

LMP CAPITAL & INCOME FUND INC.
Form SC 13D/A
March 10, 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. 4)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)

March 8, 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
		2,446,838
	8	SHARED VOTING POWER
		- 0 -
	9	SOLE DISPOSITIVE POWER
		2,446,838
	10	SHARED DISPOSITIVE POWER
		- 0 -

11 AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON

2,446,838

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

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

8.2%

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
		2,446,838
	8	SHARED VOTING POWER
		- 0 -
	9	SOLE DISPOSITIVE POWER
		2,446,838
	10	SHARED DISPOSITIVE POWER

- 0 -

11 AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON

2,446,838

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

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

8.2%

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
		794,942
	8	SHARED VOTING POWER
		- 0 -
	9	SOLE DISPOSITIVE POWER
		794,942
	10	SHARED DISPOSITIVE POWER

- 0 -

11 AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON

794,942

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

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

2.7%

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
		616,687
	8	SHARED VOTING POWER
		- 0 -
	9	SOLE DISPOSITIVE POWER
		616,687
	10	SHARED DISPOSITIVE POWER

- 0 -

11 AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON

616,687

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

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

2.1%

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 SHARES BENEFICIALLY OWNED BY EACH REPORTING PERSON WITH	7	SOLE VOTING POWER
		615,262
	8	SHARED VOTING POWER
		- 0 -
	9	SOLE DISPOSITIVE POWER
		615,262
	10	SHARED DISPOSITIVE POWER

- 0 -

11 AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON

615,262

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

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

2.1%

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
		419,447
	8	SHARED VOTING POWER
		- 0 -
	9	SOLE DISPOSITIVE POWER
		419,447
	10	SHARED DISPOSITIVE POWER

- 0 -

11 AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON

419,447

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

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
		505,008
	8	SHARED VOTING POWER
		- 0 -
	9	SOLE DISPOSITIVE POWER
		505,008
	10	SHARED DISPOSITIVE POWER
		- 0 -

11 AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON

505,008

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

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

1.7%

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
		505,008
	8	SHARED VOTING POWER
		- 0 -
	9	SOLE DISPOSITIVE POWER
		505,008
	10	SHARED DISPOSITIVE POWER
		- 0 -

11 AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON

505,008

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

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

1.7%

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 (a)
GROUP (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	7	SOLE VOTING POWER
BENEFICIALLY OWNED BY	8	505,008 SHARED VOTING POWER
EACH REPORTING PERSON WITH	9	- 0 - SOLE DISPOSITIVE POWER
	10	505,008 SHARED DISPOSITIVE POWER

- 0 -

11 AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON

505,008

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

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

1.7%

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 (a)
GROUP (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
		505,008
	8	SHARED VOTING POWER
		- 0 -
	9	SOLE DISPOSITIVE POWER
		505,008
	10	SHARED DISPOSITIVE POWER

- 0 -

11 AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON

505,008

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

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

1.7%

14 TYPE OF REPORTING PERSON

IN

CUSIP NO. 50208A102

The following constitutes Amendment No. 4 to the Schedule 13D filed by the undersigned (“Amendment No. 4”). This Amendment No. 4 amends the Schedule 13D as specifically set forth herein.

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

Item 3 is hereby amended and restated to read as follows:

The aggregate purchase price of the 2,446,838 Shares beneficially owned by WILLC is approximately \$29,001,111. The Shares beneficially owned by WILLC consist of 500 Shares that were acquired with WILLC’s working capital, 794,942 Shares that were acquired with WIHP’s working capital, 616,687 Shares that were acquired with WIAP’s working capital, 615,262 Shares that were acquired with WITRP’s working capital and 419,447 Shares that were acquired with WITRL’s working capital.

The aggregate purchase price of the 505,008 Shares beneficially owned by BPM is approximately \$5,498,127. The Shares beneficially owned by BPM consist of 505,008 Shares that were acquired with BPIP’s working capital.

Item 4. Purpose of Transaction.

Item 4 is hereby amended to add the following:

On March 8, 2011 the Issuer entered into an agreement (the “Agreement”) with the Reporting Persons pursuant to which the Issuer agreed to commence a tender offer to expire on or before June 30, 2011, for up to 30% of the Issuer’s then outstanding Shares, at a price equal to at least 98% of the net asset value (“NAV”) of the Shares (the “Initial Tender Offer”) as of the close of business on the expiration date of the Initial Tender Offer.

The Issuer also agreed to commence a tender offer for up to 5% of the Issuer’s then outstanding Shares, at a price equal to at least 98% of NAV (the “First Conditional Tender Offer”) as of the close of business on the expiration date of the First Conditional Tender Offer, if during the period from July 20, 2011 through August 19, 2011, the Shares trade at a market price representing an average daily discount to NAV of more than 5%. If required, the Issuer will commence the First Conditional Tender Offer on or about September 1, 2011.

The Issuer further agreed to commence a tender offer for up to 5% of the Issuer’s then outstanding Shares, at a price equal to at least 98% of NAV (the “Second Conditional Tender Offer”) as of the close of business on the expiration date of the Second Conditional Tender Offer, if during the period from October 19, 2011 through November 18, 2011, the Shares trade at a market price representing an average daily discount to NAV of more than 5%. If required, the Issuer will commence the Second Conditional Tender Offer on or about December 1, 2011.

The Issuer further agreed to commence a tender offer for up to 5% of the Issuer’s then outstanding Shares, at a price equal to at least 98% of NAV (the “Third Conditional Tender Offer”) as of the close of business on the expiration date of the Third Conditional Tender Offer, if during the period from January 19, 2012 through February 18, 2012, the Shares trade at a market price representing an average daily discount to NAV of more than 5%. If required, the Issuer will commence the Third Conditional Tender Offer on or about March 1, 2012.

CUSIP NO. 50208A102

The Reporting Persons agreed to, among other things, (i) withdraw the proposal to declassify the Issuer's Board of Trustees (the "Stockholder Proposal") from consideration at the Issuer's meeting of shareholders to be held on April 29, 2011 (the "Annual Meeting") and (ii) vote all Shares beneficially owned as of the close of business on March 1, 2011 in favor of the SCD Director Slate (as defined in the Agreement), against any proposal made in opposition to, or in competition or inconsistent with, the SCD Director Slate and cooperate with the Issuer in the approval of the SCD Director Slate and the rejection of the Stockholder Proposal.

The foregoing description of the Agreement is qualified in its entirety by reference to the Agreement, which is attached as exhibit 99.1 hereto and is incorporated herein by reference.

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 December 31, 2010, as reported in the Issuer's Annual Report to Stockholders on Form N-CSR, filed with the Securities and Exchange Commission on February 28, 2011.

As of the close of business on March 9, 2011, WIHP, WIAP, WITRP and WITRL beneficially owned 794,942, 616,687, 615,262 and 419,447 Shares, respectively, constituting approximately 2.7%, 2.1%, 2.1% and 1.4%, 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 2,446,338 Shares owned in the aggregate by WIHP, WIAP, WITRP and WITRL, constituting approximately 8.2% 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 2,446,838 Shares beneficially owned by WILLC, constituting approximately 8.2% of the Shares outstanding.

As of the close of business on March 9, 2011, BPIP beneficially owned 505,008 Shares, constituting approximately 1.7% of the Shares outstanding. As the managing member of BPIP, BPM may be deemed to beneficially own the 505,008 Shares owned by BPIP, constituting approximately 1.7% of the Shares outstanding. As managing members of BPM, each of Messrs. Franzblau and Ferguson may be deemed to beneficially own the 505,008 Shares beneficially owned by BPM, constituting approximately 1.7% of the Shares outstanding.

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

(c) Schedule B annexed hereto lists all transactions in securities of the Issuer since the filing of Amendment No. 3 to the Schedule 13D by the Reporting Persons. All of such transactions were effected in the open market.

CUSIP NO. 50208A102

Item 7. Material to be Filed as Exhibits.

Item 7 is hereby amended to include the following exhibits:

99.1 Agreement, dated March 8, 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 in the Agreement), and LMP Capital and Income Fund Inc.

CUSIP NO. 50208A102

SCD Amendment No. 4 to the Schedule 13D - Signature Page

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: March 10, 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

SCD Amendment No. 4 to the Schedule 13D - Signature Page

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 B

Transactions in the Shares Since the Filing of Amendment No. 3 to the Schedule 13D

Date of Purchase/Sale	Shares of Common Stock Purchased/(Sold)	Price Per Share (\$)
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WESTERN INVESTMENT TOTAL RETURN FUND LTD.

03/09/11	(11,400)	13.4486
03/09/11	(15,000)	13.4467

BENCHMARK PLUS INSTITUTIONAL PARTNERS, L.L.C.

02/18/11	81	13.1620
02/18/11	7,919	13.0738