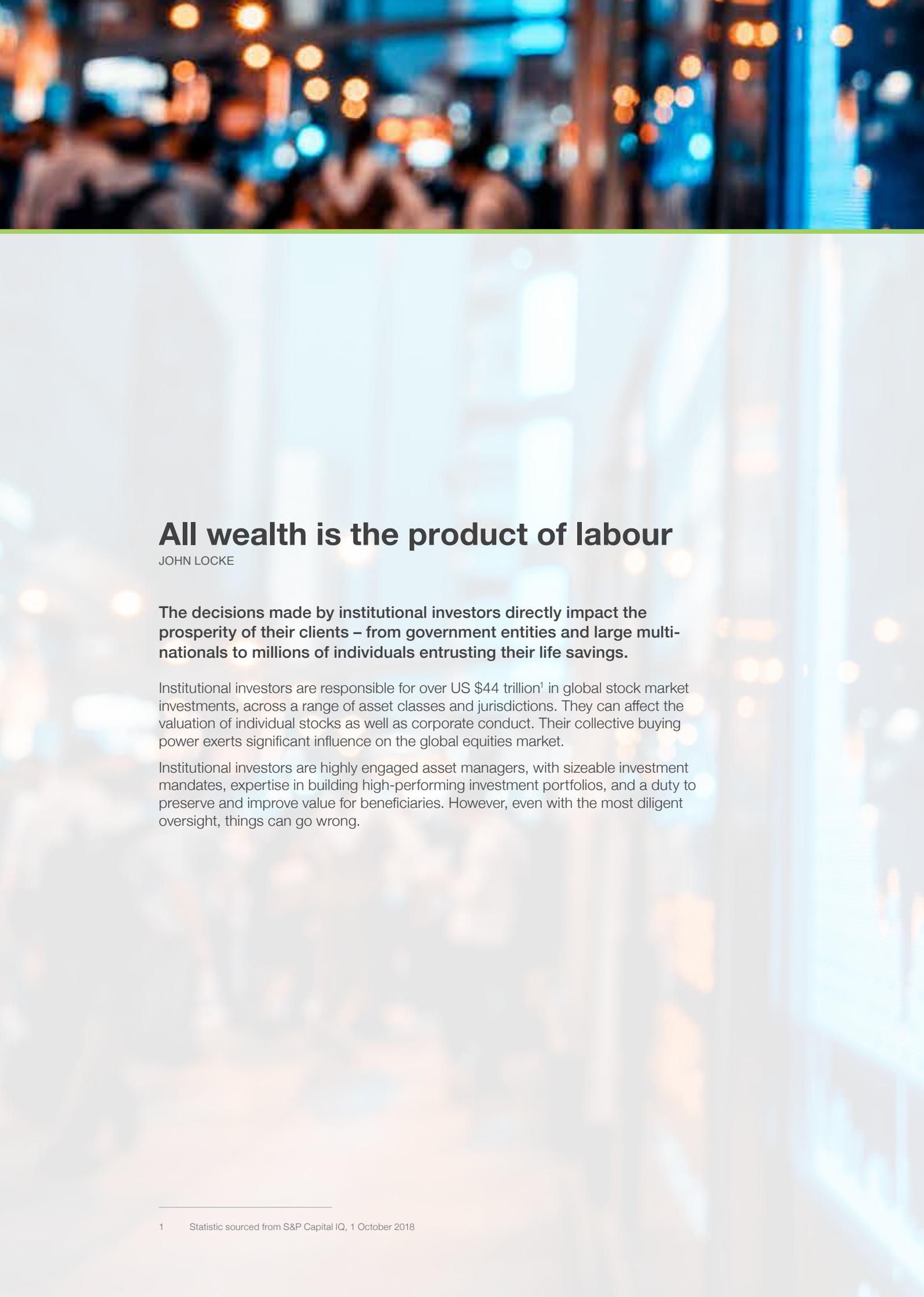


Global Recovery Solutions for Institutional Investors

IMF
BENTHAM
INTERNATIONAL LITIGATION FUNDING



All wealth is the product of labour

JOHN LOCKE

The decisions made by institutional investors directly impact the prosperity of their clients – from government entities and large multi-nationals to millions of individuals entrusting their life savings.

Institutional investors are responsible for over US \$44 trillion¹ in global stock market investments, across a range of asset classes and jurisdictions. They can affect the valuation of individual stocks as well as corporate conduct. Their collective buying power exerts significant influence on the global equities market.

Institutional investors are highly engaged asset managers, with sizeable investment mandates, expertise in building high-performing investment portfolios, and a duty to preserve and improve value for beneficiaries. However, even with the most diligent oversight, things can go wrong.



When investments lose value

Institutional investors are sometimes confronted with misconduct, alleged wrongdoing, or even fraud at investee companies that can lead to significant losses in their investments.

Three types of securities fraud leading to value erosion:

Accounting fraud	When a company's share price falls due to admissions financial statements were inaccurate.
Projections fraud	When top company officers make misleading false projections.
Prospectus liability	When company officers fail to disclose material information in a registration statement or prospectus. This may include adverse trends or the loss of a major customer.

The price of greatness is responsibility

SIR WINSTON CHURCHILL

When value erosion has been caused by corporate misconduct or fraud within an investee company, there are established and effective remedies for restitution.

One of the most successful recourses is collective redress through group or class actions. Institutional investors are increasingly using this option around the world to recover significant sums on behalf of beneficiaries.



Acting as a good steward

There is an unprecedented focus on the fiduciary duty of institutional investors to act in the best interests of their beneficiaries when it comes to selecting investments and monitoring investee companies.

This stewardship can extend beyond preserving and delivering value for beneficiaries to recovering lost value of investments.

Pursuing claims through funded group actions offers the opportunity to, on a derisked basis:

- hold wrongdoers to account
- influence corporate conduct and governance
- deter securities fraud.

Government action alone can be insufficient, with public agencies often under-resourced. Private causes of action such as class actions recover far more for defrauded investors than the government.



Investors should be open to collaborating with other investors (... domestic and overseas...) to leverage the voice of the minority investors and exert influence... with investee companies.

International Corporate Governance Network (ICGN), 2016 Global Stewardship Principles, Guidance 4.5.



Minority shareholders should be protected from abusive actions ... and should have effective means of redress. Proper remedies and procedural rules should be put in place to make the protection effective and affordable.

International Corporate Governance Network (ICGN), 2018 Guidance on Investor Fiduciary Duties, Guidance 8.10.



Securities litigation around the world

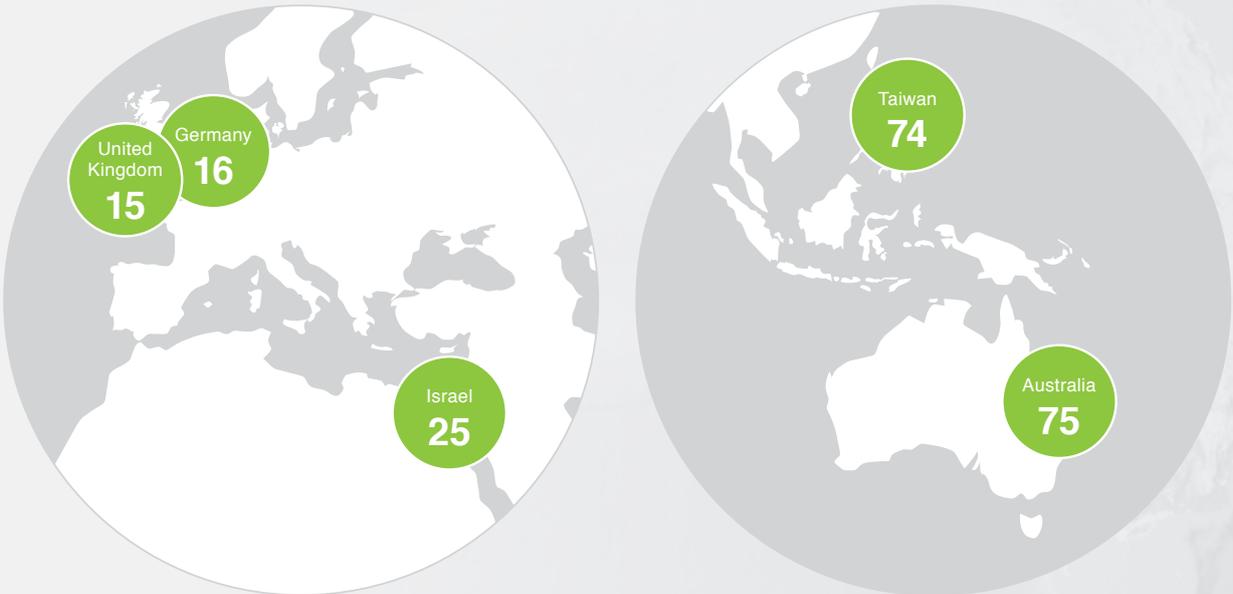
With diverse global investor portfolios, institutional investors may need to consider class actions in multiple countries.

Within the US, hundreds of securities class actions are filed every year, and these are growing. The median settlement nearly doubled in 2018 and the settlement pipeline currently stands at US \$11 billion². Global class actions have been on the rise since the 2010 US Supreme Court decision in *Morrison v. National Australia Bank Ltd*, which held that US federal securities laws apply only to securities purchased on domestic stock exchanges. Since then, investors have increasingly turned to class and collective redress actions around the globe. Today, shareholder securities litigations filed against Royal Bank of Scotland and Tesco in the UK, Volkswagen in Germany, and Olympus and Toshiba in Japan have either settled or are working their way through their respective court systems.

Outside the US, the number of new securities class actions filed every year has almost doubled since 2014, with active jurisdictions across the globe, from Australia and Asia to the Middle East, Europe and the UK.

Pursuing claims in foreign jurisdictions requires specialist expertise. Legal frameworks differ between countries and strategies must be tailored for each environment. IMF Bentham has up-to-date insight into the legal status of, and market appetite for, third party finance and shareholder class actions in key jurisdictions around the world including Australia, England and Wales and the European Union.

NUMBER OF SECURITIES CLASS ACTIONS IN THE MOST ACTIVE COUNTRIES (2014-2018)³



² <https://www.issgovernance.com/securities-class-action-services/>
³ ISS Securities Class Actions services webinar – Understanding the complexity of global securities litigation - 24 January 2019



How third party dispute finance helps institutional investors

Teaming with a highly experienced, well-resourced dispute financier enables institutional investors to navigate complex legal landscapes to maximise recoveries.

IMF Bentham dispute finance is often used for multi-party actions to recover investment losses.

As dispute financier, IMF Bentham:

- Funds the claim but does not provide legal advice, and is not a party to the litigation
- Assumes legal costs (including adverse costs and security for costs in 'loser pays' jurisdictions) in return for a share of the recoveries
- Offers non-recourse finance
- Contributes to case strategy and commercial insight
- Provides project management including shareholder communication

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Institutional investors have a duty to pursue recoveries for their clients. The question is not whether to participate in a class action, it is which team of lawyers and funders to join. Quality of service and a proven track record with a high rate of success makes IMF Bentham second to none.

John Abernethy, Director,
Clime Investment Management Limited

“

If IMF is funding it, it's been properly researched and it's a good case.

Partner, leading law firm



Choosing the right funding partner is critical

Institutional investors may need to decide whether to join a class action, when to join, which class to join if multiplicity exists, and how to engage investees.

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We take on the cost and risk of disputes and in return, we only recover our expenses and a commission when the claim resolves.

In addition to capital, our highly experienced Investment Managers provide valuable strategic and project management support throughout the claim.

Andrew Saker
Managing Director
and Chief Executive Officer



Asking the right questions

If you are weighing up the merits of pursuing a claim or there are competing proposals on the table, you may like to ask the following

QUESTIONS TO ASK A THIRD-PARTY FUNDER	THE IMF BENTHAM ADVANTAGE
<p>Funder reputation and experience Tell me about your reputation and track record. Is this a speculative or frivolous action?</p>	<p>We have a 90% success rate for completed matters over our 17-year history. We understand which cases to fund and how to run them to bring you a successful result.</p>
<p>Due diligence How do you decide which claims to fund?</p>	<p>One of our strengths is our due diligence. We draw on our extensive experience to assess the strength of a case and whether it is likely to succeed. We consult with the client's legal advisers and do our own due diligence at no extra cost.</p>
<p>Capital Do you have the cash reserves to fund large cases through to completion (settlement or court hearing)?</p>	<p>IMF Bentham is an ASX-listed company with transparent funding resources, financial reporting and governance. We budget that a case will ultimately go to trial and we have the resources to back claims to resolution.</p>
<p>Adverse Costs Do you have adequate insurance cover? How much will the cover cost us? Do you have sufficient capital to cover adverse costs if insurance cover is inadequate?</p>	<p>After The Event (ATE) insurance premiums can add significantly to your case costs and the cover may be inadequate. Our unique global ATE policy assists in covering these costs on your behalf.</p> <p>As part of our funding package, we can also provide security for costs.</p>
<p>Commission How is the funding commission calculated?</p>	<p>We have a simple, transparent pricing structure. Unlike other funders, we typically calculate our commission on the resolution amount, not the costs of the case. This gives us an incentive to keep those costs down.</p> <p>We are committed to achieving the best possible outcome for you.</p>
<p>Resources Do you have an experienced team of Investment Managers to project manage the case? What impact will this have on our in-house legal team? Can you offer global coverage?</p>	<p>Our large team of highly experienced Investment Managers specialise in leading due diligence, managing projects and litigation budgets. Having an Investment Manager assigned to your case can save you time and supplement your legal team.</p> <p>We have 14 offices in 6 countries and can work in 14 languages. Unlike other funders, we also have teams on the ground whose local knowledge can support you in key jurisdictions.</p>
<p>Book build and communication Do you have the resources to undertake book building, manage mass communication to claimants and generate loss reports?</p>	<p>Our highly skilled Client Team uses proprietary, bespoke technology to deliver these services for clients at no extra cost – it's all part of the IMF service.</p>



QUESTIONS TO ASK A THIRD-PARTY FUNDER	THE IMF BENTHAM ADVANTAGE
<p>Law firm reputation and experience Is the proposed law firm a leader in this field?</p>	<p>Over many years we have formed close working relationships with the leading class action firms.</p>
<p>Corporate brand and reputation How will you protect our reputation?</p>	<p>Our finance publicly strengthens your claim and protects your corporate reputation by enabling you to assert your market position.</p> <p>In most jurisdictions, the dispute would be public knowledge. However, we will maintain confidentiality in respect of individual participants in line with the funding agreement (and subject to local filing requirements and local laws).</p>
<p>Confidentiality and privilege How will you protect the confidentiality and legal professional privilege of our information?</p>	<p>When a potential recoveries case has arisen, we will begin investigating the matter and will agree to protect confidentiality and privilege.</p>
<p>Conflict of interest How will you manage any potential conflicts of interest?</p>	<p>We are happy to provide a copy of our conflicts management policy. We handle confidential and commercially sensitive information every day with integrity.</p> <p>As dispute financiers, we ensure lawyers act in the best interests of the claimant. Our Funding Agreement provides the lawyers owe their professional duties primarily to you over IMF.</p>
<p>Decision-making How are decisions made?</p>	<p>Material decisions are made with the representative party and professional advisors. We tailor decision protocols to the situation and the parties.</p>
<p>Getting the best outcome for group members How will you and the law firm work together to get the best result for us?</p>	<p>As well as financing, IMF's Investment Managers are skilled at investigating and project managing complex litigation. The law firms we work with are specialists in their field. Based on years of litigation experience, together we know when to apply commerciality and how to bring about successful outcomes.</p>



Achieving results since 2001

IMF Bentham evaluates hundreds of class actions and achieves successful resolutions for thousands of claimants. We have unmatched expertise in identifying cases with merit and commercial viability.

Current and recent examples include

Danske Bank – proposed action against Danish financial institution seeking compensation for losses close to EUR 1 billion. Followed alleged errors by management and bank's failure to disclose alleged unlawful activities in its Estonian branch. The case is proposed to be brought in Denmark and is being investigated by regulators in Germany, France, Sweden, the UK and US.

Tesco PLC – group action by shareholders of UK's largest supermarket chain to recover losses caused by major accounting fraud. One of the first shareholder cases ever to be brought in UK under s.90A of Financial Services & Markets Act 2000⁴.

Volkswagen AG – claim before German courts under KapMuG seeking compensation for sharp fall in share price caused by non-disclosure of diesel emissions scandal⁵.

Treasury Wine Estates Limited – class action brought in Australia by institutional and retail investors seeking damages caused by Treasury Wine Estates' failure to disclose material information concerning excess inventory held by US distributors. Claim settled in 2017 for \$ 49m.

Commonwealth Bank of Australia – shareholder class action against one of Australia's leading banks regarding alleged failure to keep shareholders properly informed of non-compliance with Anti-Money Laundering and Counter-Terrorism Financing Act 2006.

Sirtex Medical Limited – class action by shareholders in Australia against leading medical device company alleging misleading statements and non-disclosures related to earnings and sales growth, and that CEO engaged in inappropriate share trading activities, causing loss and damage to shareholders.



IMF Bentham recovered the value I lost on my share portfolio. They negotiated expertly on my behalf, kept me informed, calculated and distributed recoveries quickly and were a pleasure to deal with throughout. They are the experts in this field and I was in a safe pair of hands. It was an effortless experience for me.

Brian Jones, retail investor and representative plaintiff, Treasury Wines Estate Class Action, 2017

Vocation – class action in Australia by shareholders claiming loss due to vocational education and training company's alleged misleading and deceptive conduct concerning compliance issues and financial statements and failure to disclose material information.

4 IMF Bentham funded until 2017 (via joint venture)

5 IMF Bentham funded until 2017 (via joint venture)



Obtaining finance

<p>1 INITIAL ASSESSMENT</p>	<p>When a potential recoveries case has arisen, we will begin investigating the matter. We may also analyse your trade data and make a preliminary calculation of your losses.</p> <p>A dedicated Investment Manager will manage this process and make an initial assessment of the case information.</p>
<p>2 DUE DILIGENCE</p>	<p>The initial assessment is followed by an in-depth review to consider key criteria including the strength and merits of the case, the defendant's capacity to pay and the project budget.</p>
<p>3 APPROVAL, OFFER AND FUNDING AGREEMENT</p>	<p>If the case meets key criteria, a due diligence report is prepared and assessed by IMF's Investment Committee (which comprises experienced former dispute lawyers and a former Supreme Court Judge).</p> <p>If approved, a formal offer is made to fund, and a Funding Agreement negotiated and executed.</p>



A commitment to environmental, social and corporate governance

By teaming with IMF Bentham to recover value for your shareholders, you are aligning your brand with an organisation built on a reputation for integrity and trust.

Our company values are transparency, innovation, entrepreneurship, fairness, partnership and rigour. We live and breathe these values every day. We believe in setting the benchmark for what it means to be a respected dispute financier today and we are grateful for the market's recognition of our achievements in this regard.

Access to justice

Our privileged position in the market makes it possible to promote access to justice for people and parties who could not otherwise afford to make a claim. For example, we support local communities by financing cases which advance the public interest including:

- redress for property and business damage due to PFAS chemical contamination of water supplies for three rural communities in Australia
- representing more than 5,000 individuals and businesses in a class action against dam operators following the 2011 floods in the state of Queensland, Australia.



It is intrinsically rewarding to finance claims which advance public interest and deliver recompense for aggrieved parties who are representative of the wider community.

Laura Maytom
Associate Investment Manager



Profitability, growth, and safeguards against... risks are crucial to strengthening a company's long-term prospects. But if these three factors constitute a company's 'hard power,' firms also need 'soft power': public trust and acceptance, won by fulfilling a company's social responsibility.

Klaus Schwab, founder and executive chairman of the World Economic Forum





Financing research and advancing the industry

We fund research that advances access to justice



University of New South Wales Class Action Research Initiative
Financing research in class actions practice



Public Counsel, Los Angeles, California, USA
Supporting United States' largest pro bono law firm



Monash University, Victoria Australia
Financing research in class actions practice



University of California, USA
Underwriting research for policy-makers to ensure continued access to justice

We provide our time to educate and support future generations of legal practitioners



Osgoode Hall Law School, York University, Toronto, Ontario, Canada
Educating and supporting tomorrow's legal leaders



Queen's University Kingston, Ontario, Canada
Educating and supporting tomorrow's legal leaders

Curious to know more?

We would be delighted to explore tailored solutions to recover shareholder value for you.

Noah Wortman

Business Development Manager
(Global Investor Recoveries)
Philadelphia & London

Noah leads IMF Bentham's global program for assisting institutional investors in finding global litigation and shareholder engagement solutions. He has extensive experience advocating for investors, connecting them with law firms and funders to pursue investment recovery actions throughout the world. Noah is also a frequent speaker around the globe on shareholder legal redress, recovery, rights and responsibilities.

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Jeremy Marshall

Senior Investment Manager
London

Jeremy has been involved in shareholder cases as a lawyer and a funder. He has considerable experience building and managing shareholder actions in the UK and Europe and has recently worked on significant cases including Tesco (UK) and Volkswagen (Germany).

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Oliver Gayner

Head of UK and EMEA office
Sydney

Oliver has extensive experience in dispute financing across UK, EU and APAC covering insolvency, commercial litigation, international arbitration and multiparty claims. He practised in England and Wales in commercial litigation and international arbitration at leading law firms Freshfields and Olswang.

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Alistair Croft

Investment Manager
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Alistair has managed the funding of large shareholder actions in England and Europe, advising on claims valued in excess of €2bn, including those against Volkswagen (Germany), Danske Bank (Denmark) and Tesco (UK). He is a former barrister and litigation partner in private practice.

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Naomi Loewith
Investment Manager
and Legal Counsel
Toronto

Naomi has advised on complex commercial matters, acting for corporations, boards of directors, senior executive management and public institutions. She was previously a litigator at Lenczner Slaght Royce Smith Griffin LLP. She is co-chair of Ontario's Harvard Law School Women's Alliance.

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Matthew Kennedy
Investment Manager
Melbourne

Matthew has extensive experience in multi-party actions and leads IMF Bentham's investments in some of the largest class actions in Australia. A former barrister at the Victorian Bar, he has previously worked in private practice at a leading law firm and as an associate to a Federal Court judge.

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Ewen McNee
Investment Manager
Sydney

Ewen oversees and manages IMF Bentham's investments in numerous securities class actions, seeking recoveries of hundreds of millions of dollars for claimants. He has specialised in litigation funding since 2011.

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Kristen Smith
Investment Manager
Melbourne

Kristen has extensive litigation experience with key skills in project managing complex disputes. Before joining IMF Bentham, she advised on numerous successfully resolved securities class actions, large-scale alternative dispute resolution schemes, corporations law matters, and financial services disputes at a leading law firm. She was previously associate to a Supreme Court judge.

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