

Anthony Joseph Burke  
Submission to the Australian Financial Systems Inquiry September 2014

## **Introduction**

I am a British overseas victim of the Australian registered financial services company LM Investment Management Ltd (ABN 68 077 208 461 AFSL 220 281) and I seek 'A Fair & Just Resolution for all LM Investors'.

## **Objective of this submission**

To help the Inquiry toward Australian Financial System improvement that will:

- A. Enable and speed recovery of [LM] investor positions
- B. Prevent re-occurrence of the many similar scams currently operating within Australia

## **Background**

I was first introduced to LM Investment Management Ltd, by a British 'Independent Financial Advisor' in Bangkok Thailand in 2005. He advised me that the LM Currency Protected Australian Income Fund (CPAIF) was an investment suitable for someone as risk averse as myself. He told me that investing in LMIM was just like putting money in the bank - very safe, and backed by commercial mortgages. The funds were regulated twice under Australian rules, where financial regulation was very strict. In the belief this was all true and that Australia was a safe financially secure place I invested GBP 200,000 or most of my life savings.

In the last quarter of 2008 my investment matured and I requested redemption from LMIM. While being given the run-around for six months the fund was frozen and my life savings trapped. After a further four years of lies and deceit from LMIM, the fund management company collapsed and the funds began to be wound up.

Since that time I have found the whole premise for my investment to be based on a tissue of lies and what amounts to a heavily veiled Ponzi scheme which targeted not only unsuspecting overseas investors, but also vulnerable and aging Australian 'Ma & Pa' savers. In fact, I have now observed the whole Australian financial industry to be thoroughly dishonest, inherently corrupt and effectively unregulated by a complacent paper tiger ASIC.

My supposedly safe Australian investment is currently reported by the liquidator to be worth between 12 and 18 cents in the dollar.

Anthony Joseph Burke

Submission to the Australian Financial Systems Inquiry September 2014

### **The Magnitude of Private Wealth Destruction**

LMIM operated two prominent funds. The First Mortgage Income Fund (FMIF) and the Managed Performance Fund (MPF). Sat under the FMIF were a number of feeder funds including my CPAIF. These funds are believed to have had in the order of AU\$750m from 12,000 investors under management by LMIM. The funds were sold predominantly to mature investors who were approaching or in retirement, initially to Australian and New Zealand investors; later to international expatriates in the Middle East, South East Asia; and eventually in Europe.

It was inconceivable that such an extensive scam could have been permitted to be carried on from a supposedly safe Australian investment destination. Recent investigation reveals that numerous financial funds and dodgy property scams are regularly happening in Australia, particularly from Queensland and the Gold Coast. The indigenous Low Doc mortgage scams and targeting of asset rich – cash poor folk, plus a multitude of other white collar scams escalate the magnitude of the problem. The extent of Australia's financial frauds is on a massive scale, destroying both Australian and International people's lives and livelihoods and the country's reputation for fair play and honesty. That such magnitude of ordinary folks' wealth can be decimated on so many levels is a sure indictment of the Australian financial system being broken.

### **The Question of Criminality**

The overwhelming sentiment among investors, finance industry players and spectators alike, is that in a developed country with a regulatory structure touted in LM promotional material as a strong reason to invest, it must be impossible for such a colossal failure to happen without criminal action. There are numerous instances giving evidence that criminal activity was afoot during most of the funds operation. Regardless of warnings by financial industry specialist advisors, the scam was continued by LMIM & associates, and generally tolerated by ASIC.

Given the ineffective regulation of ASIC, it is now clear that the LMIM scam was structured to be implemented from an apparently genuine and trustworthy fund with some history in a safe location. The LMIM directors could orchestrate the scam with impunity and without fear of investigation or interference from the financial regulatory body. Actively promoted across the world through glossy brochures, and always through a network of independent financial advisors, the funds were given a veneer of respectability. However and contrary to LMIM's assertions, the offshore IFAs were usually unlicensed and unregulated, plus lured by LMIM's promise of (towards the end) exorbitant commissions. This also conveniently provided an additional buffer between LMIM against any international regulation or recourse to litigation, by multiple jurisdictions.

Page 2 of 4

<https://sites.google.com/site/lminvestorvictimcentre/home>

<https://www.facebook.com/lmivc>

#LMFundScandal

A Fair & Just Resolution for LMIM Investors worldwide,  
cheated by Australia's most elaborate Ponzi scheme

Anthony Joseph Burke

## Submission to the Australian Financial Systems Inquiry September 2014

Nonetheless, it's abundantly clear that the origin and center of the crime was committed in Australia and without any preventative action by ASIC. Exactly how the investments were allowed to be 'spirited away' is still a question for the crowd of liquidators and lawyers who are now picking the carcass of what is left of the LMIM funds.

### **Administrator, Responsible Entity / Trustee, Liquidator, Receiver Costs**

Following the announcement that LMIM was in administration the associated costs turned bad news into an investor nightmare. Exacerbated by claims pursued through the courts, the administrators' fees are further eroding the funds. While bickering over the spoils and increasing costs, by what investors perceive to be a contest for fees, the financial system is again shown to be biased in its dealings, towards the profiteering of yet more financial services companies.

In addition to generous liquidation fees, further investigations and legal recovery actions are paid from the remaining funds. More Australian legal companies profit handsomely because of ASIC's neglected policing of regulation and unreactive investigation. There is no incentive for liquidators to quickly and efficiently wind down companies and there has been no investigation of the financial irregularities by the Australian police. The poor investors are again fleeced by the Australian financial system.

### **Government Indifference to International Responsibility and Accountability.**

Indifference displayed by both the Australian government and my own British government is deplorable. Written appeals for action to both were politely ignored with dismissive responses denying any responsibility. Further representations to both governments are still to be made in this matter.

It beggars belief that the response received from Australian assistant treasurer and finance minister Mathias Cormann thinks Australia has a "...*strong and well regulated financial system... amongst the best in the world...*" This is in complete contrast to the damning report to the government from the Senate Inquiry into ASIC's performance. If the system is robust and up to date." as claimed by Mr Cormann, then the current mess would not have happened. There are bodies to supposedly regulate the financial system, but it is obvious that they do not work. The Australian government's ASIC must be held accountable for its failure to enforce regulation.

It is also notable that there is no provision from ASIC to take action on behalf of foreign national victims of Australian crime. My own complaints to both the Queensland and Federal police forces were nimbly avoided with a body swerve from similarly disinterested Australians.

Page 3 of 4

<https://sites.google.com/site/lminvestorvictimcentre/home>

<https://www.facebook.com/lmivc>

#LMFundScandal

A Fair & Just Resolution for LMIM Investors worldwide,  
cheated by Australia's most elaborate Ponzi scheme

Anthony Joseph Burke  
Submission to the Australian Financial Systems Inquiry September 2014

## **ASIC**

LMIM victims hold that there is extensive ASIC neglect, amounting to a dereliction of duty, which must be compensated by the Australian government. ASIC knew about problems within LMIM from 2008; they were warned by expert professionals; yet still did nothing about the LMIM Ponzi until it was too late in 2013. We believe assertions of ASIC's neglect and incompetence are supported by the wholesale financial irregularities and fraud which continue to be originated within Australia's financial and banking system.

There is no other country with more involvement in this debacle than Australia, yet Australian authorities and government politicians repeatedly suggest they hold no authority for addressing the plight of thousands of investors, both national and international. Australia makes considerable effort to attract foreign investors, exemplified by the claims of Mathias Cormann above. When that leads to tragic disaster for the investors the Australian government and authorities under its control, in this case display an inhumane absence of empathy or concern, from a financial system which is inherently corrupt.

## **Closing Comments, Conclusions and Recommendations**

Australian financial regulatory and legal authorities have performed abysmally in recognising or supporting international investors victims of what is demonstrating itself to be one of Australia's largest ever investment scandals.

Australia must recover its position from this tragedy and take decisive action to penalize all the organizations involved in the LMIM and other fund scandals, with eventual recompense to the investor/saver victims. The opportunity to learn and improve must also not be missed. This must also be the conclusion of this enquiry, that the financial systems currently in place are wholly inadequate and must be thoroughly and promptly overhauled to prevent further frauds and destruction of private wealth.

There must be a new regulator appointed and ASIC sacked. The new financial regulator must be administered by consumer advocates, not bankster tainted individuals.

In support of improved Australian financial regulation, it is obvious that there must be an investors' compensation scheme put in place. Many other countries have schemes to protect investors and savers. That scheme must use the LMIM Fund Scandal as the first demonstration that Australia has eradicated its new reputation as a financial fraud centre and become a fairdinkum place to invest.