



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 – 30 June 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 a brief update on the progress of the receiverships and liquidations since our previous circular to investors dated 20 April 2022 (**Previous Update**).

1 Receivership update

1.1 *Cash at bank*

Cash at bank controlled by the Receivers totals \$17.2m as at 24 June 2022. Of the funds currently on hand, \$15.5m is held in term deposits with Macquarie Bank and \$1m is held in a cash management account earning a high interest rate comparative to the market rate.

During the period, the Receivers negotiated a significant increase on the term deposit return rate for the funds held with Macquarie through a competitive process with several banking institutions. The Receivers will continue to monitor interest rates to maximise the returns available.

1.2 *Properties*

Mr Marco's Trustee in Bankruptcy (**Trustee**) remains in control of two residential properties in Mt Hawthorn. The Trustee advised that settlement has occurred for one of the Mt Hawthorn properties (50% owned by Mr Marco) and the Trustee has received Mr Marco's portion of the proceeds from the sale.

The other Mr 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. The Receivers have communicated these claims to the Trustee and are awaiting their response. If accepted, these funds will be returned to the Receivers as realisations are completed.

The net realisations remaining of the property sold by the Trustee will ultimately be distributed to the creditors of Mr Marco's bankruptcy.



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, including actions taken in relation to public examinations and document production discussed in section 1.5 of this update.

Liquidation update

1.4 *Distribution Application*

Investors will be aware that the Distribution Application was heard over a three-day interlocutory hearing on 23-25 May 2022. At the adjournment of the hearing, Justice Feutrill reserved his judgement noting that he hopes to deliver his judgement as soon as possible however it might take some time as the issues dealt with the distribution application are "not easy". Whilst it is difficult to predict timing for Justice Feutrill to prepare his judgement, the Liquidators are hopefully to receive orders from the Court within the next two to four months.

All applicable Court Orders and the Liquidators' report in support of the application are available to be viewed and downloaded from:

<https://www.mcgrathnicol.com/creditors/chris-marco-scheme-ams-holdings-wa-pty-ltd/>

The Liquidators note that once the directions have been provided by the Court we intend to commence an interim dividend to investors as soon as practicable. The dividend process is governed by the Corporations Act 2001 (Cth) and can take up to two months to complete. Set out below are the key tasks to be completed prior to declaration and payment of any dividend from the Scheme:

- Review and consider the directions provided by the Court and communicate these directions with creditors/investors;
- Call for proofs of debt from all creditors and advertise notice of intention to declare a dividend;
- Adjudicate all proofs of debt received and, in necessary, reject any disputed claims;
- Deal with any disputed claims in the event parties appeal to the Court in relation to their adjudication; and
- Declare and pay the dividend.

Accordingly, the exact timing of the interim dividend is subject to the time it takes for Justice Feutrill to consider the complex matters of the application and provide his orders, and the Liquidators' final adjudication of all investor claims.

1.5 *Public examinations and document production*

The Liquidators have been successful in obtaining orders from the Court requiring Mr Marco and a number of his family members/associates to produce their records relating to the operation of the Scheme along with attending Court for public examinations. The purpose of obtaining these orders is for the Liquidators to (i) confirm the Receivers have identified and realised all assets of the Scheme and AMS, and (ii) gather evidence to assist with various recovery actions available to the Liquidators.

The Liquidators confirm six individuals, including Chris Marco, have been served with document production and examination summons. The Liquidators have now received the all the documents produced and are preparing for the public examinations scheduled during July and August.

As you will be aware, the Liquidators are required to take all actions necessary to maximise the return to investors. We consider the document production and public examinations to be a critical step to assist with the



recovery of as much of investor's funds dissipated from the Scheme as possible and note these actions are entirely consistent with the obligations on liquidators to undertake investigations to assess what recoveries can be made for the benefit of creditors. The Liquidators are at all times cognisant of the commerciality of progressing these recovery actions and continue to regularly consult with the Committees of Inspection throughout.

Should you wish to be provided further details in relation to the public examinations, please submit a request to marcoinvestors@mcgrathnicol.com.

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

As mentioned in the Previous Update, the Court has 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 Administrators. The mediation is subject to strict confidentiality terms, meaning the Liquidators are unable to provide any details.

Unfortunately, the mediation has been terminated without a settlement. Accordingly, should the Former Administrator not make an offer to the Liquidators, the matter will be determined by the Court.

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 16 June 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 parties whom the Receivers consider have inappropriately received Scheme funds (via review of the document production and conducting public examinations), and (ii) preparing for an interim distribution by the end of 2022 pending the timing of Justice Feutrill's decision regarding the Liquidators' Distribution Application and the final adjudication of claims.

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

Dated: 30 June 2022

Rob Brauer
Liquidator