

# LMP CAPITAL & INCOME FUND INC.

Filed by  
**WESTERN INVESTMENT LLC**

## **FORM SC 13D** (Statement of Beneficial Ownership)

Filed 12/17/10

Address	C/O SALOMON BROTHERS ASSET MANAG 125 BROAD STREET NEW YORK, NY 10004
Telephone	212-291-2556
CIK	0001270131
Symbol	SCD
Industry	Misc. Financial Services
Sector	Financial
Fiscal Year	10/31

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549

**SCHEDULE 13D**

(Rule 13d-101)

INFORMATION TO BE INCLUDED IN STATEMENTS FILED PURSUANT  
TO § 240.13d-1(a) AND AMENDMENTS THERETO FILED PURSUANT TO  
§ 240.13d-2(a)

(Amendment No. )<sup>1</sup>

LMP Capital and Income Fund Inc.

(Name of Issuer)

Common Stock, \$0.001 Par Value

(Title of Class of Securities)

50208A102

(CUSIP Number)

STEVEN WOLOSKY, ESQ.  
OLSHAN GRUNDMAN FROME ROSENZWEIG & WOLOSKY LLP  
Park Avenue Tower  
65 East 55th Street  
New York, New York 10022  
(212) 451-2300

(Name, Address and Telephone Number of Person  
Authorized to Receive Notices and Communications)

December 7, 2010

(Date of Event Which Requires Filing of This Statement)

If the filing person has previously filed a statement on Schedule 13G to report the acquisition that is the subject of this Schedule 13D, and is filing this schedule because of §§ 240.13d-1(e), 240.13d-1(f) or 240.13d-1(g), check the following box  .

*Note:* Schedules filed in paper format shall include a signed original and five copies of the schedule, including all exhibits. *See* § 240.13d-7 for other parties to whom copies are to be sent.

<sup>1</sup> The remainder of this cover page shall be filled out for a reporting person's initial filing on this form with respect to the subject class of securities, and for any subsequent amendment containing information which would alter disclosures provided in a prior cover page.

The information required on the remainder of this cover page shall not be deemed to be "filed" for the purpose of Section 18 of the Securities Exchange Act of 1934 ("Act") or otherwise subject to the liabilities of that section of the Act but shall be subject to all other provisions of the Act (however, *see* the *Notes* ).

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1	NAME OF REPORTING PERSON  WESTERN INVESTMENT LLC	
2	CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP (a) <input type="checkbox"/> (b) <input type="checkbox"/>	
3	SEC USE ONLY	
4	SOURCE OF FUNDS  OO, WC	
5	CHECK BOX IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT TO ITEM 2(d) OR 2(e) <input type="checkbox"/>	
6	CITIZENSHIP OR PLACE OF ORGANIZATION  DELAWARE	
NUMBER OF SHARES BENEFICIALLY OWNED BY EACH REPORTING PERSON WITH	7	SOLE VOTING POWER  1,497,774.963
	8	SHARED VOTING POWER  - 0 -
	9	SOLE DISPOSITIVE POWER  1,497,774.963
	10	SHARED DISPOSITIVE POWER  - 0 -
11	AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON  1,497,774.963	
12	CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN SHARES <input type="checkbox"/>	
13	PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11)  5.0%	
14	TYPE OF REPORTING PERSON  OO	

1	NAME OF REPORTING PERSON  ARTHUR D. LIPSON	
2	CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP (a) <input type="checkbox"/> (b) <input type="checkbox"/>	
3	SEC USE ONLY	
4	SOURCE OF FUNDS  OO	
5	CHECK BOX IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT TO ITEM 2(d) OR 2(e) <input type="checkbox"/>	
6	CITIZENSHIP OR PLACE OF ORGANIZATION  USA	
NUMBER OF SHARES BENEFICIALLY OWNED BY EACH REPORTING PERSON WITH	7	SOLE VOTING POWER  1,497,774.963
	8	SHARED VOTING POWER  - 0 -
	9	SOLE DISPOSITIVE POWER  1,497,774.963
	10	SHARED DISPOSITIVE POWER  - 0 -
11	AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON  1,497,774.963	
12	CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN SHARES <input type="checkbox"/>	
13	PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11)  5.0%	
14	TYPE OF REPORTING PERSON  IN	

1	NAME OF REPORTING PERSON  WESTERN INVESTMENT HEDGED PARTNERS L.P.	
2	CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP (a) <input type="checkbox"/> (b) <input type="checkbox"/>	
3	SEC USE ONLY	
4	SOURCE OF FUNDS  WC	
5	CHECK BOX IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT TO ITEM 2(d) OR 2(e) <input type="checkbox"/>	
6	CITIZENSHIP OR PLACE OF ORGANIZATION  DELAWARE	
NUMBER OF SHARES BENEFICIALLY OWNED BY EACH REPORTING PERSON WITH	7	SOLE VOTING POWER  454,643
	8	SHARED VOTING POWER  - 0 -
	9	SOLE DISPOSITIVE POWER  454,643
	10	SHARED DISPOSITIVE POWER  - 0 -
11	AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON  454,643	
12	CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN SHARES <input type="checkbox"/>	
13	PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11)  1.5%	
14	TYPE OF REPORTING PERSON  PN	

1	NAME OF REPORTING PERSON  WESTERN INVESTMENT ACTIVISM PARTNERS LLC	
2	CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP (a) <input type="checkbox"/> (b) <input type="checkbox"/>	
3	SEC USE ONLY	
4	SOURCE OF FUNDS  WC	
5	CHECK BOX IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT TO ITEM 2(d) OR 2(e) <input type="checkbox"/>	
6	CITIZENSHIP OR PLACE OF ORGANIZATION  DELAWARE	
NUMBER OF SHARES BENEFICIALLY OWNED BY EACH REPORTING PERSON WITH	7	SOLE VOTING POWER  495,478
	8	SHARED VOTING POWER  - 0 -
	9	SOLE DISPOSITIVE POWER  495,478
	10	SHARED DISPOSITIVE POWER  - 0 -
11	AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON  495,478	
12	CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN SHARES <input type="checkbox"/>	
13	PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11)  1.7%	
14	TYPE OF REPORTING PERSON  OO	

1	NAME OF REPORTING PERSON  WESTERN INVESTMENT TOTAL RETURN PARTNERS L.P.	
2	CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP (a) <input type="checkbox"/> (b) <input type="checkbox"/>	
3	SEC USE ONLY	
4	SOURCE OF FUNDS  WC	
5	CHECK BOX IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT TO ITEM 2(d) OR 2(e) <input type="checkbox"/>	
6	CITIZENSHIP OR PLACE OF ORGANIZATION  DELAWARE	
NUMBER OF SHARES BENEFICIALLY OWNED BY EACH REPORTING PERSON WITH	7	SOLE VOTING POWER  415,901
	8	SHARED VOTING POWER  - 0 -
	9	SOLE DISPOSITIVE POWER  415,901
	10	SHARED DISPOSITIVE POWER  - 0 -
11	AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON  415,901	
12	CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN SHARES <input type="checkbox"/>	
13	PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11)  1.4%	
14	TYPE OF REPORTING PERSON  PN	

1	NAME OF REPORTING PERSON  WESTERN INVESTMENT TOTAL RETURN FUND LTD.	
2	CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP (a) <input type="checkbox"/> (b) <input type="checkbox"/>	
3	SEC USE ONLY	
4	SOURCE OF FUNDS  WC	
5	CHECK BOX IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT TO ITEM 2(d) OR 2(e) <input type="checkbox"/>	
6	CITIZENSHIP OR PLACE OF ORGANIZATION  CAYMAN ISLANDS	
NUMBER OF SHARES BENEFICIALLY OWNED BY EACH REPORTING PERSON WITH	7	SOLE VOTING POWER  131,247
	8	SHARED VOTING POWER  - 0 -
	9	SOLE DISPOSITIVE POWER  131,247
	10	SHARED DISPOSITIVE POWER  - 0 -
11	AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON  131,247	
12	CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN SHARES <input type="checkbox"/>	
13	PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11)  Less than 1%	
14	TYPE OF REPORTING PERSON  CO	



1	NAME OF REPORTING PERSON  BENCHMARK PLUS INSTITUTIONAL PARTNERS, L.L.C.	
2	CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP (a) <input type="checkbox"/> (b) <input type="checkbox"/>	
3	SEC USE ONLY	
4	SOURCE OF FUNDS  WC	
5	CHECK BOX IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT TO ITEM 2(d) OR 2(e) <input type="checkbox"/>	
6	CITIZENSHIP OR PLACE OF ORGANIZATION  DELAWARE	
NUMBER OF SHARES BENEFICIALLY OWNED BY EACH REPORTING PERSON WITH	7	SOLE VOTING POWER  418,393
	8	SHARED VOTING POWER  - 0 -
	9	SOLE DISPOSITIVE POWER  418,393
	10	SHARED DISPOSITIVE POWER  - 0 -
11	AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON  418,393	
12	CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN SHARES <input type="checkbox"/>	
13	PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11)  1.4%	
14	TYPE OF REPORTING PERSON  OO	

1	NAME OF REPORTING PERSON  BENCHMARK PLUS MANAGEMENT, L.L.C.	
2	CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP (a) <input type="checkbox"/> (b) <input type="checkbox"/>	
3	SEC USE ONLY	
4	SOURCE OF FUNDS  OO	
5	CHECK BOX IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT TO ITEM 2(d) OR 2(e) <input type="checkbox"/>	
6	CITIZENSHIP OR PLACE OF ORGANIZATION  DELAWARE	
NUMBER OF SHARES BENEFICIALLY OWNED BY EACH REPORTING PERSON WITH	7	SOLE VOTING POWER  418,393
	8	SHARED VOTING POWER  - 0 -
	9	SOLE DISPOSITIVE POWER  418,393
	10	SHARED DISPOSITIVE POWER  - 0 -
11	AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON  418,393	
12	CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN SHARES <input type="checkbox"/>	
13	PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11)  1.4%	
14	TYPE OF REPORTING PERSON  OO	

1	NAME OF REPORTING PERSON  ROBERT FERGUSON	
2	CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP (a) <input type="checkbox"/> (b) <input type="checkbox"/>	
3	SEC USE ONLY	
4	SOURCE OF FUNDS  OO	
5	CHECK BOX IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT TO ITEM 2(d) OR 2(e) <input type="checkbox"/>	
6	CITIZENSHIP OR PLACE OF ORGANIZATION  USA	
NUMBER OF SHARES BENEFICIALLY OWNED BY EACH REPORTING PERSON WITH	7	SOLE VOTING POWER  418,393
	8	SHARED VOTING POWER  - 0 -
	9	SOLE DISPOSITIVE POWER  418,393
	10	SHARED DISPOSITIVE POWER  - 0 -
11	AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON  418,393	
12	CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN SHARES <input type="checkbox"/>	
13	PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11)  1.4%	
14	TYPE OF REPORTING PERSON  IN	

1	NAME OF REPORTING PERSON  SCOTT FRANZBLAU	
2	CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP (a) <input type="checkbox"/> (b) <input type="checkbox"/>	
3	SEC USE ONLY	
4	SOURCE OF FUNDS  OO	
5	CHECK BOX IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT TO ITEM 2(d) OR 2(e) <input type="checkbox"/>	
6	CITIZENSHIP OR PLACE OF ORGANIZATION  USA	
NUMBER OF SHARES BENEFICIALLY OWNED BY EACH REPORTING PERSON WITH	7	SOLE VOTING POWER  418,393
	8	SHARED VOTING POWER  - 0 -
	9	SOLE DISPOSITIVE POWER  418,393
	10	SHARED DISPOSITIVE POWER  - 0 -
11	AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON  418,393	
12	CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN SHARES <input type="checkbox"/>	
13	PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11)  1.4%	
14	TYPE OF REPORTING PERSON  IN	

The following constitutes the Schedule 13D filed by the undersigned (the "Schedule 13D").

Item 1. Security and Issuer.

This statement relates to shares of the Common Stock, par value \$0.001 per share (the "Shares"), of LMP Capital and Income Fund Inc. (the "Issuer"). The address of the principal executive offices of the Issuer is 55 Water Street, New York, NY 10041.

Item 2. Identity and Background.

(a) This statement is filed by Western Investment LLC, a Delaware limited liability company ("WILLC"), Western Investment Hedged Partners L.P., a Delaware limited partnership ("WIHP"), Western Investment Activism Partners LLC, a Delaware limited liability company ("WIAP"), Western Investment Total Return Partners L.P., a Delaware limited partnership ("WITRP"), Western Investment Total Return Fund Ltd., a Cayman Islands corporation ("WITRL"), Arthur D. Lipson (together with WILLC, WIHP, WIAP, WITRP and WITRL, the "Western Entities"), Benchmark Plus Institutional Partners, L.L.C., a Delaware limited liability company ("BPIP"), Benchmark Plus Management, L.L.C., a Delaware limited liability company ("BPM"), Scott Franzblau and Robert Ferguson (together with BPIP, BPM and Mr. Franzblau, the "Benchmark Entities"). Each of the foregoing is referred to as a "Reporting Person" and collectively as the "Reporting Persons."

WILLC provides recommendations from time to time to BPIP with respect to purchases and sales of Shares of the Issuer, pursuant to an oral agreement between WILLC and BPIP.

WILLC has sole voting and investment power over WIHP's, WIAP's, WITRP's and WITRL's security holdings and Mr. Lipson, in his role as the managing member of WILLC, controls WILLC's voting and investment decisions. BPM is the managing member of BPIP, and Messrs. Franzblau and Ferguson, in their roles as managing members of BPM, have sole voting and investment control over BPIP's security holdings.

Each of the Reporting Persons is party to that certain Joint Filing Agreement as further described in Item 6. Accordingly, the Reporting Persons are hereby filing a joint Schedule 13D.

(b) The principal business address of each of WILLC, WIHP, WIAP, WITRP and Mr. Lipson is 7050 S. Union Park Center, Suite 590, Midvale, Utah 84047. The principal business address of WITRL is c/o dms Management, P.O. Box 31910, dms House, 20 Genesis Close, Grand Cayman KY1-1208, Cayman Islands. The officers and directors of WITRL and their principal occupations and business addresses are set forth on Schedule A and incorporated by reference in this Item 2.

The principal business address of each of BPIP, BPM, Mr. Franzblau and Mr. Ferguson is 820 A Street, Suite 700, Tacoma, Washington 98402.

(c) The principal business of WILLC is acting as the investment manager of WITRL, the managing member of WIAP and the general partner of each of WIHP and WITRP. The principal occupation of Mr. Lipson is acting as managing member of WILLC. The principal business of each of WIHP, WITRP, WIAP and WITRL is acquiring, holding and disposing of investments in various companies.

The principal business of BPIP is acquiring, holding and disposing of investments in various companies. The principal business of BPM is acting as the managing member of BPIP. The principal occupation of Mr. Ferguson is acting as a managing member of BPM. The principal occupation of Mr. Franzblau is acting as a managing member of BPM.

(d) No Reporting Person, nor any person listed on Schedule A annexed hereto, has, during the last five years, been convicted in a criminal proceeding (excluding traffic violations or similar misdemeanors).

(e) No Reporting Person, nor any person listed on Schedule A annexed hereto, has, during the last five years, been party to a civil proceeding of a judicial or administrative body of competent jurisdiction and as a result of such proceeding was or is subject to a judgment, decree or final order enjoining future violations of, or prohibiting or mandating activities subject to, federal or state securities laws or finding any violation with respect to such laws.

(f) Messrs. Lipson, Ferguson and Franzblau are citizens of the United States of America.

Item 3. Source and Amount of Funds or Other Consideration.

The aggregate purchase price of the 1,497,774.963 Shares beneficially owned by WILLC is approximately \$16,875,731. The Shares beneficially owned by WILLC consist of 505.963 Shares that were acquired with WILLC's working capital, 454,643 Shares that were acquired with WIHP's working capital, 495,478 Shares that were acquired with WIAP's working capital, 415,901 Shares that were acquired with WITRP's working capital and 131,247 Shares that were acquired with WITRL's working capital.

The aggregate purchase price of the 418,393 Shares beneficially owned by BPM is approximately \$4,368,007. The Shares beneficially owned by BPM consist of 418,393 Shares that were acquired with BPIP's working capital.

Item 4. Purpose of Transaction.

The Reporting Persons purchased the Shares based on the Reporting Persons' belief that the Shares, when purchased, were significantly undervalued and represented an attractive investment opportunity. Depending upon overall market conditions, other investment opportunities available to the Reporting Persons, and the availability of Shares at prices that would make the purchase of additional Shares desirable, the Reporting Persons may endeavor to increase their position in the Issuer through, among other things, the purchase of Shares on the open market or in private transactions or otherwise, on such terms and at such times as the Reporting Persons may deem advisable.

No Reporting Person has any present plan or proposal which would relate to or result in any of the matters set forth in subparagraphs (a) - (j) of Item 4 of Schedule 13D except as set forth in this Schedule 13D or such as would occur upon completion of any of the actions discussed herein. The Reporting Persons intend to review their investment in the Issuer on a continuing basis and engage in discussions with management, the Board of Directors of the Issuer (the "Board") and other shareholders of the Issuer concerning the business, operations and future plans of the Issuer. The Reporting Persons are concerned by, among other things, the persistent discount to net asset value at which the Shares have been trading and believe that the Issuer should take appropriate action to cause the discount to net asset value to be eliminated or reduced to a nominal amount. The Reporting Persons are also concerned with the Issuer's general record of poor corporate governance and its classified board structure in particular. The Reporting Persons believe that the Board's failure to institute best practice corporate governance measures is indicative of a board that places management's interests over those of its shareholders.

On December 1, 2010, WIHP delivered a letter to the Corporate Secretary of the Issuer submitting a proposal for inclusion in the Issuer's proxy for its 2011 annual meeting of stockholders (the "2011 Annual Meeting") and to be voted on at the 2011 Annual Meeting. WIHP is proposing that the Board take the necessary steps to declassify the Board so that all directors are elected on an annual basis. Such declassification shall be completed in a manner that does not affect the unexpired terms of the previously elected directors.

Depending on various factors including, without limitation, the Issuer's financial position and investment strategy, the price levels and/or discount to net asset value of the Shares, conditions in the securities markets and general economic and industry conditions, the Reporting Persons may in the future take such actions with respect to their investment in the Issuer as they deem appropriate including, without limitation, making proposals concerning, among other things, changes to the management, the Board, capitalization, ownership structure or operations of the Issuer, purchasing additional Shares, engaging in short selling of or any hedging or similar transaction with respect to the Shares or changing their intention with respect to any and all matters referred to in Item 4.

Item 5. Interest in Securities of the Issuer.

(a) The aggregate percentage of Shares reported owned by each person named herein is based upon 29,964,106 Shares outstanding, which is the total number of Shares outstanding as of June 30, 2010, as reported in the Issuer's Semi-Annual Report to Stockholders on Form N-CSR, filed with the Securities and Exchange Commission on August 31, 2010.

As of the close of business on December 16, 2010, WIHP, WIAP, WITRP and WITRL beneficially owned 454,643, 495,478, 415,901 and 131,247 Shares, respectively, constituting approximately 1.5%, 1.7%, 1.4% and less than 1%, respectively, of the Shares outstanding.

As the general partner of each of WIHP and WITRP, the managing member of WIAP and the investment manager of WITRL, WILLC may be deemed to beneficially own the 1,497,269 Shares owned in the aggregate by WIHP, WIAP, WITRP and WITRL, constituting approximately 5.0% of the Shares outstanding, in addition to the 505.963 Shares it holds directly.

As the managing member of WILLC, Mr. Lipson may be deemed to beneficially own the 1,497,774.963 Shares beneficially owned by WILLC, constituting approximately 5.0% of the Shares outstanding.

As of the close of business on December 16, 2010, BPIP beneficially owned 418,393 Shares, constituting approximately 1.4% of the Shares outstanding. As the managing member of BPIP, BPM may be deemed to beneficially own the 418,393 Shares owned by BPIP, constituting approximately 1.4% of the Shares outstanding. As managing members of BPM, each of Messrs. Franzblau and Ferguson may be deemed to beneficially own the 418,393 Shares beneficially owned by BPM, constituting approximately 1.4% of the Shares outstanding.

(b) Each of WILLC and Mr. Lipson is deemed to have sole voting and dispositive power over the Shares reported as beneficially owned by the Western Entities by virtue of their respective positions as described in Item 2.

Each of BPM and Messrs. Franzblau and Ferguson is deemed to have sole voting and dispositive power over the Shares reported as beneficially owned by the Benchmark Entities by virtue of their respective positions as described in Item 2.

(c) Schedule B annexed hereto lists all transactions in securities of the Issuer during the past sixty days by the Reporting Persons. All of such transactions were effected in the open market.

(d) No person other than the Reporting Persons is known to have the right to receive, or the power to direct the receipt of dividends from, or proceeds from the sale of, the Shares.

(e) Not applicable.

Item 6. Contracts, Arrangements, Understandings or Relationships With Respect to Securities of the Issuer.

On December 17, 2010, WILLC, WIHP, WIAP, WITRP, WITRL, BPIP, BPM and Messrs. Lipson, Franzblau and Ferguson entered into a Joint Filing Agreement (the "Joint Filing Agreement") in which the parties agreed to the joint filing on behalf of each of them of statements on Schedule 13D with respect to the securities of the Issuer to the extent required by applicable law. The Joint Filing Agreement is attached as an exhibit hereto and is incorporated herein by reference.

The Reporting Persons may, from time to time, enter into and dispose of cash-settled equity swaps or other similar derivative transactions with one or more counterparties that are based upon the value of the Shares, which transactions may be significant in amount. The profit, loss and/or return on such additional contracts may be wholly or partially dependent on the market value of the Shares, the relative value of such shares in comparison to one or more other financial instruments, indexes or securities, a basket or group of securities in which such shares may be included, or a combination of any of the foregoing. The Reporting Persons may also, from time to time, enter into stock loan agreements with one or more counterparties in the ordinary course of business pursuant to which the Reporting Persons may lend their Shares subject to recall at their discretion.

Other than as otherwise described herein, there are no contracts, arrangements, understandings or relationships among the Reporting Persons, or between the Reporting Persons and any other person, with respect to the securities of the Issuer.

Item 7. Material to be Filed as Exhibits.

99.1 Joint Filing Agreement by and among Western Investment LLC, Western Investment Hedged Partners L.P., Western Investment Activism Partners LLC, Western Investment Total Return Partners L.P., Western Investment Total Return Fund Ltd., Arthur D. Lipson, Benchmark Plus Institutional Partners, L.L.C., Benchmark Plus Management, L.L.C., Robert Ferguson and Scott Franzblau, dated December 17, 2010.



Signature Page to SCD Schedule 13D

SIGNATURES

After reasonable inquiry and to the best of his knowledge and belief, each of the undersigned certifies that the information set forth in this statement is true, complete and correct.

Dated: December 17, 2010

WESTERN INVESTMENT LLC

By: /s/ Arthur D. Lipson  
Name: Arthur D. Lipson  
Title: Managing Member

WESTERN INVESTMENT HEDGED PARTNERS L.P.

By: Western Investment LLC  
General Partner

By: /s/ Arthur D. Lipson  
Name: Arthur D. Lipson  
Title: Managing Member

WESTERN INVESTMENT ACTIVISM PARTNERS LLC

By: Western Investment LLC  
Managing Member

By: /s/ Arthur D. Lipson  
Name: Arthur D. Lipson  
Title: Managing Member

WESTERN INVESTMENT TOTAL RETURN PARTNERS L.P.

By: Western Investment LLC  
General Partner

By: /s/ Arthur D. Lipson  
Name: Arthur D. Lipson  
Title: Managing Member

WESTERN INVESTMENT TOTAL RETURN FUND LTD.

By: Western Investment LLC  
Investment Manager

By: /s/ Arthur D. Lipson  
Name: Arthur D. Lipson  
Title: Managing Member

/s/ Arthur D. Lipson  
ARTHUR D. LIPSON

Signature Page to SCD Schedule 13D

BENCHMARK PLUS INSTITUTIONAL PARTNERS, L.L.C.

By: Benchmark Plus Management, L.L.C.  
Managing Member

By: /s/ Robert Ferguson  
Name: Robert Ferguson  
Title: Managing Member

By: /s/ Scott Franzblau  
Name: Scott Franzblau  
Title: Managing Member

BENCHMARK PLUS MANAGEMENT, L.L.C.

By: /s/ Robert Ferguson  
Name: Robert Ferguson  
Title: Managing Member

By: /s/ Scott Franzblau  
Name: Scott Franzblau  
Title: Managing Member

/s/ Robert Ferguson  
ROBERT FERGUSON

/s/ Scott Franzblau  
SCOTT FRANZBLAU

## SCHEDULE A

Directors and Officers of Western Investment Total Return Fund Ltd.

<u>Name and Position</u>	<u>Principal Occupation</u>	<u>Principal Business Address</u>	<u>Citizenship</u>
Don M. Seymour Director	Businessperson dms Management Ltd.	dms Management P.O. Box 31910 dms House, 20 Genesis Close, Grand Cayman KY1-1208, Cayman Islands	Cayman Islands
David Bree Director	Businessperson dms Management Ltd.	dms Management P.O. Box 31910 dms House, 20 Genesis Close, Grand Cayman KY1-1208, Cayman Islands	Cayman Islands
J.D. Clark & Co. Secretary	Trust Company	2225 Washington Blvd. Ogden, Utah 84401	United States

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## SCHEDULE B

Transactions in the Shares During the Past 60 Days

<u>Date of Purchase</u>	<u>Shares of Common Stock Purchased</u>	<u>Price Per Share (\$)</u>
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WESTERN INVESTMENT ACTIVISM PARTNERS LLC

11/30/10	6,500	11.7565
11/30/10	1,625	11.7448
12/01/10	6,700	11.8665
12/01/10	8,606	11.8620
12/02/10	2,200	11.9585
12/02/10	20,200	12.0056
12/03/10	8,505	12.0058
12/03/10	900	11.9985
12/06/10	8,966	12.0288
12/06/10	12,034	12.0098
12/07/10	24,710	12.0659
12/07/10	75,048	12.0551
12/08/10	26,925	12.0554
12/08/10	45,597	12.0407
12/09/10	27,421	12.0966
12/09/10	4,400	12.1069
12/10/10	24,500	12.1631
12/10/10	10,100	12.1713
12/10/10	3,020	12.1721
12/13/10	18,070	12.2391
12/13/10	22,085	12.2214
12/14/10	25,700	12.2818
12/14/10	25,825	12.2704
12/14/10	9,758	12.2728
12/15/10	36,105	12.2744
12/15/10	2,800	12.2801
12/16/10	11,876	12.2759
12/16/10	25,302	12.2725

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WESTERN INVESTMENT TOTAL RETURN PARTNERS L.P.

10/18/2010	16,270	11.6755
10/18/2010	20,384	11.6951
10/19/2010	18,907	11.6411
10/20/2010	2,900	11.7120
10/20/2010	10,699	11.6816
10/22/2010	4,600	11.7985
10/22/2010	18,001	11.7827
11/08/2010	4,700	12.0036
11/10/2010	950	11.8785
11/10/2010	2,200	11.8848

BENCHMARK PLUS INSTITUTIONAL PARTNERS, L.L.C.

10/25/2010	21,354	11.7930
10/25/2010	9,200	11.7996
10/26/2010	19,300	11.7477
10/27/2010	100	11.7785
10/27/2010	16,900	11.6393
10/28/2010	17,852	11.6713
10/28/2010	1,100	11.6876
11/01/2010	461	11.8112
11/02/2010	11,549	11.7921
11/03/2010	1,970	11.8036
11/03/2010	2,375	11.7967
11/04/2010	6,517	11.9429

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JOINT FILING AGREEMENT

In accordance with Rule 13d-1(k)(1)(iii) under the Securities Exchange Act of 1934, as amended, the persons named below agree to the joint filing on behalf of each of them of a Statement on Schedule 13D dated December 17, 2010 (including amendments thereto) with respect to the securities of LMP Capital and Income Fund Inc. This Joint Filing Agreement shall be filed as an Exhibit to such Statement.

Dated: December 17, 2010

WESTERN INVESTMENT LLC

By: /s/ Arthur D. Lipson  
Name: Arthur D. Lipson  
Title: Managing Member

WESTERN INVESTMENT HEDGED PARTNERS L.P.

By: Western Investment LLC  
General Partner

By: /s/ Arthur D. Lipson  
Name: Arthur D. Lipson  
Title: Managing Member

WESTERN INVESTMENT ACTIVISM PARTNERS LLC

By: Western Investment LLC  
Managing Member

By: /s/ Arthur D. Lipson  
Name: Arthur D. Lipson  
Title: Managing Member

WESTERN INVESTMENT TOTAL RETURN PARTNERS L.P.

By: Western Investment LLC  
General Partner

By: /s/ Arthur D. Lipson  
Name: Arthur D. Lipson  
Title: Managing Member

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WESTERN INVESTMENT TOTAL RETURN FUND LTD.

By: Western Investment LLC  
Investment Manager

By: /s/ Arthur D. Lipson  
Name: Arthur D. Lipson  
Title: Managing Member

/s/ Arthur D. Lipson  
ARTHUR D. LIPSON

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BENCHMARK PLUS INSTITUTIONAL PARTNERS, L.L.C.

By: Benchmark Plus Management, L.L.C.  
Managing Member

By: /s/ Robert Ferguson  
Name: Robert Ferguson  
Title: Managing Member

By: /s/ Scott Franzblau  
Name: Scott Franzblau  
Title: Managing Member

BENCHMARK PLUS MANAGEMENT, L.L.C.

By: /s/ Robert Ferguson  
Name: Robert Ferguson  
Title: Managing Member

By: /s/ Scott Franzblau  
Name: Scott Franzblau  
Title: Managing Member

/s/ Robert Ferguson  
ROBERT FERGUSON

/s/ Scott Franzblau  
SCOTT FRANZBLAU