



**The Chris Marco Scheme (Receivers and Managers Appointed) (In Liquidation)**  
**AMS Holdings (WA) Pty Ltd in its own right and as trustee for the AMS Holdings Trust (Receivers and Managers Appointed) (In Liquidation)**  
**Circular to Investors – 20 December 2022**

On 7 December 2020, pursuant to orders of the Federal Court of Australia, Rob Brauer and Rob Kirman were appointed as Receivers and Managers (**Receivers**) of:

- the personal property of Mr Chris Marco (DOB: 23 June 1958) (**Mr Marco**);
- the unregistered Scheme operated by Mr Marco (**the Scheme**); and
- AMS Holdings (WA) Pty Ltd in its own right and as trustee for the AMS Holdings Trust (**AMS**).

The orders also appointed Rob Brauer and Rob Kirman as **Liquidators** of:

- the Scheme; and
- AMS.

The purpose of this circular is to provide the investors of the Scheme and AMS with a brief update on the progress of the receiverships and liquidations since our previous circular to investors dated 23 September 2022 (**Previous Update**).

## 1 Receivership update

### 1.1 *Cash at bank*

Cash at bank controlled by the Receivers totals \$15.6m as at 2 December 2022. Of the funds currently on hand, \$15.1m is held on term deposit and \$436k is held in a cash management account. Available interest rates are monitored regularly to ensure returns are maximised where possible.

### 1.2 *Property under the control of the Trustee in Bankruptcy*

As mentioned in the Previous Update, Mr Marco's Trustee in Bankruptcy (**Trustee**) sold one of the Mt Hawthorn properties under his control (50% owned by Mr Marco) and the Trustee has received Mr Marco's portion of the proceeds from the sale.

The other Mt Hawthorn property (Mr Marco's residential property) remains subject to ongoing claims by Mr Marco's wife which will require resolution by the Trustee prior to this property being realised. The Receivers consider they have claims against these properties for costs incurred and paid for by Scheme funds.

Further progress in relation to realising proceeds from these residential properties is now reliant on steps being taken by the Trustee. The net realisations remaining of the property sold by the Trustee will ultimately be distributed to the creditors of Mr Marco's bankruptcy.

Separately, the Trustee's appointment also extended to Mr Marco's 1975 Datsun 260Z coupe which was sold by the Receivers prior to the appointment of the Trustee. Significant Scheme funds were used to pay for the repair and restoration of the Datsun. The Receivers are awaiting a response from the Trustee regarding how these proceeds will be distributed.



### 1.3 *Debtors and loans*

The Receivers are continuing to progress recovery actions relating to the disbursement of Scheme funds to various parties for what the Receivers consider to be unsubstantiated purposes. Details of these proceedings are currently confidential but will be shared with investors when possible.

#### **Liquidation update**

### 1.4 *Distribution Application*

Investors will be aware that we are awaiting judgement from Justice Feutrill in regards to the appropriate distribution methodology to remit funds to the investors of the Scheme.

In accordance with the Federal Court rules, if judgement has not been received within 6 months of the hearing (which was held at the end of May 2022), enquiries may be made with the Chief Justice (the senior judge of the Court responsible for managing the business of the Court). All parties made an enquiry in early December and the Federal Court has since advised that a decision is anticipated by the end of January 2023.

Once the decision is received and the usual 28-day appeal period has passed, the Liquidators will proceed in commencing the interim dividend payment process to creditors which may take a further circa 3 months to complete. Once the Court's findings are received we will write again to investors with further detail.

In anticipation of the Court's judgement, and in order to expedite the interim dividend process as much as possible, the Liquidators have been liaising with investors to finalise their documentation for adjudication to the extent possible including:

- corresponding with investors whose proof of debt are yet to be submitted and/or require amending; and
- amending investor reconciliations and/or liaising with parties who have disputed the Liquidators' initial investor reconciliation.

### 1.5 *Litigation matters*

Further to our Previous Update, the Liquidators have continued to progress and prepare legal proceedings against various related and associated parties of Mr Marco (**Parties**). If successful, recoveries from these proceedings may materially increase the funds available to investors. Once proceedings are commenced, or we are in a position to comment publicly, we will update investors accordingly. In the interim, the details of these claims remain confidential.

### 1.6 *Remuneration application from the Former Administrators (Hall Chadwick)*

As mentioned in the Previous Update, the Court ordered that (i) the Former Administrators were entitled to remuneration and payment of disbursements from the property of AMS, and (ii) the issue of quantum be referred to mediation between the Liquidators and Former Administrators.

Unfortunately, the mediation process was unsuccessful and the parties have not been able to agree to a settlement. The Liquidators have since filed submissions in the proceedings setting out detailed analysis and legal reasoning as to why the Liquidators consider the Former Administrators' claim should be substantially disallowed. The Former Administrators are to file any responsive submissions by 21 December 2022 and a case management hearing is listed for after 27 January 2023.



1.7 *Committees of Inspection*

The Committees of Inspection of the Scheme and AMS continue to meet on at least a quarterly basis with the last meeting held on 15 December 2022. Detailed reporting is provided to the Committee on a quarterly basis. Minutes of each Committee meeting are lodged with ASIC.

2 **Next steps**

The key focus for the coming quarter will be (i) progressing recovery actions against the Parties whom the Liquidators consider have inappropriately received Scheme funds, and (ii) preparing for an interim distribution pending receipt of Justice Feutrill's decision and the final adjudication of claims.

If you have any queries, please contact Jacob Flores on (08) 6363 7686 or email [marcoinvestors@mcgrathnicol.com](mailto:marcoinvestors@mcgrathnicol.com).

Dated: 20 December 2022

Rob Brauer  
*Liquidator*