



## EQUITITRUST CAPITAL

Equititrust Limited ABN 74 061 383 944  
67 Thomas Drive Chevron Island Queensland 4217  
Box 8111 GCMC Queensland 9726 Australia  
Telephone 07 5527 5527 Facsimile 07 5527 5900  
info@equititrust.com.au [www.equititrust.com.au](http://www.equititrust.com.au)

## Continuous Disclosure Statement

Equititrust Income Fund ARSN 089 079 854  
Equititrust Limited ACN 061 383 944, AFSL 230471  
Equititrust Priority Class Income Fund ARSN 089 079 729  
Issued by Equititrust Limited on 13 December 2011

### Lapse of Insurance

Equititrust's insurance policies (Investment Managers Insurance and Directors' & Officeholders' Liability Insurance) have expired with effect from 21 November 2011, and there is no further coverage available under these policies.

Professional Indemnity Insurance covers you for claims or circumstances, which may give rise to a claim reported to the Insurers while the policy is in force. Once the policy has expired you are not covered, except for claims and "circumstances" notified to the Insurers before expiry.

The Board has been unable to secure further insurance at this time.

### ASIC Notice of Suspension of AFSL

On 7 December 2011, ASIC decided to suspend the Australian Financial Services Licence Number 230471 (AFSL) held by Equititrust Limited under s.915C(1) of the Corporations Act 2001 (the Act) until 6 December 2012 unless the suspension is revoked earlier by ASIC.

Under s.915H of the Act, ASIC has specified that the AFSL continues in effect as though the suspension had not happened in relation to the provision by Equititrust of financial services that are:

- a) Reasonably necessary for, or incidental to, the winding up of the Equititrust Income Fund and the Equititrust Priority Class Income Fund; and
- b) Reasonably necessary for, or incidental to, the winding down of the unregistered managed investment scheme, the Equititrust Premium Fund.

### Undertakings by Mr Mclvor released

On 23 November 2011 the Supreme Court of Queensland released Mr Mclvor of his undertakings referred to in the Continuous Disclosure Statement of 31 October 2011.

### Updated Unit Prices: KPMG Audit Recommendations and Board Determination

KPMG, the trust auditor, has recommended that Equititrust Limited adopt further impairments to assets of Equititrust, EIF, EPCIF and the Equititrust Premium Fund (EPF), as at 30 June 2011 beyond those previously adopted. These have been adopted by the Board, and will be taken into account as the 2010-2011 Statutory Accounts are finalized. The unit prices in the EIF, EPCIF and EPF are currently in the process of being recalculated. A further Continuous Disclosure Statement will be issued once these recalculations are complete.

### End of Financial Year Statement Accounts and Audit – Finalisation

With the further impairments being adopted, the Board is continuing to move forward with KPMG to finalise the Accounts and Audits as soon as possible.

This information has been prepared by Equititrust Limited ABN 74 061 383 944 AFSL No. 230471. It is general information only and is not intended to provide you with financial advice or take into account your objectives, financial situation or needs. An investment in the Fund is not a bank deposit and carries the risk of investors not getting the return of all or part of their investment. Past performance is not an indicator of future performance and actual distributions may be lower than the Benchmark Rates. Any investor in the Equititrust Income Fund ARSN 089 079 854 should consider the relevant Product Disclosure Statement, a copy of which is available from our website [equititrust.com.au](http://equititrust.com.au) or by contacting us on 1800 635 527. Terms defined in this information have the same meaning as where used in the PDS, unless otherwise defined. We welcome your feedback at anytime.



## EQUITITRUST CAPITAL

Equititrust Limited ABN 74 061 383 944  
67 Thomas Drive Chevron Island Queensland 4217  
Box 8111 GCMC Queensland 9726 Australia  
Telephone 07 5527 5527 Facsimile 07 5527 5900  
info@equititrust.com.au [www.equititrust.com.au](http://www.equititrust.com.au)

## Continuous Disclosure Statement

Equititrust Income Fund ARSN 089 079 854  
Equititrust Limited ACN 061 383 944, AFSL 230471  
Equititrust Priority Class Income Fund ARSN 089 079 729  
Issued by Equititrust Limited on 12 December 2011

### Banking relationships

Equititrust has received notices from the following banks asserting events of default have arisen under the following facilities:

- Equititrust Limited (in its own right) from Westpac and Bank of Queensland. The loans arose as part of finance facilities take out to provide additional liquidity to the funds, Equititrust Limited, and other entities associated with Mr Mark McIvor, and secured against the real property assets of Mr McIvor's associated private entities.
- Equititrust Income Fund from CBA and National Australia Bank (NAB). The CBA now asserts that the contingent liability in respect of outstanding bank guarantees for use in EIF secured assets is \$1m (as opposed to the \$580,000 referred to in CDS dated 4 November 2011). The current outstanding balance on the NAB facility for EIF is \$8.4 million which is secured against the assets of EIF.
- Equititrust Limited (in its own right) and as Manager of the Equititrust Premium Fund from BOSI International (Australia) Limited (BOSI). Equititrust guaranteed the BOSI facility for EPF. The current outstanding balance on the BOSI facility for EPF is \$6.85 million which is secured against the assets of EPF.

The Board of Equititrust continues to liaise with the banks in respect of these facilities, and is endeavouring to agree a standstill and/or new repayment arrangements.

### External Custodian

Equititrust previously announced that it had resolved to appoint Trust Company (Australia) Limited (TCA) as the independent external custodian of the Equititrust Income Fund. TCA will now not be in a position to proceed to act as custodian.

### Receiver

We confirm that Mr David Whyte of BDO has been appointed as Receiver to the property of the Equititrust Income Fund and the Equititrust Priority Class Income Fund as per the attached Orders of the Supreme Court of Queensland of 21 and 23 November 2011.

### ASIC Orders extended

On 12 December 2011, the attached Orders were made with the consent of Equititrust Limited, extending the majority of the Orders of 27 October 2011 (see CDS of 3 November 2011) to 1 February 2012.

This information has been prepared by Equititrust Limited ABN 74 061 383 944 AFSL No. 230471. It is general information only and is not intended to provide you with financial advice or take into account your objectives, financial situation or needs. An investment in the Fund is not a bank deposit and carries the risk of investors not getting the return of all or part of their investment. Past performance is not an indicator of future performance and actual distributions may be lower than the Benchmark Rates. Any investor in the Equititrust Income Fund ARSN 089 079 854 should consider the relevant Product Disclosure Statement, a copy of which is available from our website [equititrust.com.au](http://equititrust.com.au) or by contacting us on 1800 635 527. Terms defined in this information have the same meaning as where used in the PDS, unless otherwise defined. We welcome your feedback at anytime.

*Duplicate*

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

ORDER

Before: Justice Applegarth

Date: 23 November 2011

Initiating document: Application filed 15 November 2011 and Oral Application made 21 November 2011

THE ORDER OF THE COURT IS THAT:

1. Pursuant to s.1101B(1) of the *Corporations Act 2001* (Cth) (*the Act*) David Whyte (*Mr Whyte*) be appointed as:

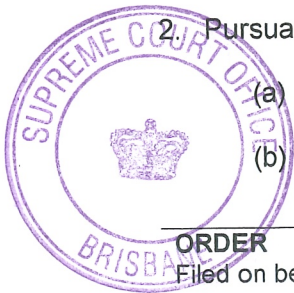
(a) a receiver of the property of the Equititrust Income Fund (*EIF*); and

(b) a receiver of the property of the Equititrust Priority Class Income Fund (*EPCIF*).

2. Pursuant to s.601NF(2) of the Act David Whyte (*Mr Whyte*) be appointed as:

(a) a receiver of the property of the Equititrust Income Fund (*EIF*); and

(b) a receiver of the property of the Equititrust Priority Class Income Fund (*EPCIF*).



ORDER

Filed on behalf of the Intervener

Form 59 Rule 661

Australian Securities & Investments Commission

Hugh Copley, Litigation Counsel

Level 20, 240 Queen Street, Brisbane Qld 4000

Tel: (07) 3867 4700

Fax: (07) 3867 4725

Ref: K Rodgers (11-40025)

3. Pursuant to s.1101B(1) of the Act, Mr Whyte have, in relation to the property for which he is appointed receiver pursuant to Order 1 above, the powers set out in s.420 of the Act in addition to the powers set out in s.1101B(8)(a) to (c) of the Act.
4. Pursuant to s.601NF(2) of the Act, Mr Whyte have, in relation to the property for which he is appointed receiver pursuant to Order 2 above, the powers set out in s.420 of the Act and the powers set out in s.1101B(8)(a) to (c) of the Act.
5. Pursuant to s.1101B(1) of the Act, Mr Whyte in respect of the appointment made in Order 1 above:
  - (a) be indemnified out of the assets of the EIF in respect of any proper expenses or costs incurred in acting as receiver of the property of the EIF;
  - (b) be indemnified out of the assets of the EIF in respect of any proper expenses or costs incurred in acting as receiver of the property of the EPCIF;
  - (c) be entitled to claim remuneration in respect of the time spent by him and by any servants or agents of BDO who perform work in the receivership of the property of the EIF at rates and amounts to be approved by the Court and be indemnified out of the assets of the EIF in respect of such remuneration;
  - (d) be entitled to claim remuneration in respect of the time spent by him and by any servants or agents of BDO who perform work in the receivership of the property of the EPCIF at rates and amounts to be approved by the Court and be indemnified out of the assets of the EPCIF in respect of such remuneration.
6. Pursuant to s.601NF(2) of the Act, Mr Whyte in respect of the appointment made in Order 2 above:
  - (a) be indemnified out of the assets of the EIF in respect of any proper expenses or costs incurred in acting as receiver of the property of the EIF;
  - (b) be indemnified out of the assets of the EIF in respect of any proper expenses or costs incurred in acting as receiver of the property of the EPCIF;
  - (c) be entitled to claim remuneration in respect of the time spent by him and by any servants or agents of BDO who perform work in the receivership of the property of the EIF at rates and amounts to be approved by the Court and be indemnified out of the assets of the EIF in respect of such remuneration;
  - (d) be entitled to claim remuneration in respect of the time spent by him and by any servants or agents of BDO who perform work in the receivership of the property of the EPCIF at rates and amounts to be approved by the Court and be indemnified out of the assets of the EPCIF in respect of such remuneration.
7. That nothing in this Order prejudices the rights of the National Australia Bank Limited, Commonwealth Bank of Australia Limited or Bank of Scotland International Ltd, pursuant to any securities any of them hold over Equititrust Ltd or the property of the EIF.

8. That by 4pm on Thursday 24 November 2011, Equititrust Ltd publish on its website ([www.equititrust.com.au](http://www.equititrust.com.au)), in pdf form, by way of notice to its members of the EIF and EPCIF a copy of this Order, which publication shall be sufficient notice to members of the EIF and EPCIF of this Order.
9. That the parties appearing on this application, save for ASIC, be paid their costs of and incidental to this Application, to be assessed on the standard basis, out of the EIF.
10. There be general liberty to apply to any person affected by these Orders, including liberty to apply for further directions in accordance with s.601NF(2) of the Act.

Registrar: 



SUPREME COURT OF QUEENSLAND

*Duplicate*

REGISTRY: Brisbane  
NUMBER: 10478/2011

In the matter of **EQUITITRUST LIMITED ACN 061 383 944**

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

Before: Justice Applegarth

Date: 21 November 2011

Initiating document: Application filed 15 November 2011, and oral application made by the Australian Securities and Investments Commission on 21 November 2011

**THE ORDER OF THE COURT IS THAT:**

1. Pursuant to section 601ND (1)(a) of the *Corporations Act 2001* (Cth) (the "**Act**"):-
  - (a) Equititrust Limited ACN 061 383 944 be directed to wind up the Equititrust Income Fund ARSN 089 079 854, established by Deed Poll dated 9 August 1999 ("**EIF**");
  - (b) Equititrust Limited ACN 061 383 944 be directed to wind up the Equititrust Priority Class Income Fund ARSN 089 079 729 established by Deed Poll dated 9 August 1999 ("**EPCIF**").
2. David Whyte ("**Mr Whyte**") be appointed pursuant to section 601NF(1) of the Act to take responsibility for ensuring that:-
  - (a) the EIF is wound up in accordance with its constitution; and
  - (b) the EPCIF is wound up in accordance with its constitution.
3. Pursuant to section 601NF(2), that Mr Whyte:-



ORDER:

Filed on behalf of the Applicants

TUCKER & COWEN  
Solicitors  
Level 15  
15 Adelaide Street  
Brisbane, Qld, 4000.  
Tele: (07) 300 300 00  
Fax: (07) 300 300 33

- (a) have access to the books and records of Equititrust Limited which concern the EIF and the EPCIF;
  - (b) be indemnified out of the assets of the EIF in respect of any proper expenses or costs incurred in effecting the winding up of the EIF;
  - (c) be indemnified out of the assets of the EPCIF in respect of any proper expenses or costs incurred in effecting the winding up of the EPCIF;
  - (d) be entitled to claim remuneration in respect of the time spent by him and by any servants or agents of BDO who perform work in the winding up of the EIF at rates and amounts to be approved by the Court and be indemnified out of the assets of the EIF in respect of such remuneration; and
  - (e) be entitled to claim remuneration in respect of the time spent by him and by any servants or agents of BDO who perform work in the winding up of the EPCIF at rates and amounts to be approved by the Court and be indemnified out of the assets of the EPCIF in respect of such remuneration.
- 4. Pursuant to sections 1101B(1) and 1101B(5) of the Act, Mr Whyte be appointed as:-
  - (a) a receiver of the property of the EIF; and
  - (b) a receiver of the property of the EPCIF,until 4:00pm on Wednesday 23 November 2011, or further earlier order.
- 5. That nothing in this Order prejudices the rights of the National Australia Bank Limited, Commonwealth Bank of Australia Limited or Bank of Scotland International Ltd, pursuant to any securities any of them hold over Equititrust Limited or the EIF.
- 6. That by 4pm on Tuesday 22 November 2011, Equititrust Limited publish on its website ([www.equititrust.com.au](http://www.equititrust.com.au)), in pdf form, by way of notice to members of the EIF and EPCIF a copy of this Order, which publication shall be sufficient notice to members of the EIF and EPCIF of this Order.
- 7. There be general liberty to apply to any person affected by these Orders, including liberty to apply for further directions in accordance with section 601NF(2) of the Act.
- 8. The parties appearing on this application, save for ASIC, be paid their costs of and incidental to this Application, to be assessed on the standard basis, out of the EIF.
- 9. The oral application of ASIC be adjourned to 10:00am on Wednesday 23 November 2011.

Signed:

A handwritten signature in blue ink, consisting of a series of loops and a final flourish.



**SUPREME COURT OF QUEENSLAND**

REGISTRY: Brisbane  
NUMBER: BS 9694 of 2011

**IN THE MATTER OF EQUITITRUST LIMITED ACN 061 383 944**

Applicant: **AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION**  
**AND**  
Respondent: **EQUITITRUST LIMITED ACN 061 383 944**

**ORDER**

Before: Justice A Lyons  
Date: 12 December 2011  
Initiating document: Application filed 25 October 2011

BY CONSENT, THE ORDER OF THE COURT IS THAT:

For the purposes of this order:

**"Property"** means all real or personal property, assets or interests in property of any kind, within or outside Australia including any property held otherwise than as sole beneficial owner and any property controlled as mortgagee in possession.

**"Dealing"** means Selling, charging, mortgaging, encumbering, securing, diminishing, disposing of, parting with possession, making any declaration of trust in relation to, exercising any power to vary or modify any trust deed or any interest under any trust in relation to the Property.

1. Until 4.00pm on 1 February 2012 or earlier order of the Court, the Respondent (whether by itself, its employees, servants or agents) be restrained from doing all of the following acts in relation to the operation of the Equititrust Income Fund ARSN 089 079 854 (**EIF**):

- (a) modifying, or repealing and replacing, the constitution of EIF in the absence of a special resolution passed by the members of EIF, without first providing

---

**ORDER**  
Filed on behalf of the Applicant

**Australian Securities & Investments Commission**  
Hugh Copley, Litigation Counsel

Form 59 Rule 661

Level 20, 240 Queen Street, Brisbane Qld 4000  
Tel: (07) 3867 4700  
Fax: (07) 3867 4725  
Ref: K Rodgers (11-40025)

21 days written notice to the Applicant of the intention to modify, or repeal and replace, the constitution of EIF together with the terms of the intended modification, repeal and replacement, of the said constitution;

- (b) redeeming, cancelling or modifying existing members' interests in EIF, without first providing the Applicant with 21 days written notice of the intention to do the act, together with a full description of the redemption, cancellation or modification of members interests in EIF which is intended (save that where the Respondent receives a request for the registration of the transfer of existing units in EIF from a unitholder who is not a related party (as defined in section 228 of the *Corporations Act 2001*) (**the Act**) or related entity (as defined in section 9 of the Act) to the Respondent, then the registration of that transfer will not fall within the scope of this paragraph);
- (c) dealing with any Property held or controlled by the Respondent in its capacity as responsible entity of EIF, other than in the ordinary and proper course of business, including paying business expenses and repaying debts bona fide and properly incurred by the Respondent as the responsible entity for EIF;
- (d) dealing with any Property held or controlled by the Respondent in its own capacity, other than in the ordinary and proper course of business, including paying business expenses and repaying debts bona fide and properly incurred by the Respondent in its own capacity, or as the responsible entity for EIF;
- (e) entering into any contracts, deeds or agreements in respect of or in relation to any Property held or controlled by the Respondent in its capacity as responsible entity of EIF, with any person or entity that is a related party (as defined in section 228 of the Act) or related entity (as defined in section 9 of the Act) to the Respondent, without first providing the Applicant with 21 days written notice of the intention to enter into the contracts, deeds or agreements, together with the terms of the proposed contracts, deeds or agreements;
- (f) renegotiating the terms of loans made or controlled by, or securities and guarantees held or controlled by, the Respondent in its capacity as responsible entity of EIF, other than in the ordinary and proper course of business;
- (g) commencing or discontinuing legal proceedings in respect of loans made by, or securities and guarantees held or controlled by, the Respondent in its

capacity as responsible entity of EIF, other than in the ordinary and proper course of business.

2. Until 4.00pm on 1 February 2012 or earlier order of the Court, the Respondent provide to the Applicant copies of notices and correspondence sent to members of EIF after the date of this order, forthwith upon those notices or correspondence being sent to the said members (save that where the Respondent receives a request for the registration of the transfer of existing units in EIF from a unitholder who is not a related party (as defined in section 228 of the Act) or related entity (as defined in section 9 of the Act) to the Respondent, then copies of the Respondent's correspondence with that unitholder are not required to be lodged under this paragraph).
4. That there be liberty to apply on 48 hours written notice.
5. Costs reserved.

Signed: