

LMP CAPITAL & INCOME FUND INC.
Form SC 13D/A
January 25, 2011

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. 1)1

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)

January 24, 2011

(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.

1 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).

CUSIP NO. 50208A102

1 NAME OF REPORTING PERSON

WESTERN INVESTMENT LLC

2 CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP (a)
(b)

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)

6 CITIZENSHIP OR PLACE OF ORGANIZATION

DELAWARE

NUMBER OF SHARES BENEFICIALLY OWNED BY EACH REPORTING PERSON WITH	7	SOLE VOTING POWER
		1,804,639
	8	SHARED VOTING POWER
		- 0 -
	9	SOLE DISPOSITIVE POWER
		1,804,639
	10	SHARED DISPOSITIVE POWER

- 0 -

11 AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON

1,804,639

12 CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN SHARES

13 PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11)

6.0%

14 TYPE OF REPORTING PERSON

OO

CUSIP NO. 50208A102

1 NAME OF REPORTING PERSON

ARTHUR D. LIPSON

2 CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP (a)
(b)

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)

6 CITIZENSHIP OR PLACE OF ORGANIZATION

USA

NUMBER OF SHARES BENEFICIALLY OWNED BY EACH REPORTING PERSON WITH	7	SOLE VOTING POWER
		1,804,639
	8	SHARED VOTING POWER
		- 0 -
	9	SOLE DISPOSITIVE POWER
		1,804,639
	10	SHARED DISPOSITIVE POWER
		- 0 -

11 AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON

1,804,639

12 CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN SHARES

13 PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11)

6.0%

14 TYPE OF REPORTING PERSON

IN

CUSIP NO. 50208A102

1 NAME OF REPORTING PERSON

WESTERN INVESTMENT HEDGED PARTNERS L.P.

2 CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP (a) (b)

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)

6 CITIZENSHIP OR PLACE OF ORGANIZATION

DELAWARE

NUMBER OF SHARES BENEFICIALLY OWNED BY EACH REPORTING PERSON WITH	7	SOLE VOTING POWER
		601,059
	8	SHARED VOTING POWER
		- 0 -
	9	SOLE DISPOSITIVE POWER
		601,059
	10	SHARED DISPOSITIVE POWER
		- 0 -

11 AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON

601,059

12 CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN SHARES

13 PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11)

2.0%

14 TYPE OF REPORTING PERSON

PN

CUSIP NO. 50208A102

1 NAME OF REPORTING PERSON

WESTERN INVESTMENT ACTIVISM PARTNERS LLC

2 CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP (a)
(b)

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)

6 CITIZENSHIP OR PLACE OF ORGANIZATION

DELAWARE

NUMBER OF SHARES BENEFICIALLY OWNED BY EACH REPORTING PERSON WITH	7	SOLE VOTING POWER
		576,832
	8	SHARED VOTING POWER
		- 0 -
	9	SOLE DISPOSITIVE POWER
		576,832
	10	SHARED DISPOSITIVE POWER

- 0 -

11 AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON

576,832

12 CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN SHARES

13 PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11)

1.9%

14 TYPE OF REPORTING PERSON

OO

CUSIP NO. 50208A102

1 NAME OF REPORTING PERSON

WESTERN INVESTMENT TOTAL RETURN PARTNERS L.P.

2 CHECK THE APPROPRIATE BOX IF A MEMBER OF A (a)
 GROUP (b)

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)

6 CITIZENSHIP OR PLACE OF ORGANIZATION

DELAWARE

NUMBER OF	7	SOLE VOTING POWER
SHARES		
BENEFICIALLY		413,901
OWNED BY	8	SHARED VOTING POWER
EACH		
REPORTING		- 0 -
PERSON WITH	9	SOLE DISPOSITIVE POWER
	10	413,901
		SHARED DISPOSITIVE POWER

- 0 -

11 AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON

413,901

12 CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11)
 EXCLUDES CERTAIN SHARES

13 PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11)

1.4%

14 TYPE OF REPORTING PERSON

PN

CUSIP NO. 50208A102

1 NAME OF REPORTING PERSON

WESTERN INVESTMENT TOTAL RETURN FUND LTD.

2 CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP (a)
(b)

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)

6 CITIZENSHIP OR PLACE OF ORGANIZATION

CAYMAN ISLANDS

NUMBER OF SHARES BENEFICIALLY OWNED BY EACH REPORTING PERSON WITH	7	SOLE VOTING POWER
		212,347
	8	SHARED VOTING POWER
		- 0 -
	9	SOLE DISPOSITIVE POWER
		212,347
	10	SHARED DISPOSITIVE POWER

- 0 -

11 AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON

212,347

12 CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN SHARES

13 PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11)

Less than 1%

14 TYPE OF REPORTING PERSON

CO

CUSIP NO. 50208A102

1 NAME OF REPORTING PERSON

BENCHMARK PLUS INSTITUTIONAL PARTNERS, L.L.C.

2 CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP (a) (b)

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)

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

13 PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11)

1.4%

14 TYPE OF REPORTING PERSON

OO

CUSIP NO. 50208A102

1 NAME OF REPORTING PERSON

BENCHMARK PLUS MANAGEMENT, L.L.C.

2 CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP (a) (b)

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)

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

13 PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11)

1.4%

14 TYPE OF REPORTING PERSON

OO

CUSIP NO. 50208A102

1 NAME OF REPORTING PERSON

ROBERT FERGUSON

2 CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP (a)
(b)

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)

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

13 PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11)

1.4%

14 TYPE OF REPORTING PERSON

IN

CUSIP NO. 50208A102

1 NAME OF REPORTING PERSON

SCOTT FRANZBLAU

2 CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP (a)
(b)

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)

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

13 PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11)

1.4%

14 TYPE OF REPORTING PERSON

IN

CUSIP NO. 50208A102

The following constitutes Amendment No. 1 to the Schedule 13D filed by the undersigned ("Amendment No. 1"). This Amendment No. 1 amends the Schedule 13D as specifically set forth herein.

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

Item 3 is amended and restated to read as follows:

The aggregate purchase price of the 1,804,639 Shares beneficially owned by WILLC is approximately \$20,690,606. The Shares beneficially owned by WILLC consist of 500 Shares that were acquired with WILLC's working capital, 601,059 Shares that were acquired with WIHP's working capital, 576,832 Shares that were acquired with WIAP's working capital, 413,901 Shares that were acquired with WITRP's working capital and 212,347 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 5. Interest in Securities of the Issuer.

Item 5(a) is amended and restated to read as follows:

(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 January 24, 2011, WIHP, WIAP, WITRP and WITRL beneficially owned 601,059, 576,832, 413,901 and 212,347 Shares, respectively, constituting approximately 2.0%, 1.9%, 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 1,804,139 Shares owned in the aggregate by WIHP, WIAP, WITRP and WITRL, constituting approximately 6.0% of the Shares outstanding, in addition to the 500 Shares it holds directly.

As the managing member of WILLC, Mr. Lipson may be deemed to beneficially own the 1,804,639 Shares beneficially owned by WILLC, constituting approximately 6.0% of the Shares outstanding.

As of the close of business on January 24, 2011, 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.

Item 5(c) is amended to add the following:

(c) Schedule A annexed hereto lists all transactions in securities of the Issuer since the filing of the Schedule 13D by the Reporting Persons. All of such transactions were effected in the open market.

CUSIP NO. 50208A102

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: January 24, 2011

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

CUSIP NO. 50208A102

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

CUSIP NO. 50208A102

SCHEDULE A

Transactions in the Shares Since the Filing of the Schedule 13D

Date of Purchase/Sale	Shares of Common Stock Purchased/(Sold)	Price Per Share (\$)
WESTERN INVESTMENT HEDGED PARTNERS L.P.		
12/17/10	13,662	12.2845
12/17/10	35,359	12.3072
12/20/10	4,000	12.3579
12/22/10	8,300	12.2822
12/23/10	400	12.2785
12/23/10	1,100	12.2957
12/27/10	400	12.3350
12/28/10	1,500	12.3287
01/10/11	3,400	12.3179
01/11/11	700	12.3185
01/12/11	15,236	12.3634
01/13/11	551	12.4315
01/14/11	900	12.4564
01/14/11	7,756	12.4479
01/18/11	100	12.4685
01/18/11	17,438	12.4869
01/19/11	3,100	12.4737
01/19/11	1,900	12.4719
01/20/11	4,900	12.4596
01/20/11	4,340	12.4593
01/21/11	5,382	12.5717
01/21/11	6,102	12.5672
01/24/11	5,018	12.6076
01/24/11	4,872	12.5829

CUSIP NO. 50208A102

WESTERN INVESTMENT ACTIVISM PARTNERS LLC

12/17/10	7,000	12.2841
12/20/10	3,980	12.3579
12/22/10	8,215	12.2822
12/23/10	482	12.2785
12/23/10	1,082	12.2958
12/27/10	500	12.3325
12/28/10	1,595	12.3285
01/10/11	3,300	12.3179
01/11/11	800	12.3185
01/12/11	15,100	12.3634
01/14/11	1,000	12.4564
01/14/11	7,800	12.4479
01/18/11	200	12.4685
01/18/11	17,200	12.4869
01/19/11	3,200	12.4737
01/19/11	1,900	12.4719
01/20/11	8,000	12.4587

WESTERN INVESTMENT TOTAL RETURN PARTNERS L.P.

12/31/10	(2,000)	12.4413
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WESTERN INVESTMENT TOTAL RETURN FUND LTD.

01/10/11	3,300	12.3179
01/11/11	800	12.3185
01/12/11	15,100	12.3634
01/14/11	900	12.4564
01/14/11	7,900	12.4479
01/18/11	200	12.4685
01/18/11	17,200	12.4869
01/19/11	3,200	12.4737
01/19/11	1,900	12.4719
01/20/11	5,000	12.4596
01/20/11	4,300	12.4593
01/21/11	5,300	12.5717
01/21/11	6,200	12.5672
01/24/11	5,000	12.6076
01/24/11	4,800	12.5829