceedings'). Repeated attempts to resolve this and 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 have not been responded to.

I have had my costs assessed that were awarded in the proof of debt proceedings, however the Liquidators have lodged a Notice of Objection. A Reply to the Notice of Objection has been

prepared and will be served on the Liquidators shortly together with a request to agree on an assessor to be appointed to carry out an assessment pursuant to a Court Order.

It may be necessary for claims between the Liquidators and the Fund to be the subject of directions of the Court when finalising the winding up.

3. Receipts and Payments

I provide below a summary of the Receipts and Payments of the Fund for the period from 1 August 2015 to 30 November 2015.

Summary of Receipts and Payments for the Period 1 August 2015 to 30 November 2015		\$	\$
Opening Cash at Bank			13,647,308.94
Receipts			
Interest Income			47,175.90
Funds Returned from EFT Payments for the Third Interim Distribution			398,441.97
Loan Recoveries:			
	Graham Spottiswood (A Bankrupt)	53,623.94	
	Checkling Pty Ltd	3,410.72	
	Wirrina Cove Pty Ltd	2,284.75	
	Windsor Turf Pty Ltd	4,248.55	63,567.96
	Total Receipts		509,185.83
Payments			
Consultant's fees			29,444.67
Appointee Fees			337,905.70
Appointee Disbursements			10,059.41
Bank Charges			154.00
Costs Orders in the winding up proceedings			55,814.27
<i>Distressed Loan funding:</i>			
	Boothers Pty Ltd	4,040.83	
	Corymbia Corporation Pty Ltd	42,738.59	
	Corymbia Estates Pty Ltd	41,061.75	
	Graham Spottiswood (A Bankrupt)	3,177.63	
	Tweed Central Pty Ltd	1,349.83	
	Wirrina Cove	11,463.17	
	Windsor Turf Pty Ltd	125,336.68	229,168.48
Fees and Disbursements of the Receivers and Managers of Equititrust Limited			137,431.00
IT Expenses			24,098.80
Legal Fees			70,476.94



Third Interim Distribution to Unit Holders of 3 cents - Cheque	443,796.47	
Third Interim Distribution to Unit Holders of 3 cents - EFT	5,315,354.18	
Reissued Cheques due to Returned EFT payments	20,641.15	5,779,791.80
Total Payments		6,674,345.07
Closing Cashbook Balance		7,482,149.70
Add Unpresented Cheques		198,525.58
Closing Cash at Bank		7,680,675.28

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

- The Loan Recoveries include:
 - Final recoveries from Mr Spottiswood's wife's bankrupt estate
 - Final recoveries from the receiver and manager of Checkling Pty Ltd, Windsor Turf Pty Ltd and the Wirrina Cove marina head lease
- The 'Distressed Loan Funding' include:
 - Final legal costs in pursuing the claim against the valuer for Corymbia Corporation Pty Ltd and Corymbia Estates Pty Ltd. As advised in my 24th update report, an amount of \$5.5 million was recovered from this action
 - Final costs of the receiver and manager of Windsor Turf Pty Ltd. Please note that proceeds received by the Fund from the sale of the Windsor Turf business and assets by the receiver and manager were approximately \$3.1 million
- The Costs Orders in the winding up proceedings relate to costs awarded by the Court in favour of a third party in proceedings 9534 of 2011 and 10478 of 2011. The costs have only recently been assessed by a costs assessor and were in order to pay.
- The fees and disbursements of the receivers and managers of EL were paid following legal advice that these costs were captured under the NAB's security over the Fund. As noted earlier in this report, the NAB has been repaid in full and I understand the receivers and managers of EL will be retiring shortly.
- Legal fees primarily relate to the costs in pursuing the remaining valuer claim and dealing with the claims by the Liquidators of EL as outlined in sections 1.2 and 2.3 of this report respectively.

The incurring of these costs is considered essential in terms of successfully recovering assets for the benefit of Investors.

4. 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 \$9.678 million
- Second interim distribution of 3 cents per unit paid in June 2015 totalling \$5.516 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 12.9 cents and 13.3 cents per unit as at 30 November 2015 as follows:

	Low \$000's	High \$000's
Net Estimated Value of Fund Assets as at 30 November 2015	7,482	7,482
Less:		
Creditors and Other Payables	583	333
Estimated Equalisation Payment	2,500	2,000
Estimated net amount available to investors at 30 November 2015	4,399	5,149
Add:		
3 cent interim distribution paid September 2015	5,360	5,360
3 cent interim distribution paid June 2015	5,516	5,516
5 cent interim distribution paid June 2014	9,678	9,678
Total Funds Available for Distribution to Investors	24,953	25,703
Total investor units as at 21 November 2011	193,912	193,912
Overall Estimated Return to Investors per Unit	12.9 cents	13.3 cents

The above table does not take into account future operating costs, future legal fees and future Receiver's fees.

The estimated return to investors has been revised downwards slightly by 0.1 cent since my 24th update report dated 10 August 2015 primarily due to the future operating costs not being taken into account. However, the estimated return also excludes potential legal recoveries against valuers or other third parties as outlined in sections 1.2 and 1.3 of this report and therefore it is possible that investors' overall return may be higher than this estimate.

4.1 Future Distributions to Investors

I will not be in a position to make further distributions to Investors until the remaining legal proceedings currently on foot and the claims with the Liquidators of EL have been resolved.

Please note that in estimating the funds available for distribution to Investors, I must take into account the liabilities of the Fund outstanding at the date of this report along with monies required in order to pay future liabilities that may arise in a worst case scenario. A 'provision' is

required to ensure that legal and other costs can be met, including, in the event costs may be awarded against the Fund in relation to the remaining legal proceeding on foot.

I anticipate that the winding up of the Fund may take a further twelve months to finalise (including resolving the Liquidators' claim against the directors of EL and the auditors) and I will continue to provide updates to investors on its progress and the timing of future distributions. In order to reduce costs, I will issue my next update to Investors in April 2015.

5. Receiver's Remuneration and Expenses

As notified to Investors recently, my sixth application for approval of my remuneration for the period 1 February to 30 September 2015 was heard on 20 November 2015 and was fixed in the amount of \$356,952.20 (inclusive of GST). A copy of the court order along with the material filed in support of the application can be obtained from the websites detailed below.

I attach a summary of my current remuneration and outlays outstanding for the period from 1 October to 30 November 2015. My remuneration incurred during this period totals \$80,736 plus outlays of \$2,004.87 plus GST.

I anticipate that my next application for approval of my remuneration will be heard in June 2015. A copy of my application in this respect will be posted to the websites www.equititrust.com.au and 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 Julia Mayne or Dermot O'Brien of this office who can be contacted as follows;

Phone: 07 3237 5999

Email: Julia.Mayne@bdo.com.au or Dermot.O'Brien@bdo.com.au

Yours faithfully



David Whyte
Receiver

REMUNERATION REPORT - Summary of professional fees by category of work for the period 1 October 2015 to 30 November 2015

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	560	21.0	11,760.00	3.5	1,960.00	6.0	3,360.00	1.9	1,064.00			9.6	5,376.00
John Somerville	Senior Manager	440	46.3	20,372.00	3.8	1,672.00	18.5	8,140.00	2.4	1,056.00	4.8	2,112.00	16.8	7,392.00
Murray Daniel	Supervisor	360	3.5	1,260.00	2.5	900.00							1.0	360.00
Nicola Kennedy	Senior Accountant II	280	23.5	6,580.00			1.0	280.00	17.7	4,956.00			4.8	1,344.00
Samantha Brown	Accountant II	195	84.7	16,516.50	0.4	78.00	83.5	16,282.50					0.8	156.00
Julia Mayne	Accountant II	195	90.2	17,589.00			64.1	12,499.50	3.1	604.50			23.0	4,485.00
Dermot O'Brien	Accountant II	195	29.0	5,655.00			0.3	58.50					28.7	5,596.50
Dermot O'Brien	Accountant II	185	4.3	795.50									4.3	795.50
Moira Hattingh	Team Assistant	80	2.6	208.00									2.6	208.00
TOTALS			305.1	80,736.00	10.2	4,610.00	173.4	40,620.50	25.1	7,680.50	4.8	2,112.00	91.6	25,713.00
			GST	8,073.60										
			TOTAL INC GST	88,809.60										
AVERAGE HOURLY RATE			265		452		234		306		440		281	

Note: All amounts exclude GST unless otherwise noted

Disbursements for the period 1 October 2015 to 30 November 2015

Equititrust Income Fund (Receiver Appointed)

Expense Type	Amount (\$ ex GST)
General	902.12
Postage	1,033.20
Search Fee	69.55
TOTAL	2,004.87
GST	200.49
TOTAL INC GST	2,205.36

TO INVESTORS AS ADRESSED

22 April 2016

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

I refer to my previous reports and now provide my 26th 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**

As advised in my 25th update to Investors, all real property assets of the Fund have now been realised. Since my appointment, 46 properties have been realised with a total gross realisation of approximately \$59.26 million.

1.2 Legal Proceedings

The remaining claim filed against a valuer for negligence and damages continues to progress. The Court timeframe was again revised to allow me to obtain an expert lending report to respond to the expert report submitted by the defendant. All material has now been filed and served in the proceedings with mediation expected to be completed by 15 July 2016. I am hopeful that the matter will be resolved at mediation to avoid the cost of a trial.

1.3 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 Equititrust Limited (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.

As previously advised, the liquidators of EL have made an application for leave to amend the claim, which is listed for hearing on 2 May 2016.

If leave is granted for the amendments to the pleading, the Respondents will have to file defences and the next substantive step in the proceeding will likely be discovery. Because of the large number of documents involved, it is anticipated that this will take several weeks to complete; following which it is likely that orders will be made for the parties to put on evidence.

The matter has not yet been given a trial date and no mediation has been scheduled.

As previously advised, the Liquidators entered into a litigation funding deed with a litigation funder, which has been approved by the Court, to fund the action against the Auditors, Directors and EL in its own capacity. Therefore, the Fund is not bearing any costs of the litigation;

however any funds realised from this claim that relate to the EIF will be paid to the Fund (after deducting the costs of the litigation). Please note that I will not be in a position to make a final distribution and finalise the winding up of the Fund until this litigation has been resolved.

2. Creditor Claims

2.1 Secured Creditors

As advised in my 25th report to investors, the Fund's indebtedness to the National Australia Bank (NAB) has now been extinguished in full.

As the NAB has been repaid in full, I understand that the Receivers and Managers appointed by NAB over EL are taking steps to retire.

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:

- 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;
- 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, 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.

In this regard, a conference was held with the Liquidators on 25 February 2016 at which time a framework was agreed in principle to resolve the various claims between the Fund and the Liquidators.

At this stage, documentation is being prepared to be exchanged between the parties with a further conference to be held to agree an approach to resolve all claims.

I will provide a further update in my next report to investors, however, it may be necessary for claims between the Liquidators and the Fund to be the subject of directions of the Court when finalising the winding up.

3. Receipts and Payments

I provide below a summary of the Receipts and Payments of the Fund for the period from 1 December 2015 to 31 March 2016.

Summary of Receipts and Payments for the Period 1 December 2015 to 31 March 2016		\$
Opening Cash at Bank		7,680,675.28
Receipts		
Interest Income		32,577.07
Other Income		250.00
Loan Recoveries - Checkling Pty Ltd		1,638.40
Total Receipts		34,465.47
Payments		
Advertising Expenses		(2,008.88)
Appointee Fees		(18,832.00)
Bank Charges		(49.60)
Consultant's fees		(3,000.00)
IT Expenses		(15,483.50)
Legal Fees		(38,420.34)
Printing Expenses		(2,047.91)
Total Payments		(79,842.23)
Cheques presented during period but recorded in prior periods		(70,644.53)
Closing Cash at Bank		7,564,653.99
Less unrepresented cheques		(143,545.00)
Closing Cashbook Balance		7,421,108.99

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

- The Loan Recoveries include:
 - Final recoveries from the receiver and manager of Checkling Pty Ltd
- Advertising expenses include the costs of advertising my application to Court for remuneration approval, which was heard on 20 November 2015. Advertising of the application is a requirement of the Court.
- Consultant's fees include the costs of a witness to prepare a statement in the proceedings against a valuer.
- IT expenses include the cost of hosting and maintaining the Equititrust server and licence fees for the investor management database. During the period I arranged for the server to be transferred from an external host to a BDO platform. This has reduced monthly hosting and maintenance costs by approximately \$2,300 per month.
- Legal fees primarily relate to the costs in pursuing the remaining valuer claim and dealing with the claims by the Liquidators of EL as outlined in sections 1.2 and 2.3 of this report respectively.

The incurring of these costs is considered essential in terms of successfully recovering assets for the benefit of Investors.

4. 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 \$9.678 million
- Second interim distribution of 3 cents per unit paid in June 2015 totalling \$5.516 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 12.8 cents and 13.2 cents per unit as at 31 March 2016 as follows:

	Low	High
	\$000's	\$000's
Net Estimated Value of Fund Assets as at 31 March 2016	7,421	7,421
Less:		
Creditors and Other Payables	646	396
Estimated Equalisation Payment	2,500	2,000
Estimated net amount available to investors at 31 March 2016	4,275	5,025
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	24,857	25,607
Total investor units as at 21 November 2011	193,912	193,912
Overall Estimated Return to Investors per Unit	12.8 cents	13.2 cents

The above table does not take into account future operating costs, future legal fees and future Receiver's fees.



The estimated return to investors has been revised downwards slightly by 0.1 cent since my 25th update report dated 22 December 2015 primarily due to the future operating costs not being taken into account. However, the estimated return also excludes potential legal recoveries against valuers or other third parties as outlined in sections 1.2 and 1.3 of this report and therefore it is possible that investors' overall return may be higher than this estimate.

4.1 Future Distributions to Investors

I will not be in a position to make further distributions to Investors until the remaining legal proceedings currently on foot and the claims with the Liquidators of EL have been resolved.

Please note that in estimating the funds available for distribution to Investors, I must take into account the liabilities of the Fund outstanding at the date of this report along with monies required in order to pay future liabilities that may arise in a worst case scenario. A 'provision' is required to ensure that legal and other costs can be met, including, in the event costs may be awarded against the Fund in relation to the remaining legal proceeding on foot.

I anticipate that the winding up of the Fund may take a further six to twelve months to finalise (including resolving the Liquidators' claim against the directors of EL and the auditors) and I will continue to provide updates to investors on its progress and the timing of future distributions. I will issue my next update to Investors in August 2016.

5. Receiver's Remuneration and Expenses

I attach a summary of my current remuneration and outlays outstanding for the period from 1 December 2015 to 31 March 2016. My remuneration incurred during this period totals \$63,474 plus outlays of \$1,003.14 (excluding GST). A copy of my remuneration report for this period is enclosed.

I anticipate that my next application for approval of my remuneration will be heard in August 2016. A copy of my application in this respect will be posted to the websites www.equititrust.com.au and 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 Dermot O'Brien of this office who can be contacted as follows;

Phone: 07 3237 5999

Email: Dermot.O'Brien@bdo.com.au

Yours faithfully



David Whyte
Receiver

REMUNERATION REPORT - Summary of professional fees by category of work for the period 1 December 2015 to 31 March 2016

Equititrust Income Fund (Receiver Appointed)

Employee	Position	Rate	Total		Task Area									
			hrs	\$	Assets		Creditors		Trade On		Investigations		Administration	
			hrs	\$	hrs	\$	hrs	\$	hrs	\$	hrs	\$	hrs	\$
David Whyte	Partner	560	15.4	8,624.00	3.7	2,072.00	6.0	3,360.00	5.6	3,136.00			0.1	56.00
John Somerville	Senior Manager	440	49.8	21,912.00	11.6	5,104.00	21.6	9,504.00	10.5	4,620.00	2.2	968.00	3.9	1,716.00
Nicola Kennedy	Senior Accountant II	280	24.3	6,804.00			3.7	1,036.00	12.1	3,388.00			8.5	2,380.00
Sarah Cunningham	Team Assistant	195	1.3	253.50									1.3	253.50
Dermot O'Brien	Accountant II	195	39.9	7,780.50	5.5	1,072.50	11.5	2,242.50					22.9	4,465.50
Julia Mayne	Accountant II	195	89.8	17,511.00			55.5	10,822.50	26.4	5,148.00			7.9	1,540.50
Nicole Jackson	Team Assistant	155	0.6	93.00									0.6	93.00
Maira Hattingh	Team Assistant	80	6.2	496.00									6.2	496.00
TOTALS			227.3	63,474.00	20.8	3,248.50	98.3	26,965.00	54.6	16,292.00	2.2	968.00	51.4	11,000.50
			GST	6,347.40										
			TOTAL INC GST	69,821.40										
AVERAGE HOURLY RATE			279		397		274		298		440		214	

Note: All amounts exclude GST unless otherwise noted

Disbursements for the period 1 December 2015 to 31 March 2016

Equititrust Income Fund (Receiver Appointed)

Expense Type	Amount (\$ ex GST)
Postage	1,003.14
TOTAL	1,003.14
GST	100.31
TOTAL INC GST	1,103.45

TO INVESTORS AS ADRESSED

31 August 2016

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

I refer to my previous reports and now provide my 27th 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**

As advised in my 26th update to Investors, all real property assets of the Fund have now been realised. Since my appointment, 46 properties have been realised with a total gross realisation of approximately \$59.26 million.

1.2 Legal Proceedings

The remaining claim filed against a valuer for negligence and damages continues to progress. In this regard, mediation was held on 13 July 2016, however a commercial settlement could not be reached.

The defendant has advised that it will be amending its defence and our respective solicitors are currently seeking to agree a timetable to bring the matter to trial. This will include any reply to the amended defence, any further disclosure to be made and for experts in the same discipline to meet with a view to identifying the matters in respect of which they agree and disagree, and attempt to resolve any disagreement. This is anticipated to be completed by 20 December 2016 with a trial to follow in the New Year.

1.3 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 Equititrust Limited (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.

The Liquidators of Equititrust Limited made an application for leave to amend the statement of claim, which was heard by Foster J on 2 and 3 May 2016. Judgment on the application has been reserved.

If leave is granted for the amendments to the pleading, the Respondents will have to file defences and the next substantive step in the proceeding will likely be discovery. Because of the large number of documents involved, it is anticipated that this will take several weeks to



complete; following which it is likely that orders will be made for the parties to put on evidence.

The matter has not yet been given a trial date and there are no outstanding court orders while judgment is pending on the Liquidators' application.

As previously advised, the Liquidators entered into a litigation funding deed with a litigation funder, which has been approved by the Court, to fund the action against the Auditors, Directors and EL in its own capacity. Therefore, the Fund is not bearing any costs of the litigation; however any funds realised from this claim that relate to the EIF will be paid to the Fund (after deducting the costs of the litigation). Please note that I will not be in a position to make a final distribution and finalise the winding up of the Fund until this litigation has been resolved.

2. Creditor Claims

2.1 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:

- 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 2.2 below);
- Any other creditors outstanding at the date of my appointment; and
- Receiver's remuneration and outlays.

2.2 Claims by the Liquidators of Equititrust Limited ('EL')

As previously advised, 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.

As the matter is still not resolved, I intend making an application to Court seeking directions on how this should be resolved and to put in place a timetable to do so.

The application will also seek directions on an 'equalisation payment' due to certain investors, which is addressed further at section 4.2 below.

3. Receipts and Payments

I provide below a summary of the Receipts and Payments of the Fund for the period from 1 April 2016 to 31 July 2016.

Summary of Receipts and Payments for the Period 1 April 2016 to 31 July 2016	
	\$
Opening Cashbook Balance	7,421,108.99
Receipts	



Interest Income	26,437.53
Other Income	170.00
Total Receipts	26,607.53
Payments	
Agent's Fees	(55,746.28)
Bank Charges	(40.00)
Printing & Stationery Expenses	(2,043.71)
IT Expenses	(7,258.90)
Legal Fees	(33,334.07)
Total Payments	(98,422.96)
Closing Cashbook Balance	7,349,293.56

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

- Agent's fees include the costs of expert witness reports in the proceedings against a valuer.
- 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 the costs in pursuing the remaining valuer claim and dealing with the claims by the Liquidators of EL as outlined in sections 1.2 and 2.2 of this report respectively.

The incurring of these costs is considered essential in terms of successfully recovering assets for the benefit of Investors.

4. 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 \$9.678 million
- Second interim distribution of 3 cents per unit paid in June 2015 totalling \$5.516 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 12.7 cents and 13.1 cents per unit as at 31 July 2016 as follows:

	Low \$000's	High \$000's
Net Estimated Value of Fund Assets as at 31 July 2016	7,349	7,349
Less:		
Creditors and Other Payables	735	485
Estimated Equalisation Payment	2,500	2,000
Estimated net amount available to investors at 31 July 2016	4,114	4,864
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	24,696	25,446
Total investor units as at 21 November 2011	193,912	193,912
Overall Estimated Return to Investors per Unit	12.7 cents	13.1 cents

The above table does not take into account future operating costs, future legal fees and future Receiver's fees.

The estimated return to investors has been revised downwards slightly by 0.1 cent since my 26th update report dated 22 April 2016 primarily due to the future operating costs not being taken into account. However, the estimated return also excludes potential legal recoveries against valuers or other third parties as outlined in sections 1.2 and 1.3 of this report and therefore it is possible that investors' overall return may be higher than this estimate.

4.1 Future Distributions to Investors

I will not be in a position to make further distributions to Investors until the remaining legal proceedings currently on foot and the claims with the Liquidators of EL have been resolved.

I anticipate that the winding up of the Fund may take a further six to twelve months to finalise (including resolving the Liquidators' claim against the directors of EL and the auditors) and I will continue to provide updates to investors on its progress and the timing of future distributions. I will issue my next update to Investors in January 2017.

4.2 Equalisation Payment to Investors

As previously advised, an 'equalisation payment' is proposed to investors, and will be the subject of an application to Court to approve same, 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.

The proposed methodology for the 'equalisation payment' is to adopt the highest return received by an investor during the relevant period and apply this rate across all investors. In this regard, the highest return during the relevant period was 6.33%.

I provide below an example of the 'equalisation payment' which takes into account an adjustment for the interim distributions paid by me to date.

Investor	Distributions paid based on current unit balances	Equalisation Payment and subsequent adjustment to unit balances	Equalisation Payment payable
Unit balance as at 1 July 2010	100,000	100,000	
Capital repaid in FY2011	\$0	\$0	
'Equalisation Payment' at 6.33% for FY2011		\$6,330	\$6,330
Unit balance as at 21 November 2011	100,000	93,670	
Interim distribution of capital (5 cents per unit on paid June 2014)	\$5,000	\$4,684	(\$316)
Unit balance as at 30 June 2014	95,000	88,986	
Less interim distribution of capital (3 cents per unit paid June 2015)	\$2,850	\$2,670	(\$180)
Unit balance as at 30 June 2015	92,150	86,316	
Less interim distribution of capital (3 cents per unit paid September 2015)	\$2,765	2,589	(\$176)
Unit balance as at 30 September 2015	89,385	83,727	
Total 'Equalisation Payment'			\$5,658

In the example above, the total 'equalisation payment' is \$5,658 and all future distributions will be calculated based on the adjusted unit balance of 83,727 units.

As noted earlier in this report, I intend making an application to Court shortly to obtain directions in relation to the proposed 'equalisation payment'. Investors will be advised of the application in due course and a copy of the relevant documentation will be uploaded to the websites www.equitytrustincomefund.com.au and www.equitytrust.com.au.

5. Receiver's Remuneration and Expenses

I attach a summary of my current remuneration and outlays incurred for the period from 1 April 2016 to 31 July 2016 totalling \$82,606.00 plus outlays of \$1,714.97 (excluding GST). A copy of my remuneration report for this period is enclosed.

I anticipate that my next application for approval of my remuneration will be heard in October or November 2016 and will cover the period from 1 October 2015 to 30 September 2016. A copy of my application in this respect will be posted to the websites www.equitytrust.com.au and



www.equitytrustincomefund.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.

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

7. Queries

All queries should be directed to Dermot O'Brien of this office who can be contacted as follows;

Phone: 07 3237 5999

Email: Dermot.O'Brien@bdo.com.au

Yours faithfully

A handwritten signature in black ink, appearing to read 'David Whyte', written over a horizontal line.

David Whyte
Receiver

**REMUNERATION REPORT - Summary of professional fees by category of work for the period 1 April 2016 to 31 July 2016
EQUITRUST INCOME FUND (RECEIVER APPOINTED) ("THE FUND")**

Employee	Position	Rate	Totals		Task Area										
			hrs	\$	Assets		Creditors		Trade On		Investigations			Administration	
					hrs	\$	hrs	\$	hrs	\$	hrs	\$	\$	hrs	\$
David Whyte	Partner	580	17.4	10,092.00	16.3	9,454.00	0.7	406.00	0.4	232.00	0.0	0.00	0.00	0.0	0.00
David Whyte	Partner	560	11.0	6,160.00	7.2	4,032.00	2.0	1,120.00	1.5	840.00	0.2	112.00	0.00	0.1	56.00
John Somerville	Senior Manager	455	18.2	8,281.00	10.3	4,686.50	7.0	3,185.00	0.9	409.50	0.0	0.00	0.00	0.0	0.00
John Somerville	Senior Manager	440	47.4	20,856.00	8.9	3,916.00	20.4	8,976.00	2.6	1,144.00	15.0	6,600.00	0.00	0.5	220.00
Aubrey Meek	Senior Accountant II	290	8.0	2,320.00	0.0	0.00	8.0	2,320.00	0.0	0.00	0.0	0.00	0.00	0.0	0.00
Nicola Kennedy	Senior Accountant II	280	19.0	5,320.00	0.1	28.00	3.5	980.00	11.7	3,276.00	0.0	0.00	0.00	3.7	1,036.00
Dermot O'Brien	Accountant I	235	9.7	2,279.50	4.0	940.00	5.7	1,339.50	0.0	0.00	0.0	0.00	0.00	0.0	0.00
Samantha Brown	Accountant I	235	0.2	47.00	0.0	0.00	0.2	47.00	0.0	0.00	0.0	0.00	0.00	0.0	0.00
Aubrey Meek	Senior Accountant II	225	5.1	1,147.50	0.0	0.00	4.1	922.50	0.0	0.00	0.0	0.00	0.00	1.0	225.00
Sarah Cunningham	Team Assistant	195	6.4	1,248.00	0.0	0.00	0.0	0.00	0.0	0.00	0.0	0.00	0.00	6.4	1,248.00
Dermot O'Brien	Accountant I	195	45.6	8,892.00	0.4	78.00	27.2	5,304.00	0.0	0.00	0.0	0.00	0.00	18.0	3,510.00
Julia Mayne	Accountant II	195	0.3	58.50	0.0	0.00	0.3	58.50	0.0	0.00	0.0	0.00	0.00	0.0	0.00
Samantha Brown	Accountant I	195	0.7	136.50	0.0	0.00	0.7	136.50	0.0	0.00	0.0	0.00	0.00	0.0	0.00
Aubrey Meek	Senior Accountant II	190	15.5	2,945.00	0.0	0.00	12.2	2,318.00	0.0	0.00	0.0	0.00	0.00	3.3	627.00
Andrew Lane	Undergraduate	165	11.1	1,831.50	0.0	0.00	6.3	1,039.50	0.0	0.00	0.0	0.00	0.00	4.8	792.00
Ryan Whyte	Undergraduate	165	22.8	3,762.00	0.0	0.00	17.9	2,953.50	1.0	165.00	0.0	0.00	0.00	3.9	643.50
Ryan Whyte	Undergraduate	160	22.0	3,520.00	0.0	0.00	14.4	2,304.00	0.7	112.00	0.0	0.00	0.00	6.9	1,104.00
Nicole Jackson	Team Assistant	155	0.2	31.00	0.0	0.00	0.0	0.00	0.0	0.00	0.0	0.00	0.00	0.2	31.00
Jinyang Li	Accountant II	155	18.7	2,898.50	0.0	0.00	18.7	2,898.50	0.0	0.00	0.0	0.00	0.00	0.0	0.00
Moira Hattingh	Team Assistant	85	0.8	68.00	0.0	0.00	0.0	0.00	0.0	0.00	0.0	0.00	0.00	0.8	68.00
Moira Hattingh	Team Assistant	80	8.9	712.00	0.0	0.00	0.0	0.00	0.0	0.00	0.0	0.00	0.00	8.9	712.00
TOTALS			289.0	82,606.00	47.2	23,134.50	149.3	36,308.50	18.8	6,178.50	15.2	6,712.00	0.00	58.5	10,272.50
			GST	8,260.60											
			TOTAL INC GST	90,866.60											
AVERAGE HOURLY RATE			286		490		243		329		442			176	

Note: All amounts exclude GST unless otherwise noted

Disbursements for the period 1 April 2016 to 31 July 2016
EQUITRUST INCOME FUND (RECEIVER APPOINTED)
("THE FUND")

Expense Type	Amount (\$ ex GST)
Search Fee	319.20
Postage	1,395.77

"DW-13"

Summary of Receipts and Payments for the Period
21 November 2011 to 31 October 2016

Receipts	\$	\$
Bank Guarantees Released for Distribution		39,066.65
Interest Income		688,734.66
<i>Loan Recoveries:</i>		
Boothers Pty Ltd	1,753,423.65	
Checkling Pty Ltd	5,227,139.29	
Corymbia Corporation Pty Ltd	14,126,212.53	
Corymbia Estates Pty Ltd	4,886,247.31	
East Coast Pty Ltd	2,394,502.16	
Elysian Marketing Pty Ltd	412,821.57	
Gamp Developments Pty Ltd	482,510.23	
Gonfanon Pty Ltd	2,354,818.22	
Hollyander	344,457.88	
Kele Property Group (Port Macquarie) Pty Ltd	1,101,864.86	
Kristine Newton	2,665,906.97	
Lazar	22,701.00	
Morvale Land Pty Ltd	3,897,632.45	
Mountbell Pty Ltd	641,481.75	
National Resorts Corporation	2,205,458.07	
Resort Corporation Australia (No 2) Pty Ltd	824,745.90	
Robert Hardy, Elysian Marketing Pty Ltd and Mark J	5,899.05	
Rosea Pty Ltd	1,195,250.59	
Rural Security Holdings Pty Ltd	50,000.00	
Spottiswood, Graham (A Bankrupt)	2,195,580.51	
Star Sky Investments Pty Ltd	27,287.94	
Summer Hill Business Estate Pty Ltd	18,237.41	
Taylor, AG & SK	215,438.34	
Toowoomba (Foundry Shopping Centre) Pty Ltd	4,807,860.63	
Tweed Central Pty Ltd	7,097,417.88	
Valencia Grove Pty Ltd	1,803,390.00	
Walsh	508,367.95	
Western Land Corporation	1,070,456.17	
Windsor Turf Pty Ltd	4,248.55	
Wirrina Cove	11,058,984.16	
Wonderkids Pty Ltd	10,000.00	73,410,343.02
<i>Other Income:</i>		
GST Refund	179,492.20	
Pre-appointment ATO lodgements	69,453.00	
Fees earned from Release of Mortgage	3,624.78	
Other Sundry Income	2,300.40	
Sale of Plant and Equipment	800.00	
Refunds received	655.06	256,325.44
<i>Distributions:</i>		
Unsuccessful distribution payments - Second Interim Distribution		
Unsuccessful distribution payments - Third Interim Distribution		803,487.72
Transfer from Pre-appointment accounts		1,263,719.13
Total Receipts		76,461,676.62

Payments

Advertising		9,210.83
Bank Charges		54,552.42
Bank Guarantee		159,376.48
Consultant fees		85,503.87
<i>Distressed Loan funding:</i>		
Boothers Pty Ltd	369,065.51	
Checkling Pty Ltd	772,377.36	
Corymbia Corporation Pty Ltd	3,379,911.12	
Corymbia Corporation Pty Ltd (uncompleted works bonds bank guarantee)	928,389.59	
Corymbia Estates Pty Ltd	841,588.10	
CTP Pty Ltd	21,571.00	
East Coast Pty Ltd	505,991.96	
Gamp Developments Pty Ltd	108,801.41	
Glenrowan Land Pty Ltd	4,215.00	
Gonfanon Pty Ltd	189,280.34	
Graham Spottiswood (A Bankrupt)	739,361.67	
Kele Property Group (Port Macquarie) Pty Ltd	354,039.69	
Morvale Land Pty Ltd	828,555.99	
Mountbell Pty Ltd	180,436.78	
National Resorts	370,284.58	

Newton, Kristine Lorraine	6,597.01	
Resort Corporation Australia (No 2) Pty Ltd	117,136.25	
Rosea Pty Ltd	7,888.16	
Spottiswood, Graham (A Bankrupt)	193,743.37	
Toowoomba (Foundry Shopping Centre) Pty Ltd	1,668,608.37	
Tweed Central Pty Ltd	1,003,079.98	
Tweed Central Pty Ltd (uncompleted works bonds)	100,529.55	
Valencia Grove Pty Ltd	126,745.19	
Walsh	149,264.75	
Western Land Corporation	406,365.17	
Windsor Turf Pty Ltd	424,059.35	
Wirrina Cove	10,812,775.43	24,610,662.68
Office Establishment expenses		14,909.51
Document Production & Stationary		25,054.88
GST Paid		1,599,375.91
Insurance		31,415.50
IT expenses		322,653.06
Legal Fees		2,359,467.45
Applicant's assessed costs in the proceedings to wind up the EIF		55,814.27
Mclvor Superannuation Fund (Payment into Court)		3,495,953.42
Office Rental charge		91,542.60
PAYG Paid		107,976.00
<i>Receiver's Fees (Court approved)</i>		
Remuneration		3,783,255.30
Outlays		196,822.27
<i>Reimbursement of Expenses - Equititrust Limited</i>		
Pre-appointment (prior to 21 November 2011)	653,867.63	
Post-appointment (subsequent to 21 November 2011)	305,682.62	
ETL Receivers Fees and Disbursements	147,490.41	1,107,040.66
Secured Creditor Fees and Charges (Bill Facility)		600,527.80
<i>Secured Creditor distribution</i>		
Commonwealth Bank of Australia		54,409.25
National Australia Bank		8,400,000.00
Statutory Fees		1,199.00
Telephone, Fax & Internet		2,494.80
Unit Holders - Accrued interest 30/06/2010	139,540.72	
113 Unit Holders - First and Second Interim Distribution payment	27,656.54	
Unit Holders 5 Cent -First Interim distribution	9,675,240.24	
Unit holders 3 cent - Second Interim Distribution (Paid via EFT)	5,333,317.48	
Unit holders 3 cent - Second Interim Distribution (Paid via Cheque)	568,570.41	
Unit holders 3 cent - Third interim distribution (Paid via EFT)	5,362,371.32	
Unit holders 3 cent - Third interim distribution (Paid via Cheque)	426,080.80	21,532,777.51
Wages & associated reimbursements		408,907.28
Total Payments		69,110,902.75
Closing Balance		7,350,773.87
Add: Unpresented Cheques		133,744.17
Closing Cash at Bank		7,484,518.04