

21 June 2017

## Important Notice to Members

The CKM Mortgage Trust  
Attribution Managed Investment Trust Regime (AMIT)

### Notice of proposal to amend the Trust's Constitution to participate in the new tax regime

#### About this notice

This notice informs investors in The CKM Mortgage Trust ARSN 090 880 890 (**Trust**) of which Sydney Wyde Mortgage Management Limited ABN 19 090 567 150 (**Sydney Wyde**) is responsible entity that:

- Sydney Wyde will amend the Constitution of the Trust to facilitate its operation under the AMIT regime from 1 July 2017; and
- subject to trust eligibility, Sydney Wyde will decide to opt-in to the AMIT regime from 1 July 2017 or such later date as it determines.

Sydney Wyde would generally need to hold an investors' meeting in order to make any material change to a registered schemes constitution. Given that this change will affect a large number of managed investment trusts, the Australian Securities and Investments Commission (**ASIC**) has granted relief for holding such a meeting, providing notice is given to investors to explain the changes. This relief is granted under *ASIC Corporations (Attribution Managed Investment Trusts) Instrument 2016/489*.

#### What is the AMIT regime?

AMIT is a significant industry-wide reform, which introduces new tax rules for managed investment trusts. The new rules are intended to reduce complexity, provide flexibility, increase certainty and minimise compliance costs for funds and their investors.

It is a new tax regime applying to managed investment schemes enacted on 5 May 2016 under certain acts, including the *Tax Laws Amendment (New Tax System for Managed Investment Trusts) Act 2016*, together with additional supplemental legislation (**AMIT regime**). In order for the AMIT regime to apply, Sydney Wyde must make an election to opt-in to the AMIT regime for the Trust.

Under the current tax regime, the net (tax) income of a Trust is allocated to investors based on the investor's proportionate share of the income of the Trust to which they are 'presently entitled'.

Under the AMIT regime, investors will be assessed on the taxable income (characters) that is 'attributed' to them by a Trust on a 'fair and reasonable' basis, irrespective of the amount distributed.

#### What are the potential benefits from for the proposed amendments to the Constitution

Sydney Wyde believes that, by allowing the AMIT regime to be adopted for the Trust, the amendments to the Constitutions have the following potential benefits for members in the Trust:

- a removal of the potential for adverse taxation that may arise for members where there are mismatches between the amount distributed and the net (tax) income of the Trust. This is achieved through the provision of appropriate tax cost base adjustments where distributions are greater or less than the amount on which the Member is assessed for tax purposes; and

- greater certainty regarding the quantum and character of any amounts distributed or otherwise passed through to members and the tax consequences of those amounts; and
- greater certainty regarding certain aspects of the tax treatment of the Trust, such as the Trust being deemed to be a “fixed trust” for income tax purposes.

### **When is Sydney Wyde electing to opt-in to the AMIT regime?**

Sydney Wyde has decided to opt-in to the AMIT regime for each of the Trusts commencing from 1 July 2017, subject to the relevant qualification conditions being satisfied. In making this decision, Sydney Wyde considered a range of factors, including the benefits discussed above. Members should note, however, that Sydney Wyde may defer the opt-in for such period as it determines in its discretion.

### **Why is Sydney Wyde proposing changes to the Constitutions?**

To enable the Trust to effectively operate under the AMIT regime, Sydney Wyde is required to make changes to the Constitution. The changes facilitate the administration of the Trust under the AMIT regime in the best interests of investors in the Trust.

For a summary of the effect of the changes to the Constitutions, please refer to *What are the proposed changes to the Constitution?* below.

### **When will the changes take effect?**

Sydney Wyde intends to make the changes to the Constitutions shortly after this notice has been advertised to members for at least 7 days (see below). Sydney Wyde will be electing into the AMIT regime for the Trusts with effect from 1 July 2017, and the amendments will be made by this date.

A number of the amendments only operate for the year in which the Trusts are treated as an AMIT for tax purposes.

### **What do investors need to do?**

Sydney Wyde will modify the Trust’s Constitution as proposed, unless it receives requests within **7 days from the date of this notice** from investors in the Trust with at least 5% of the votes that may be cast, to call and arrange to hold a meeting of the Trust’s investors.

Should Sydney Wyde within 7 days after this notice receive requests to call and arrange a meeting of investors from investors with at least 5% of the votes that may be cast on the resolution of the meeting, it will call a meeting of investors. You will receive notice of a meeting, in writing if this is required.

If you wish to request a meeting of the Trust’s investors, your request must:

- be made in writing
- include:
  - o your full name
  - o your investor ID
- be sent to **tim@swmc.com.au** by 5.00pm (Sydney time) Thursday 29 June 2017.

### **What are the proposed changes to the Constitution?**

Sydney Wyde will amend the Constitution to allow the Trust to be operated in a manner permitted under the AMIT regime. Subject to the comments above, Sydney Wyde will make these amendments effective from 1 July 2017.

The purpose and effect of the amendments are summarised below:

<b>Amendment</b>	<b>Summary of the amendment</b>
<b><i>New provisions in the body of the Constitution that relate to when the Trust is an AMIT for the relevant financial year</i></b>	
<b>Clause heading</b>	<b>Effect</b>
<b>Definitions</b>	The Constitution contains new definitions of words relating to the AMIT regime that are used in the new clauses.
<b>Application of income and Distribution provisions</b>	A new clause in the Constitution provides for the AMIT rules to be applied to the Trust Distributions in instances where Sydney Wyde has elected to apply the AMIT regime. The AMIT rules will not impact on the quantum or frequency of Trust Distributions that will be made.
<b>Election by Sydney Wyde</b>	A new clause in the Constitution provides discretion to elect into the provisions of the amended Constitution which facilitate the application of the AMIT Regime to the Trust. This is an empowering clause only: there is no obligation on Sydney Wyde to make the election or to facilitate the Trust to qualify as an AMIT.
<b>Impact of Schedule 3 if Trust is not an AMIT</b>	A new clause clarifies that the exercise of powers by Sydney Wyde will not be invalidated if Sydney Wyde mistakenly regards the Trust to be an AMIT for a particular year.
<b><i>Schedule 3 - Provisions that apply generally</i></b>	
<b>General Powers</b>	Schedule 3 contains the operative provisions in relation to the AMIT regime. These provisions will apply where Sydney Wyde has elected for the Trust to operate as an AMIT under the regime. There are general powers conferred on Sydney Wyde to comply with the requirements of the AMIT regime and enable the Trust to be properly administered and operated under the regime, as well as maintaining equity among the members.
<b>Specific Powers</b>	In particular, Schedule 3 specifically permits Sydney Wyde to: <ul style="list-style-type: none"> <li>determine the net (tax) income of the Trust and attribute the net (tax) income to members on a fair and reasonable basis;</li> <li>make amended attributions of taxable and non-taxable characters to Members;</li> <li>issue AMIT Member Annual (<b>AMMA</b>) Statements to Members or amended AMMA Statements and determine their contents;</li> </ul>
<b>“Fair and reasonable” attribution</b>	Schedule 3 expressly imposes the obligation on Sydney Wyde to make the attribution of taxable and non-taxable characters on a fair and reasonable basis, as required by the AMIT regime. This includes that Sydney Wyde must not make an attribution because of the tax characteristics of the member. Any attribution must also reflect the member’s present entitlement to the distributable income for the relevant period.
<b>Member objection right</b>	A new provision imposes certain procedural requirements for a member to exercise their right to object to an attribution of tax components to it under the AMIT regime and provides Sydney Wyde with certain rights and powers in dealing with such objections. This includes, for example, the right to require the member to indemnify Sydney Wyde for costs incurred in dealing with the objection.
<b>Limitation of liability</b>	A new provision is inserted that limits Sydney Wyde’ liability with respect to the exercise of powers under the AMIT regime or under the Constitution in respect of the administration of the AMIT regime.
<b>Indemnities for tax liabilities</b>	A new provision is inserted that requires a member to indemnify Sydney Wyde for any AMIT-related tax liabilities. It is not expected for the Trust to have any AMIT-related tax liability on the basis that all taxable and non-taxable characters will be attributed to members in accordance with the above “fair and reasonable” attribution requirement.
<b>Recovery of tax liabilities</b>	A new provision is inserted that provides Sydney Wyde with the ability to recover amounts owing by a member to Sydney Wyde in respect of

Amendment	Summary of the amendment
	AMIT-related tax liabilities by either deducting those amounts payable to a member or compulsorily redeeming units to facilitate their recovery.

**If you have any questions, or if you would like a copy of the proposed changes to the Constitution of the Trust please contact Sydney Wyde:**

By phone (02) 9369 3175  
 Between 8:30am and 5:00pm weekdays  
 By facsimile: (02) 9369 2037  
 Or by email at [tim@swmc.com.au](mailto:tim@swmc.com.au)

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