



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 April 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 15 December 2021 (**Previous Update**).

1 Receivership update

1.1 *Cash at bank*

Cash at bank controlled by the Receivers totals \$18.5m as at 20 April 2022. Of the funds currently on hand, \$7m is held on term deposit with Macquarie Bank and \$10m is held in a cash management account earning a high interest rate comparative to the market rate.

1.2 *Properties*

As reported in the Previous Update, the Receivers have completed the sale of the properties subject to their appointment, with the property realisation proceeds to date being \$11.4m.

Mr Marco's Trustee in Bankruptcy (**Trustee**) remains in control of two residential properties in Mt Hawthorn. The Trustee has advised that an offer has been accepted for one of the Mt Hawthorn properties (50% owned by Mr Marco) and settlement is due to occur shortly.

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 are considering what potential claims the Scheme might have against Mr Marco's residential property arising from the use of investor funds in respect of this property. The Receivers will pursue the most efficient course of action in due course to recover funds for the benefit of creditors.

The net realisations of the property sold by the Trustee will be distributed to investors by the Trustee and not by the Liquidators.

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.

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Liquidation update

1.4 *Distribution Application*

Further to the information provided in the Previous Update in relation to the Distribution Application and the Court orders made on 10 December 2021, three investors have been joined as separate representatives (**Contradictors**) to the proceedings.

The Contradictors' role is to effectively advocate (for themselves and other like investors, effectively addressing the interests of all investors) for one or more of the various distribution methods presented by the Liquidators in the Distribution Application.

The Contradictors are in the process of preparing and lodging submissions to the Court advocating in favour/against the various distribution methodologies, for the Court's consideration. The legal costs and expenses of the Contradictors are paid from the property of the Scheme in accordance with the Court orders and as approved by the Committees of Inspection.

The remainder of the Distribution Application is programmed as follows:

- the Contradictors and the Trustee must file any submissions in response to the Liquidators' outline of submissions by 13 April 2022;
- the Liquidators and the Contradictors must each file any responsive outline of submissions by 4 May 2022; and
- the application is listed for a 4-day interlocutory hearing from 23 May 2022 to 26 May 2022 beginning at 10.15am each day.

Providing there are no delays to the final hearing date or material developments in the application, the Liquidators expect the Court will provide directions in June or July.

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/>

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

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

Unfortunately, the mediation has been unsuccessful to date in resolving the quantum payable to the Former Administrators. If no agreement can be reached, the matter will be determined by the Court.

1.6 *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 17 March 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 progressing recovery actions against parties whom the Receivers consider have inappropriately received Scheme funds and addressing any matters arising from the Liquidators' Distribution Application.

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

Dated: 20 April 2022

Rob Brauer
Liquidator