

Finance
Creditor claims weigh down Octaviar

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\$393 million in damages is being sought, bringing total debt to more than \$1 billion

Funds management

OCTAVIAR'S situation has worsened dramatically, with two creditors launching claims against the crippled investment manager for \$393 million in damages. If successful, the claims will bring the debt of **Octaviar** (formerly MFS) to more than \$1 billion.

OPI Pacific Finance and the Premium Income Fund are seeking, respectively, \$270 million and \$147.5 million from **Octaviar** and a subsidiary.

Jenny Hutson, managing director of Wellington Capital, which in May took control of PIF (formerly an MFS satellite) said investigation of the fund's affairs had shown that in November-December 2007, MFS had drawn down \$147.5 million from PIF.

In exchange, PIF had received a series of pre-existing unsecured loans, which now appeared to have "zero chance" of recovery, Ms Hutson said.

The loans accounted for 20c in the dollar of PIF's assets, she said. The actions of the former MFS in drawing the funds from PIF were "outrageous".

The damages claim is on top of \$50 million PIF previously claimed to be owed by **Octaviar**.

The damages claim pits Ms Hutson against Chris Scott, the rebel shareholder who seized control of the **Octaviar** board in April and is now an executive director.

Ms Hutson was an adviser to Mr Scott during his bid to win a board seat.

New Zealand-based OPI Pacific Finance advised last Thursday of its \$270 million damages claim, **Octaviar** told the ASX yesterday.

In its financial statements to December 2007, released in April, **Octaviar** reported its \$246 obligation to OPI Pacific Finance under a put option.

In a moratorium agreement with OPI creditors, \$20 million was paid in March.

Meanwhile, the Public Trustee of Queensland's bid to wind up **Octaviar** over \$349 million in unsecured notes has been put off until September after being moved to the Commercial Causes List of the Queensland Supreme Court.

The matter previously was listed for hearing next month.

This means the first court action facing **Octaviar** is that of James Packer's Challenger Group over its \$100 million in unlisted floating rate bonds. Challenger Managed Investments is seeking to clarify guarantees **Octaviar** provided and the terms of the agreement over the bonds. That court hearing has been set down for July 21.

It is understood Challenger executives were surprised to read in **Octaviar's** notice to the ASX yesterday that the public trustee's wind-up bid had "triggered an event of default in relation to the unlisted bonds".

“We have agreed with the bondholders that the bondholders now have the ability to make the bonds due and payable,” **Octaviar** secretary David Anderson told the ASX.

Challenger and **Octaviar** confirmed the July 21 litigation between the two companies was proceeding.

Octaviar said the \$40 million National Australia Bank loan it had guaranteed for Living and Leisure Australia remained outstanding, but that an in-principle agreement had been reached with Arctic Capital over the debt.

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