

# ASX Announcement

4 September 2012

## **Multiplex European Property Fund (ASX: MUE) Update on status of disputed German tax assessment**

Brookfield Capital Management Limited (BCML), as Responsible Entity for Multiplex European Property Fund (Fund), provides an update in relation to the disputed German trade tax assessment for the 2004 to 2006 income years.

As announced previously, an assessment from the German tax authority was received by a partnership, in which the Fund holds a 94.9% interest, for an amount of approximately €2 million (including interest and penalties) for trade tax payable for the 2004 to 2006 income years. This assessment required the trade tax to be paid on or before 3 September 2012. The trade tax remains unpaid and action has been taken by the partnership to contest the assessment. Notwithstanding this, enforcement action may be taken by the German tax authorities in the event that no payment is made by 29 September 2012.

The Fund's debt facility includes an undertaking to pay taxes due and payable prior to accrual of any fine or penalty for late payment unless, among other things, payment of those taxes is being contested in good faith, adequate reserves are maintained for payment of those taxes and for the costs required to contest them ("**Tax Undertaking**"). Under the terms of the tax assessment, penalty interest for non-payment accrues from 3 September 2012. Whilst the partnership is contesting payment of the trade taxes it does not presently have adequate reserves maintained to fund payment of those taxes and costs required to contest them.

As announced previously, as a result of falling property values in Europe, the Loan to Value Ratio (LVR) calculated for the Fund's debt facility as at 30 June 2012 was 100.5% against a covenanted level of 95%. Due to the LVR being above the covenanted level, the financier under the debt facility has exercised its right to a cash lock-up in for certain accounts of the partnership. Financier consent is now required to pay certain expenses out of such accounts, including the trade tax liability.

Under the terms of the debt facility, an event of default will arise if non-compliance with the Tax Undertaking is not remedied within ten business days. If an event of default arises then, for as long as it remains unremedied, the financier may take action to accelerate the debt and enforce its security.

Discussions with the Fund's financier have taken place regarding releasing sufficient cash reserves from the "cash lock-up" described above to meet the trade tax liability. At present, the financier has not consented to the release of the cash reserves to pay the trade tax liability however discussions are continuing.

The Fund currently retains available cash balances of approximately \$30 million (12 cents per unit) in Australia. Cash held in Australia is not provided as security for the debt facility and is held outside of the German partnerships and the partners in those partnerships.

As soon as there are further updates, BCML will advise investors.

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