

ANNOUNCEMENT

NOTICE

To all investors of AmConservative

Dear Unit Holders,

Reference is made to our prior communication to you on 18 February 2022, where AmFunds Management Berhad (the “Manager”), being the Manager of AmConservative (the “Fund”), updated you on the latest development of the court case pertaining to the said Fund’s previous investments in bonds issued by Aldwich Berhad (“Aldwich”).

What had happened

On 18 September 2019, the Court of Appeal affirmed and upheld the High Court’s judgement which was in favour of the Aldwich bond holders, with all the appeals dismissed. On 19 September 2019, the Manager informed all unit holders that any applications for units of the Fund will not be processed for the period from 19 September 2019 to 17 October 2019.

On 17 October 2019, the Manager had been informed that four parties to the bond issue (i.e. Maybank Investment Bank Berhad, Maybank Trustees Berhad, Ernst & Young and Kamalul Arifin Yusof) have filed their applications to the Federal Court for leave to appeal. On 18 October 2019, the Manager informed all unit holders that applications for units of the Fund will not be processed for a period of six (6) months i.e. from 18 October 2019 to 18 April 2020.

Subsequently, the hearing date for the applications for leave to appeal to the Federal Court (“Leave Applications”) was fixed and scheduled to be heard together on 13 August 2020. On 10 April 2020, the Manager informed all unit holders that applications for units of the Fund will not be processed from 19 April 2020 to 13 August 2020.

On 10 August 2020, the Registrar of the Federal Court notified that the hearing of the Leave Applications was adjourned and a new hearing date will be fixed at a later time. On 12 August 2020, the Manager informed all unit holders that applications for units of the Fund will not be processed for a period of six (6) months i.e. from 14 August 2020 to 13 February 2021.

The hearing of the Leave Applications was eventually held on 21 January 2021 and was scheduled to continue on 12 March 2021. On 11 February 2021, the Manager informed all unit holders that applications for units of the Fund will not be processed for a period of six (6) months i.e. from 14 February 2021 to 14 August 2021.

The continued hearing of the Leave Applications which was scheduled for 12 March 2021 was rescheduled to 3 September 2021. On 12 August 2021, the Manager informed all unit holders that applications for units of the Fund will not be processed for a period of six (6) months i.e. from 15 August 2021 to 14 February 2022.

The hearing of the Leave Applications was held on 3 September 2021. It was adjourned and scheduled to continue on 16 February 2022. On 14 February 2022, the Manager informed all unit holders that applications for units of the Fund will not be processed for the period of six (6) months i.e. from 15 February 2022 to 14 August 2022.

In the adjourned hearing of the Leave Applications on 16 February 2022, the Federal Court unanimously dismissed (“Decision”) all 4 Leave Applications filed by Maybank Investment Bank Berhad, Maybank Trustees Berhad, Ernst & Young and Kamalul Arifin Yusof (collectively “the Applicants”). The Federal Court held that the Applicants have failed to meet the threshold for leave to appeal under Section 96 of the Courts of Judicature Act, 1964. Hence, the decision of the Court of Appeal affirming the decision of the High Court stands. As such, the Fund as one of the bondholders is expected to receive a part of the judgement sum based on the Fund’s investment portion (“Monies”) in due course. The Applicants however may apply for a review of the Federal Court decision in denying them leave to appeal, pursuant to Rule 137 of the Rules

of the Federal Court, 1995 to correct an injustice. Such an application is usually made against a decision of the Federal Court after an Appeal proper (which only takes place after leave to appeal is granted). Whilst there is no time limit for the losing parties to make such an application, it is extremely difficult for them to succeed, given that the existing jurisprudence of the Federal Court sets a very high bar for review: it will not re-open a decision of its own, unless it fits into very specific and narrow grounds, and to prevent injustice and abuse of the process of the Court. On 14 and 18 February 2022, the Manager informed all unit holders that applications for units of the Fund will not be processed for a period of six (6) months from 15 February 2022 to 14 August 2022 or until receipt of the Monies, whichever is earlier.

Updates

HSBC (Malaysia) Trustee Berhad, the trustee for the Fund, in their capacity as one of the Plaintiffs will be instructing the solicitors for the bondholders to apply to the High Court for the judgement sum from the Applicants to be released and for the Monies to be paid to the Fund.

Notwithstanding the above, please be informed that there remains the possibility that the Applicants may apply to the Federal Court for a review of the Decision of the Federal Court to deny them leave to appeal. While the chances of any of the Applicants actually succeeding in a review application against the Decision are remote, if the Applicants do succeed in their review application and/or also succeed in their subsequent appeal against the decision of the Court of Appeal on the merits at the Federal Court, and the Court orders that the judgment sum paid out by the Applicants (including the Monies now released and/or distributed to the Fund) are to be repaid to them, with interest or otherwise, we hereby inform and notify you that return of the Monies will, in those circumstances, be sought from the Fund, with interest or as may otherwise be ordered by Court.

What to expect (for existing unit holders)

As stated in our prior communication on 14 and 18 February 2022, the Manager will not be processing any applications for units of the Fund from 15 February 2022 to 14 August 2022 or until receipt of the Monies by the Fund, whichever is earlier. Please note that this period may change depending on further developments to the case. In such event, the Manager shall inform the unit holders accordingly.

AmFunds Management Berhad
30 June 2022