

21 January 2011

# Hardship Policy

## 1. OVERVIEW

On 14 October 2008, the then Responsible Entity of the Pacific First Mortgage Fund ('Fund'), City Pacific Limited, announced to the ASX that all redemptions from the Fund were suspended and that the Fund had become illiquid. The Fund currently still operates as an illiquid fund.

While a fund is considered illiquid, withdrawals can only be made in accordance with the *Corporations Act 2001* (Cth) (**Corporations Act**) and as such:

- Members holding units in the same class must be treated equally and members holding units of different classes must be treated fairly; and
- The illiquid withdrawal processes set out in Part 5C.6 of the Corporations Act must be followed which means investors may only withdraw from the Fund when the Responsible Entity provides a withdrawal offer to members to withdraw. The Responsible Entity would, of course, only make such an offer when sufficient liquid funds become available to satisfy requests made under those offers. The offers need to be made on the same basis to all members holding units of the same class of units, be open for at least 21 days and if there are insufficient funds to satisfy all members who want to withdraw, members' requests are satisfied proportionately.

ASIC has decided it may grant relief from these provisions of the Corporations Act upon application and Trilogy Funds Management Limited ('Trilogy') received such relief from ASIC on 16 November 2010.

## 2. POLICY OF THE BOARD

The Board of Trilogy has resolved to establish a 'Hardship Policy' program in line with ASIC requirements and allow withdrawals from the Fund under specific circumstances of severe financial hardship and specific circumstances of compassionate grounds.

Under the ASIC Class Order relief, it will be necessary to establish procedures to assess whether requests for withdrawal meet the necessary criteria. To facilitate this, a Trilogy Hardship Committee (Committee) will review each hardship request and decide which applications meet the criteria and should be processed subject to sufficient funds being available to meet the request.

Under severe financial hardship, a Member (or a beneficiary of an estate of the Member) is unable to pay reasonable and immediate living expenses.

In relation to compassionate grounds, Trilogy may consider Member requests based on the following:

- Medical or dental costs (and transport costs) required to treat a life-threatening illness or injury, to alleviate acute or chronic pain, or to alleviate an acute or chronic mental disturbance of a Member. Two registered medical practitioners (at least one of whom must be a specialist) must provide certified statements confirming the medical condition.
- Funeral and/or other expenses related to the death of the former Member or a former dependent of the Member.
- To prevent the selling of a Member's family home by a mortgage lender.
- To enable the member to provide care for a person who is dying from a terminal illness, including home care.
- Where the Member has ceased gainful employment for reason of mental or physical ill-health and the responsible entity is satisfied that they are unlikely ever again to engage in gainful employment of the type for which they are reasonably qualified by education, training or experience.

Under the Policy, following assessment of a hardship withdrawal request, a response will be provided to the Member advising the determination.

### **3. WHAT CRITERIA MUST BE SATISFIED TO APPLY FOR A HARDSHIP WITHDRAWAL?**

The Responsible Entity must be satisfied that a Member (or a beneficiary of an estate of the Member) meets the criteria set in the Fund's 'Financial Hardship Statutory Declaration' which may be amended from time to time.

### **4. HOW MUCH CAN THE MEMBER RECEIVE?**

If the Member satisfies the objective and subjective (if appropriate) tests, Trilogy may release:

- Up to \$20,000 per member each calendar year
- Hardship withdrawals will be processed on a semi-annual basis each calendar year (subject to the overall cap of \$20,000 each calendar year). On this basis, there is a maximum of two hardship withdrawals per member per calendar year.

Before a withdrawal can be approved, Trilogy must also be satisfied that following the withdrawal, the Pacific First Mortgage Fund will have sufficient liquid assets for the day-to-day operations of the Fund.

### **5. WHO IS ELIGIBLE?**

The following are eligible to make a hardship withdrawal application:

- A Member in the Pacific First Mortgage Fund who has experienced hardship or are likely to experience hardship; or
- A beneficiary of a deceased estate of a Member in the Pacific First Mortgage Fund who has experienced hardship or are likely to experience hardship; or
- A Member in the Pacific First Mortgage Fund who requires funds on the specific compassionate grounds mentioned in this policy document; or
- A beneficiary of a deceased estate of a Member in the Pacific First Mortgage Fund who requires funds on the specific compassionate grounds mentioned in this policy document.

### **6. SUPPORTING EVIDENCE FOR HARDSHIP CLAIMS**

Appropriate supporting evidence is required to support a hardship withdrawal request and may include such items as medical certificates, death certificates, statutory declarations, mortgage documentation, legal notices, centreline or other government agency letters or correspondence, bank statements etc.

### **7. PROCESSING OF HARDSHIP WITHDRAWALS**

The Responsible Entity will process hardship withdrawals on a semi-annual basis, for the semi-annual periods ending March and September. To be valid for consideration in any given period, a member must submit a hardship application form at least 10 business days prior to the end of the relevant period. In respect of those hardship application received later than 10 business days from the end of the relevant period, they will be assessed in the next period.

In respect of all applications which are approved, satisfaction of that hardship withdrawal request will be processed in accordance with the terms of the Constitution of the Fund. Whilst Trilogy has up to 12 months to satisfy a hardship withdrawal request, Trilogy intends to do so, subject to there being sufficient liquid funds in the Fund, within 30 days of the end of the relevant period.

### **8. WITHDRAWAL PRICE**

The Responsible Entity will process hardship withdrawals at the withdrawal price set out in the Constitution. This is a price based on the net asset value of the Fund divided by the number of units on issue at the relevant time. The withdrawal price will be struck on a semi-annual basis within 20 days of the beginning of the relevant period. The withdrawal price struck at the beginning of the relevant period will apply to all hardship withdrawals which are approved during that relevant period.

### **9. HARDSHIP POLICY MANAGER**

- Trilogy Funds Management Limited – Client Services Manager

## 10. APPROVAL AUTHORITY

This document must be reviewed at least on an annual basis, or more often if a member of the hardship committee or the Hardship Policy Manager believes that circumstances have changed, by the Director – Distribution Trilogy Funds Management Limited. This policy may be amended from time to time and any changes must be ratified by the board of Trilogy Funds Management Limited.