

LMP CAPITAL & INCOME FUND INC.
Form SC TO-I
February 29, 2012

As filed with the Securities and Exchange Commission on February 29, 2012

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

SCHEDULE TO
TENDER OFFER STATEMENT UNDER SECTION 14(d)(1) OR 13(e)(1)
OF THE SECURITIES EXCHANGE ACT OF 1934

LMP Capital and Income Fund Inc.

(Name of Subject Company (issuer))

LMP Capital and Income Fund Inc.

(Name of Filing Person (offeror))

Common Stock \$0.001 Par Value Per Share

(Title of Class of Securities)

50208A102

(CUSIP Number of Class of Securities)

ROBERT I. FRENKEL

SECRETARY

LMP CAPITAL AND INCOME FUND INC.

100 FIRST STAMFORD PLACE, 6TH FLOOR

STAMFORD, CONNECTICUT 06902

(203) 703-7046

**(Name, Address and Telephone Number of Person Authorized to Receive Notices
and Communications on Behalf of the Person(s) Filing Statement)**

Copy to:

Sarah E. Cogan, Esq.

Simpson Thacher & Bartlett LLP

425 Lexington Avenue

New York, New York, 10017

(212) 455-2000

CALCULATION OF FILING FEE

Transaction Valuation
\$13,307,678(a)

Amount of Filing Fee
\$1,525(b)

- (a) Calculated as the aggregate maximum purchase price to be paid for 946,492 shares in the offer, based upon a price of \$14.06 (98% of the net asset value per share of \$14.34 on February 17, 2012).
- (b) Calculated at \$114.60 per \$1,000,000 of the Transaction Valuation.

.. Check box if any part of the fee is offset as provided by Rule 0-11(a)(2) and identify the filing with which the offsetting fee was previously paid. Identify the previous filing by registration statement number, or the form or schedule and the date of its filing.

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| | |
|---------------------------|----------------|
| Amount Previously Paid: | Not applicable |
| Form or Registration No.: | Not applicable |
| Filing Party: | Not applicable |
| Date Filed: | Not applicable |

Check box the filing relates solely to preliminary communications made before the commencement of a tender offer.

Check the appropriate boxes to designate any transactions to which this statement relates:

third party tender offer subject to Rule 14d-1
 issuer tender offer subject to Rule 13e-4

going-private transaction subject to Rule 13e-3
 amendment to Schedule 13D under Rule 13d-2

Check the following box if the filing is a final amendment reporting the results of the tender offer.

Introductory Statement

This Issuer Tender Offer Statement on Schedule TO relates to an offer by LMP Capital and Income Fund Inc., a Maryland corporation (the Fund), to purchase for cash up to 5% of its outstanding shares, or 946,492 of the Fund s issued and outstanding shares of Common Stock, par value \$0.001 per share, upon the terms and subject to the conditions contained in the Offer to Purchase dated February 29, 2012 and the related Letter of Transmittal which are filed as exhibits to this Schedule TO.

This Issuer Tender Offer Statement on Schedule TO is being filed in satisfaction of the reporting requirements of Rule 13e-4(c)(2) promulgated under the Securities Exchange Act of 1934, as amended.

The information in the Offer to Purchase and the related Letter of Transmittal is incorporated herein by reference in response to all of the items of this Schedule TO, as more particularly described below.

ITEM 1. SUMMARY TERM SHEET.

The information set forth under Summary Term Sheet in the Offer to Purchase is incorporated herein by reference.

ITEM 2. SUBJECT COMPANY INFORMATION.

(a) and (b) The information set forth in the Offer to Purchase under Introduction and under Section 10 (Certain Information Concerning the Fund, the Investment Adviser and the Subadvisers) is incorporated herein by reference.

(c) The information set forth in the Offer to Purchase under Section 7 (NAV and Market Price Range of Shares; Dividends) is incorporated herein by reference.

ITEM 3. IDENTITY AND BACKGROUND OF FILING PERSON.

(a) The Fund is the filing person. The information set forth in the Offer to Purchase under Section 10 (Certain Information Concerning the Fund, the Investment Adviser and the Subadvisers) is incorporated herein by reference.

ITEM 4. TERMS OF THE TRANSACTION.

(a) The following sections of the Offer to Purchase contain a description of the material terms of the transaction and are incorporated herein by reference:

Summary Term Sheet ;

Introduction ;

Section 1 (Terms of the Offer; Termination Date);

Section 2 (Acceptance for Payment and Payment for Shares);

Section 3 (Procedure for Tendering Shares);

Section 4 (Rights of Withdrawal);

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Section 5 (Source and Amount of Funds; Effect of the Offer);

Section 8 (Federal Income Tax Consequences of the Offer);

Section 11 (Interests of Directors, Executive Officers and Associates; Transactions and Arrangements Concerning the Shares); and

Section 13 (Certain Conditions to the Offer).

(b) The information set forth in the Offer to Purchase under Introduction and under Section 11 (Interests of Directors, Executive Officers and Associates; Transactions and Arrangements Concerning the Shares) is incorporated herein by reference.

ITEM 5. PAST CONTACTS, TRANSACTIONS, NEGOTIATIONS AND AGREEMENTS.

(e) The information set forth in the Offer to Purchase under Section 6 (Purpose of the Offer; Plans or Proposals of the Fund) and Section 11 (Interests of Directors, Executive Officers and Associates; Transactions and Arrangements Concerning the Shares) is incorporated herein by reference.

ITEM 6. PURPOSES OF THE TRANSACTION AND PLANS OR PROPOSALS.

(a), (b) and (c) The information set forth in the Offer to Purchase under Section 6 (Purpose of the Offer; Plans or Proposals of the Fund) is incorporated herein by reference.

ITEM 7. SOURCE AND AMOUNT OF FUNDS OR OTHER CONSIDERATION.

(a), (b) and (d) The information set forth in the Offer to Purchase under Section 5 (Source and Amount of Funds; Effect of the Offer) is incorporated herein by reference.

ITEM 8. INTEREST IN SECURITIES OF THE SUBJECT COMPANY.

(a) and (b) The information set forth in the Offer to Purchase under Section 11 (Interests of Directors, Executive Officers and Associates; Transactions and Arrangements Concerning the Shares) is incorporated herein by reference.

ITEM 9. PERSON/ASSETS, RETAINED, EMPLOYED, COMPENSATED OR USED.

(a) The information set forth in the Offer to Purchase under Section 14 (Fees and Expenses) is incorporated herein by reference.

ITEM 10. FINANCIAL STATEMENTS.

(a) and (b) Not applicable.

ITEM 11. ADDITIONAL INFORMATION.

(a) The information set forth in the Offer to Purchase under Section 6 (Purpose of the Offer; Plans or Proposals of the Fund), Section 11 (Interests of Directors, Executive Officers and Associates; Transactions and Arrangements Concerning the Shares) and Section 12 (Certain Legal Matters; Regulatory Approvals) is incorporated herein by reference. To the knowledge of the Fund, no material legal proceedings relating to the tender offer are pending.

(b) The information set forth in the Offer to Purchase and the related Letter of Transmittal, copies of which are filed as Exhibits (a)(1)(i) and (a)(1)(ii) hereto, respectively, as each may be amended or supplemented from time to time, is incorporated herein by reference.

ITEM 12. EXHIBITS

| EXHIBIT NO. | DESCRIPTION |
|-------------|--|
| (a)(1)(i) | Offer to Purchase, dated February 29, 2012. |
| (a)(1)(ii) | Form of Letter of Transmittal. |
| (a)(1)(iii) | Form of Notice of Guaranteed Delivery. |
| (a)(1)(iv) | Form of Letter to Brokers, Dealers, Commercial Banks, Trust Companies and Other Nominees. |
| (a)(1)(v) | Form of Letter to Clients of Brokers, Dealers, Commercial Banks, Trust Companies and Other Nominees. |
| (a)(1)(vi) | Form of Letter to Stockholders. |
| (a)(2) | None. |
| (a)(3) | Not Applicable. |
| (a)(4) | Not Applicable. |
| (a)(5) | Press release issued on February 21, 2012 (previously filed with the Securities and Exchange Commission on February 21, 2012). |
| (b) | None. |
| (d) | None. |
| (e) | Settlement Agreement, dated as of March 9, 2011 by and among Arthur D. Lipson, Robert Ferguson, Scott Franzblau, 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., Benchmark Plus Institutional Partners L.L.C. and Benchmark Plus Management, L.L.C., and all of their respective directors, officers and Affiliates (as defined) and LMP Capital and Income Fund Inc. (including exhibits). Incorporated by reference to Exhibit 99.1 to Form 8-K of the Fund filed with the Securities and Exchange Commission on March 9, 2011. |
| (g) | None. |
| (h) | None. |

ITEM 13. INFORMATION REQUIRED BY SCHEDULE 13E-3

Not Applicable.

SIGNATURE

After due inquiry and to the best of my knowledge and belief, I certify that the information set forth in this statement is true, complete and correct.

LMP CAPITAL AND INCOME FUND INC.

By: /s/ R. Jay Gerken
Name: **R. Jay Gerken**
Title: **Chairman, President and Chief Executive Officer**

Dated: February 29, 2012

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