

Premium Income Fund

NSX Release: 30 March 2011



Review to identify all recovery options

Wellington Capital Limited as responsible entity of the Premium Income Fund has engaged a nationally respected corporate recovery expert and an independent law firm to undertake a further review of all of the assets held by the Fund to ensure that every legal action which has the potential for positive recovery to Unitholders of the Premium Income Fund has been identified and is vigorously pursued.

Litigation Update

Wellington Capital Limited as responsible entity of the Premium Income Fund provides the following update in relation to litigation surrounding the Premium Income Fund and its former responsible entities, parent companies and associated officers.

Public Examinations

Public examinations of the officers and advisers of the Octaviar group continue to be conducted by the Liquidators.

Unitholders will be aware from media reports that there has been questioning in these examinations in relation to the events surrounding the Premium Income Fund during late 2007 and early 2008, and particularly regarding the draw down of the Fund's finance facility at that time, which was prior to Wellington Capital Limited's involvement with the Fund. The Fund is not involved in the public examinations, however Jenny Hutson remains in dialogue with the Liquidators to ensure that this is an open avenue for recovery at an appropriate future time.

Committee of Creditors: Octaviar Limited and Octaviar Administration Pty Ltd

Jenny Hutson remains a member of the Committee of Inspection of Creditors in relation to the liquidation of Octaviar Limited and Octaviar Administration Pty Ltd which is being undertaken by Bentleys Corporate Recovery.

A Committee of Inspection assists the Liquidator, approves fees and, in limited circumstances, approves the use of some of the Liquidator's powers, on behalf of all the creditors. The Committee of Inspection acts by a majority in number of its members present at each meeting. A Liquidator must consider any directions given by the Committee of Inspection, but is not bound to follow them.

The Liquidators have called for Proofs of Debt in relation to these companies. **Wellington Capital Limited has lodged a Proof of Debt totalling \$211 million on behalf of the Premium Income Fund with the Liquidators.**

ASIC v King & Ors – Queensland Supreme Court Proceedings

These proceedings were filed by ASIC in 2009, alleging that:

- in November 2007, officers of the former responsible entity caused the Premium Income Fund to transfer \$130 million to MFS Administration Pty Ltd so that MFS Administration Pty Ltd could use those funds to pay financial obligations of other MFS Ltd subsidiaries, including \$103 million owed to Fortress Credit Corporation (Australia) Pty Ltd by MFS Castle Pty Ltd;
- in December 2007, officers of the former responsible entity caused the Premium Income Fund to transfer \$17.5 million to MFS Pacific Finance Ltd, a New Zealand registered company (now known as OPI Pacific Finance Ltd (Receivers and Managers Appointed)); and
- that in about January 2008, officers of the former responsible entity and the fund manager created and used false documents relating to the use of the \$147.5 million.

As a result of the funds being transferred, the proceedings allege that the Premium Income Fund suffered a loss of \$147.5 million.

Jenny Hutson, Managing Director of Wellington Capital Limited as responsible entity for the Premium Income Fund has met with ASIC to ascertain how Wellington Capital Limited can assist ASIC. ASIC has wide powers, and Wellington Capital is committed to assisting to ensure that there is maximum prospect of recovery in this case for Unitholders.

Queensland Supreme Court Proceeding for \$147.5 million against Octaviar Limited (in liquidation), Octaviar Administration Pty Ltd (in liquidation) and OPI Pacific Finance Limited (receivers and managers appointed)

This Claim was filed by Wellington Capital on 24 June 2008 in relation to the draw down of the finance facility with the Royal Bank of Scotland in November and December 2007. This proceeding remains current regardless of the proof of debt lodged and any other court proceedings which have commenced since that time.

Class Action

As set out the Fund's separate announcement regarding the class action of today's date, Wellington Capital Limited as responsible entity of the Premium Income Fund wishes to clarify false statements made in relation to its role in the Class Action.

Wellington Capital Limited, as responsible entity of the Premium Income Fund, does not have and has never had documents in its possession that are necessary for the lawyers to argue the case other than the five volumes of material provided in July 2009.

Documents that may be relevant are held by Bentleys Corporate Recovery, liquidators of the former MFS companies.

Unitholders will be aware that the legal representation of the class action members changed in November 2010. Wellington Capital Limited as responsible entity of the Premium Income Fund has made contact with the new lawyers representing the class action members with a view to offering assistance in relation to the revised pleading which is due to be filed with the Federal Court of New South Wales by 22 April 2011.

Managing Director, Jenny Hutson said, *'I appreciate how important the Class Action is to Unitholders. I have contacted HWL Ebsworth and indicated that I will personally assist them in any way I can to formulate the Unitholder case which must be filed with the court by 22 April 2011.'*

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