

Premium Income Fund

NSX Release: 20 July 2009



Wellington

Mercedes Holdings Pty Ltd & Ors v KPMG & Ors – Class Action

Wellington Capital Limited, as responsible entity of the Premium Income Fund, has been advised by IMF (Australia) Limited (ASX:IMF) (“IMF”) that documentation has been mailed to all Unitholders in the Premium Income Fund for the purposes of the class action proceedings currently before the Federal Court of Australia.

IMF is seeking to ascertain which Unitholders wish to join the current Applicants in this proceeding against the partners of KPMG as auditors of the Premium Income Fund and those persons who were directors of MFS Investment Management Limited (now called Wellington Investment Management Limited) on or before 29 January 2008 in respect of alleged breaches of the *Corporations Act 2001* (Cth).

A copy of the IMF documentation follows this release.

Unitholders should carefully read the IMF documentation and note that if a Unitholder wishes to have an opportunity to join the class action funded by IMF, the Funding Agreement must be returned to IMF by **3 August 2009**.

Unitholders should note that the proceedings proposed to be funded by IMF will be for a ‘closed class’. Unitholders will not be included as a member of the class simply because they held units in the Premium Income Fund as at 29 January 2008. One of the criteria for membership of the class is entry into a Funding Agreement with IMF prior to 3 August 2009. Any settlement of the funded class action will be for the benefit of the class members only.

As advised on 26 June 2009, following negotiations with the Applicants’ legal representative these proceedings have by mutual agreement agreed to be discontinued against Wellington Investment Management Limited with no order as to costs. This means that Wellington Investment Management Limited will not be a party to these proceedings going forward.

Unitholders with queries in relation to the IMF documentation should contact IMF directly:

Mr Tim McLernon

Toll Free 1800 016 464

Direct: +618 9225 2300

Email tmclernon@imf.com.au

For further information please contact:

Jenny Hutson
Chairperson
Wellington Capital Limited
as responsible entity of the Premium Income Fund
ACN 114 248 458 AFSL 291 562

Phone: 1300 854 885

Email: investorrelations@newpif.com.au



Contact: Tim McLernon
Toll Free: 1800 016 464
Direct Line: + 61 (0)8 9225 2300
Email: tmclernon@imf.com.au

17 July 2009

“Confidential”

Dear Unit Holder

Premium Income Fund (“PI Fund”) unit holder action against partners of KPMG and directors of the Responsible Entity

1. IMF (Australia) Ltd (“IMF”) is proposing to fund a unit holder class action conducted by Carneys Lawyers against partners of KPMG and the directors of the Responsible Entity, Wellington Investment Management Ltd (formerly MFS Investment Management Ltd) (“MFSIM), to the Premium Income Fund (the “PI Fund”) for losses caused by alleged breaches of the Corporations Act.
2. Subject to receiving sufficient signed KPMG Funding Agreements from affected unit holders, IMF is proposing to fund a class action for unit holders who held units in the PI Fund as at 29 January 2008.
3. Please find attached:
 - a) Overview of the Claim;
 - b) Frequently Asked Questions;
 - c) IMF’s Combined Financial Services Guide and Product Disclosure Statement; and
 - d) KPMG Investigation, Management and Funding Agreement.
4. If you wish to have the opportunity to join the proposed class action funded by IMF, you need to complete and **return to IMF by 3 August 2009 the first two pages** of IMF’s KPMG Funding Agreement (please in particular sign and date the first page). **It is very important that you provide us with the correct name of the registered holder of the units.** This information will help validate your claim in the event of a successful outcome to any proceedings.
5. You should carefully read the KPMG Funding Agreement to fully understand its terms and conditions. However, in summary, IMF offers to conduct an investigation into your potential claim against the partners of KPMG and directors of MFSIM (the “Respondents”), and to pay for any legal proceedings brought against the Respondents on your behalf in accordance with the terms of the KPMG Funding Agreement. IMF also agrees to pay any legal costs awarded to the Respondents if any legal action taken on your behalf is not successful (in Australia, the losing side in litigation is typically ordered to pay a proportion of the winning side’s costs).

6. Unless you are successful in obtaining either a settlement or judgment against the Respondents,

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PO Box Z5106
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you will not have to make any payments. If you are successful, you will only be required to make the payments referred to in Clause 12 of the KPMG Funding Agreement.

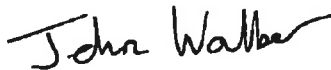
7. **Please return the material referred to in paragraph 4 above. If possible, could you please scan and email the documents to tmclernon@imf.com.au and post the original documents to the address below:**

**IMF (Australia) Ltd
PO Box Z5106
St George's Terrace
PERTH WA 6831**

Please ensure you include details of all your purchases and redemptions of units in the Fund and the number of units you still hold (if any).

8. Once you sign the KPMG Funding Agreement, you have a 21 day cooling off period, so if you change your mind during that period just let us know and you will be excluded from any legal action funded by IMF which may be taken against the Respondents.
9. IMF is licensed as an Australian financial services provider and is listed on the Australian Securities Exchange ("ASX"). You can find details about IMF at www.imf.com.au. We are required by law to provide you with information regarding our business.
10. If you have any queries about this proposed action, please contact Tim McLernon of IMF on toll free 1800 016 464 or at tmclernon@imf.com.au.

Yours faithfully,



**John Walker
Executive Director
IMF (Australia) Ltd**

KPMG / MFS PREMIUM INCOME FUND

OVERVIEW OF THE CLAIM¹

1 The Claim

1.1 The funded proceedings is proposed to be against:

- (a) directors of Wellington Investment Management Ltd (formerly MFS Investment Management Ltd) ("**MFSIM**") the Responsible Entity of the Premium Income Fund (the "**PI Fund**") alleging they breached the Corporations Act 2001 ("**the Act**") in relation to related party transactions in 2006 and 2007 (the "**Transactions**"); and
- (b) partners of KPMG alleging they breached the Corporations Act in relation to their audit of the PI Fund's Compliance Plan; and
- (c) potentially other respondents for whom IMF (Australia) Ltd ("**IMF**") accepts adverse cost order liability.

1.2 The Transactions are alleged to have been entered into without approval by the members of the PI Fund in contravention of the Act.

1.3 It is further alleged that KPMG, as auditor of the PI Fund's Compliance Plan, was aware of circumstances sufficient to give rise to a reasonable suspicion that the Transactions, without member approval, were in breach of the PI Fund's Compliance Plan and the Act.

1.4 The principal allegations against the partners of KPMG is that they contravened s601HG(4)(c) of the Act by failing to report to the Australia Securities & Investments Commission ("**ASIC**") that the Transactions, without member approval, contravened s208(1) of the Act, as modified by s601LC.

1.5 In particular, it is alleged that:

- (a) KPMG's September 2005 Audit Report ought to have noted that MFSIM contravened Section 208(1) of the Act, as modified by Section 601LC, by lending related party MFS Pacific Finance \$5 million on an unsecured basis; and accordingly
- (b) by 1 January 2006, ASIC would have taken action to restrict subsequent breaches or members would have ceased to invest in the PI Fund.

1.6 The members' primary case is that if the partners of KPMG had properly performed their functions, then MFSIM would not have entered into or continued to enter into the Transactions with the consequence that the losses to the PI Fund would have been avoided.

1.7 PI Fund members who held units as at 29 January 2008 suffered loss caused by MFSIM entering into the Transactions.

¹ This overview does not constitute legal advice and should not be relied upon as constituting legal advice. The Lawyers will advise claimants separately on the validity and value of their claims as appropriate.

2 Claim Group

2.1 IMF is offering to fund the proposed proceedings.

2.2 It is anticipated that the claim group will comprise unit holders who:

- (a) held units in the PI Fund on 29 January 2008;
- (b) suffered loss or damage by or from the conduct of the partners of KPMG and / or the directors of the MFSIM; and
- (c) have, as at 3 August 2009, entered into a litigation funding agreement with IMF.

CLASS ACTION BY UNIT HOLDERS OF THE PREMIUM INCOME FUND FREQUENTLY ASKED QUESTIONS

1. Who is IMF?

IMF (Australia) Ltd (“**IMF**”) is a public company listed on the Australian Securities Exchange (ASX code: IMF). IMF holds an Australian Financial Services Licence, number 286906. IMF provides funding for significant and large-scale litigation. Information about IMF and the major cases being funded by it can be found on the IMF website at www.imf.com.au

2. Who is the claim against and what is the claim for?

The claim is against directors of Wellington Investment Management Limited (formerly MFS Investment Management Ltd) (“**MFSIM**”), the Responsible Entity of the Premium Income Fund (the “PI Fund”), and partners of KPMG in respect of alleged breaches of the Corporations Act 2001.

The claim will be on behalf of unit holders in the PI Fund as at 29 January 2008.

The claimants will allege an entitlement to compensation and/or damages for losses caused by the alleged breaches.

3. Why is this class action being funded by a third party?

In Australia, law firms are not ethically permitted to act on a contingency fee basis and may seek funding for major legal proceedings from a litigation funder, such as IMF. The law firm is paid on an hourly rate by the funder and the funder is paid its costs and a percentage from any settlement or judgment proceeds. It is proposed that IMF provide litigation funding to law firm Carneys Lawyers (“**the Lawyers**”) who will conduct proceedings against directors of MFSIM and partners of KPMG on the unit holders behalf.

4. When must I have held units in the PI Fund to be eligible?

To be eligible to claim, you must have held units in the PI Fund as at 29 January 2008. We ask that if you wish to participate in the proposed class action, you inform IMF of all of your acquisitions and redemptions of units in the Fund when you return your signed KPMG Funding Agreement to us.

You do not have to have redeemed your units and crystallised your loss to be included in the proposed class action. That is, you may still hold some or all of the units you held at 29 January 2008 to be eligible.

5. How much is my claim?

Assuming that either the directors of MFSIM and/or KPMG are found to have engaged in misconduct during the Relevant Period which caused you loss, the size of your claim depends upon how the Court assesses your loss.

The methodology that a Court may ultimately adopt when assessing your loss is not yet settled in Australian law. It may, for example, be your share of the diminution in the value of the net assets of the PI Fund caused by the Transaction (“**Your Loss Share**”).

In due course, you will receive an estimate of Your Loss Share based on your unit holding at 29 January 2008.

While this calculation will give you an idea of your possible loss on one of the methods which might be employed by the Court, all claims will be the subject of further investigation and legal advice and your loss figure may change. In providing the estimate, IMF does not guarantee that you will be held to have suffered any loss or any particular level of loss.

6. What will the claim cost?

IMF will conduct the investigation into your claim at its own expense. Further, any legal proceedings will be funded by IMF on a “no win, no pay” basis. This means that you do not have to pay anything in the event that your claim is unsuccessful. If your claim is successful, IMF will be entitled to a commission, management fee and the reimbursement of the costs it has paid, but only from what is recovered.

7. What will it cost if any legal proceedings are not successful?

Nothing – subject to the terms of the KPMG Funding Agreement, IMF will pay any costs order which may be made against you if you act as a representative applicant (in Australia, the losing side in litigation is typically ordered to pay a proportion of the winning side’s costs) and will provide any security for costs ordered by a court in relation to any legal proceedings. If you are a class member only (and not a representative), the Court has no power to make a costs order directly against you in any proceedings brought by the representative.

8. What will IMF receive?

If any proceedings are brought and are successfully resolved, IMF will receive a return of the costs it has paid, a Project Management Fee based on those costs and between 25% and 35% of the recovery proceeds for your claim, depending upon the time it takes to achieve the recovery. Clause 12.1 of the KPMG Funding Agreement, which is enclosed with these FAQs, sets out IMF’s commission.

9. How long will any legal proceedings take?

We expect any proceedings will take between twelve months and three years or more from their commencement to resolve.

10. Where will the legal proceedings be prosecuted?

The claim will be prosecuted in the Federal Court of Australia.

11. Do I have to sign a Funding Agreement to “participate”?

Yes - the proceedings proposed to be funded by IMF will be for a “closed class”. One of the criteria for membership of the class is entry into a KPMG Funding Agreement with IMF prior to 3 August 2009. You will not be included as a member of the class simply because you held units in the PI Fund as at 29 January 2008. Any settlement of the funded class action will be for the benefit of class members only.

12. Who should sign the Funding Agreement if the units are registered in the name of a custodian or nominee company?

Generally the KPMG Funding Agreement should be signed by the registered holder of the units that were acquired during the Relevant Period. IMF will, however, accept a

KPMG Funding Agreement signed by the beneficial owner of the units if there is a custodian or nominee company registered as the owner of those units and that entity is unwilling or unable to sign the agreement.

13. Is there any precondition to the commencement of funding of the proceedings by IMF?

Yes. There needs to be sufficient (estimated) losses by persons who sign KPMG Funding Agreements to make the proceedings commercially viable. IMF will inform you if funded proceedings are ultimately not viable.

14. What if I decide to withdraw from the action?

You may opt out of the class action in accordance with a notice that will be sent to you in the course of the proceedings. If you choose to opt out, you will no longer be included in the proceedings and your KPMG Funding Agreement will terminate. However, some terms of the KPMG Funding Agreement you signed will continue to apply with the effect that if you receive a settlement or judgement after you opt out, you will remain liable to pay your share of IMF's commission, management fee and costs that IMF has paid from any recovery you receive (see clause 20.3 of the KPMG Funding Agreement).

15. Will my contact and investment details be kept private?

We will only use and/or disclose your personal information strictly for the purpose of the legal proceedings, or as required by the Court or by law or as requested by the Lawyers. In all other cases, we will seek your consent before disclosing any of your personal information. We will not disclose any personal information to third parties, including other unit holders funded by IMF. IMF's privacy policy can be found under the Corporate Governance Section of the IMF website at www.imf.com.au.

16. How much time will I have to devote to the legal proceedings?

Initially we will only require you to provide the information referred to in the first two pages of the KPMG Funding Agreement. Ultimately you may need to provide further information about your claim, including providing a written witness statement and possibly you may need to give evidence in Court. Provided you are not a representative party, it is extremely unlikely that you will be required to provide evidence until after the representative party's case has been determined by the Court.

17. What do I have to do to join the claim?

In order to participate in the proposed class action to be funded by IMF you must sign a KPMG Funding Agreement and return it to IMF prior to the cut-off date specified in the covering letter.