

# Dispute Finance from IMF for UK & EMEA

## 3 Steps to Finance Your Case

### STEP 1

#### PRELIMINARY DISCUSSIONS

##### Confidentiality Agreement with IMF Litigation Funding Services Ltd ("IMF")

- ✓ Documents common interest
- ✓ Ensures confidentiality
- ✓ Protects privilege

##### Initial Assessment

We need to know:

- ✓ Basis of the claim – key facts, perceived merits and likely defences
- ✓ Identity of the respondent(s) and their ability to pay
- ✓ Realistic claim value and your commercial objectives
- ✓ Amount of funding required (including adverse costs and business working capital, if relevant)

The more supporting information provided, the better. Generally, the best way to start is a short lawyers' memorandum addressing the above points.

### STEP 2

#### INDICATIVE COMMERCIAL TERMS

If the case is suitable for investment, we will agree indicative funding terms with you based on our initial assessment, the risk profile of the case and your objectives.

These terms may include:

- The proposed funded costs
- IMF's proposed return (often structured as a multiple of invested capital or a percentage of the case recoveries)
- Further due diligence required (if any) and the funding of that due diligence
- A short exclusivity period to conduct further due diligence (if necessary)

If we have sufficient information we may proceed directly to **Step 3**

### STEP 2b

#### FURTHER DUE DILIGENCE (if required)

We may undertake further detailed due diligence, working closely with you and your legal team. Key issues for assessment may include:

- Strength of the case and defences
- Quantification of damages
- Litigation strategy and settlement prospects
- Prospects of recovery from the respondent
- Project budget and likely contingencies

We take an objective and commercial approach to case assessment and we do not charge for this work.

We may retain external experts to assist with our assessment and we may meet the costs of those experts as a preliminary investment in the case (we call this 'Seed Funding').

The length of this stage depends on the complexity of the case and how well organised the application is. We will work with your team to advance this as quickly as possible.

### STEP 3

#### APPROVAL, OFFER & FUNDING AGREEMENT

IMF is a wholly owned subsidiary of the IMF Bentham Ltd group (ASX: IMF). IMF Bentham's investment committee, consisting of experienced lawyers, funding professionals and former judges, will consider the investment.

If approved, a formal offer to fund will be made in the form of a written funding agreement.

The funding agreement will address the following, among other things:

- The costs to be funded (including adverse costs and business working capital, if relevant)
- IMF Bentham's return on investment and the priority of payments from any recoveries

- The extent of IMF's ongoing involvement in the matter, including the scope of any project management services
- Procedures for managing conflicts
- Confidentiality and privilege

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## Dispute Resolution Finance – The Basics

### BASIC INVESTMENT CRITERIA

#### WE INVEST IN:

- Commercial litigation
- Multi-party disputes
- Insolvency
- Arbitration (including investment treaty arbitration)
- Enforcement of judgments and awards

#### WE LOOK FOR CASES WITH:

**Merit** – Good prospects of success when objectively assessed.

**Economic viability** – The case must provide a measurable commercial benefit. The funded costs of pursuing the case should typically not exceed 10% of the commercial benefit.

**Recoverability** – Your opponent must be capable of paying a judgment or settlement (or there must be good prospects of enforcement).

#### WORKING WITH US:

**Timing** – It is best if we are involved early, however, we can invest after proceedings have begun, and even at the appeal or enforcement stage.

**Portfolios** – We can fund multiple disputes (claims and defences) bundled together into a portfolio, often with more favourable pricing than single-case funding.

**Across jurisdictions** – We fund cases throughout the world and have resources in all key international dispute hubs, including Australia, Asia, USA and Canada as well as the UK and EMEA regions. Legal frameworks for funding vary across countries. Contact us to discuss what is possible in your jurisdiction.

### WHAT WE FINANCE

**Seed funding** – Initial investment to help establish the viability of a case – e.g. a preliminary report on damages.

**Dispute-related costs** – All legal costs and disbursements (legal fees, expert witnesses and court or arbitration fees).

**Adverse costs** – If the case is unsuccessful, we meet any cost orders against you. You do not need to obtain costly ATE insurance.

**Security for costs** – We provide ‘security for costs’ if required by the court or tribunal.

**Working capital advance** – In addition to financing your case, we may provide finance for your core commercial operation pending the resolution of your dispute.

**Specialty corporate and law firm finance** – We provide financing facilities to corporates and law firms, to meet working capital needs and help achieve growth.

### OUR RETURN

IMF is only entitled to a return if the case is successful and a recovery is made. If so, IMF receives reimbursement of its funded costs and a return on investment reflective of the risk profile of the case. In this way, IMF's interests are aligned with the funded party's: to achieve the best outcome for you in the most expeditious timeframe.

IMF Bentham's return is typically calculated as a multiple of its funded costs, a percentage of the recovered sums or a combination of both. Our return varies according to our risk exposure, much like any other investment class.

### WHY CHOOSE IMF BENTHAM?

**Capital** – We are well resourced to fund high-value, complex cases and portfolios. We are listed on the Australian Stock Exchange (ASX: IMF) and our financial position is transparent.

**Track record** – Since listing in 2001, IMF Bentham has funded over 175 cases with a 90% success rate\*. We are a strong ally by your side.

**Returns** – We have returned over US\$1 billion (an average of around 64% of total recoveries) to our funded parties\*.

**Talent pool** – Our multi-disciplinary team includes lawyers from premier international law firms, corporate counsel and business leaders, educated at the world's leading institutions. With over 40 investment professionals worldwide, we add strong commercial acumen, strategic insights and a depth of experience to your project team.

**Project management** – IMF offers optional day-to-day project management of your case by our designated disputes experts, helping you to save management time, solve resource constraints and manage costs. For multi-party matters, we have a dedicated client team to help manage large claimant groups (at times in the thousands).

**Industry relationships** – We work with leading law firms, arbitrators, mediators, market analysts, economists and other experts. You can use your preferred experts or draw on our relationships to build your project team.

\* As at October 2018

**IMF**  
LITIGATION FUNDING  
SERVICES LIMITED  
SERVICING THE UK & EMEA REGIONS

[www.imf.com.au/emea](http://www.imf.com.au/emea)

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