



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 – 24 September 2021

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 correspondence 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 29 June 2021 (**Previous Update**).

1 Receivership update

1.1 Cash at bank

Cash at bank controlled by the Receivers currently totals \$16.9 million of which \$3.0 million has been deposited into an interest bearing term deposit and \$10.0 million is held in a cash management account earning a high interest rate comparative to the market rate. Future cash proceeds are expected as subsequent property settlements or asset realisation and recovery actions conclude.

1.2 Properties

Further to the Previous Update, the Receivers have proceeded with the property sale campaigns and, as of the date of this circular, have contracted or settled seven of the 14 separately titled properties. Total realisation proceeds to date of \$7.7 million are above the independent market valuations for these properties.

Of the remaining seven titled properties, five of these titled properties (located in Claremont) are subject to an option to purchase agreement. The Receivers expect to be in a position to provide a further update regarding this sale process in the next update to investors.

Regarding the two residential properties in Mt Hawthorn (**Mt Hawthorn Properties**) and further to the Previous Update, Mr Marco's Trustee in Bankruptcy (**Trustee**) has proceeded to make an application to Court seeking to carve out the Mt Hawthorn Properties from the Receivers' orders. Both the Receivers and the Trustee have filed submissions and affidavit material with the Court and the Receivers anticipate the Court will make a decision on the papers within the next two months.

Accordingly, the Receivers' realisation strategy regarding the Mt Hawthorn Properties is currently on hold pending a decision from the Court on the Trustees' application including the ongoing matters regarding joint ownership of one of the properties and a registered caveat over the other property.



1.3 *Debtors and loans*

Further to our Previous Update, the Receivers are continuing to progress the recovery actions relating to Scheme funds paid for unsubstantiated purposes to a number of parties related and unrelated to Mr Marco.

On 22 September 2021, the Receivers were successful in obtaining a summary judgement for a portion of the debt owing from one of Mr Marco's family members. The Receivers are continuing to liaise with this party regarding the recovery of these amounts.

Regarding the remaining recovery actions, the Receivers are continuing to collate information from the Scheme records regarding these claims. We are considering the next steps to progress recovery where it is considered to result in a net benefit to investors, including but not limited to (i) issuance of document production orders, (ii) conducting public examinations, and/or (iii) commercial discussions with the parties regarding potential settlement.

2 **Liquidation update**

2.1 *Investor reconciliation and Court Application*

As outlined in our Previous Update, the Liquidators consider the reconciliation process of each investors' position to be substantially complete. The next step is to seek directions from the Court regarding how the pool of net realisations should be distributed to investors. This Court application is required as the standard pari-passu approach normally taken by liquidators may not be the most appropriate or equitable method of distribution given the way the Scheme operated and the diverse range of investor positions.

The Liquidators have therefore examined a number of different distribution methods and have prepared financial modelling to examine the impact of each of these methods on the estimated returns payable to each investor. These results have been outlined in a report prepared for the Court to accompany the Court application.

The Liquidators expect to file this application before the end of 2021. Further correspondence will be issued to investors once the application is filed. As noted in our Previous Update, how quickly the application can be listed and heard will depend on the number of parties ultimately involved in the process and the Court's availability. The Liquidators' view remains that the earliest that a distribution can occur is in the first half of 2022.

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

In relation to the remuneration application made from the former administrators and liquidators of AMS (the **Former Administrators** from the firm Hall Chadwick), all parties have now filed and served their written submissions for the Court to determine if there is property available to meet the Former Administrators' remuneration claim. The Court is expected to make a decision on this matter on the papers within one to two months.

If the Court determines that there is property available to meet the Former Administrators' remuneration claim, the parties will then either confer as to any appropriate quantum payable, or await an adjudication by the Court.

2.3 *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 23 September 2021. Detailed reporting is provided to the Committee on a quarterly basis. Minutes of each Committee meeting are lodged with ASIC.



3 **Next steps**

The key focus for the Liquidators in the coming quarter will be finalising the application to Court to seek directions as to the most equitable method of distribution to investors.

Concurrently, the Receivers will continue to progress the realisation of the remaining properties and other assets including commencing recovery actions against parties whom the Receivers consider have inappropriately received Scheme funds.

If you have any queries, please contact Phoebe Donaldson on (08) 6363 7619 or email marcoinvestors@mcgrathnicol.com.

Dated: 24 September 2021

Rob Brauer
Liquidator