

Premium Income Fund

Investor Update: July 2011



Wellington
PREMIUM INCOME FUND

Issue 2A, 2011

Dear Unitholder

My aim continues to be to maximise the cash returned to you from the assets of the Fund. My team has, and will continue, to strive to achieve the best outcome for you in the shortest possible timeframe.

I am committed to ensuring that my team works with integrity, diligence and in a professional manner.

In the last three months, the following key achievements have been made:

- \$40.7 million in contracts have been signed;
- negotiations have progressed well on the sale of 50% of the Chifley Wollongong Hotel, which I expect will yield approximately a further \$10 million;
- major assets including the Forest Resort at Creswick have been made ready for sale and will be taken to the market;
- two proposals have been made to take control of your Fund – the first from ALF PIF, and the second from Castlereagh. Deliberately misleading, ambiguous, unfounded and inflammatory statements have been made by the proponents of both of these proposals about Wellington Capital and the Fund. Both proposals have now been dismissed by you, the Unitholders.

I am most grateful for the support received from you.

I am particularly grateful for the letters, emails and calls of support and encouragement which I have received from you over recent times.

I aim to continue to ensure that the Fund has no debt, is well managed, and delivers returns to you as soon as possible.

My objective is to sell the underlying assets of the Fund within two years and return the proceeds to you.

Separately, I will continue to pursue all relevant litigation and the \$211 million claim which the Fund has in the MFS liquidation.

Kind regards

Jenny Hutson
Managing Director
Wellington Capital Limited



This investor update contains, where applicable, a restatement of NSX announcements made in the period for those Unitholders who do not have internet access.

Executive Summary

- ✿ Contracts entered into for a number of assets held as security for defaulted loans. Upon settlement of these contracts, \$40.7 million will be returned to the Fund.
- ✿ Joint venture entered into in relation to property located at Trinder Avenue, Maroochydore, Queensland.
- ✿ Negotiations well advanced in relation to sale of half of the Fund's interest in the trust that owns the Chifley Wollongong Hotel.
- ✿ Tax statements to be despatched to Unitholders in August 2011.
- ✿ Annual Financial Report for 30 June 2011 to be released and despatched to Unitholders by 15 September 2011.
- ✿ ALF PIF Takeover declared unacceptable by Takeovers Panel and takeover cancelled.
- ✿ Unitholder meeting called to replace Wellington Capital Limited as responsible entity of the Fund declared invalid by Federal Court. Proxies show that if the meeting had proceeded, Wellington would have remained as responsible entity of the Fund.
- ✿ Rights Issue cancelled after Federal Court decides it cannot proceed. As a consequence, changes to the Constitution of 9 May and 16 May 2011 are revoked.



Trinder Avenue, Maroochydore – Joint Venture

Wellington Capital Limited as responsible entity of the Premium Income Fund and as mortgagee in possession is pleased to announce that a contract has been signed and settled in relation to the properties at 4, 12, 22, 23, 24 and 30 Trinder Avenue, Maroochydore.

The property, located at Maroochydore on the Sunshine Coast in Queensland, is a residential development site, part of which has previously been sold with the net proceeds used to reduce debt to the Fund.

The property has been sold 'as is', to a purchaser who plans to undertake the development, in accordance with the existing development application. The arrangement saw the purchaser pay \$100,000 on completion and have the obligation to source and provide all capital required to undertake the development of the land into 30 residential lots.

The capital required to undertake the development will then be repaid from the sales proceeds.

The developer will then be paid \$40,000 per lot and the Fund will then be paid \$40,000 per lot. The balance net proceeds will be apportioned 50% to the Fund and 50% to the developer.

This arrangement will ensure that the Fund enjoys some of the economic benefits of the land being developed and sold whilst having the developer procure and be responsible for funding, delivery and sale.

The outcome is a 'win/win' for the Fund and the developer and will ensure that the subdivision is undertaken in the near term.

This property at Trinder Avenue, Maroochydore is security for one of the Fund's mortgage loans and has previously been taken to the market. A number of parties have previously undertaken due diligence on the site.

Managing Director, Jenny Hutson said:

'This sale will see the lots developed and sold in the near term. The market for this style of land in Maroochydore has been strong. This arrangement will optimise the return to the Fund and therefore to Unitholders.'



PGA Agreement – Forest Resort, Creswick

Wellington Capital Limited as responsible entity of the Premium Income Fund is pleased to announce that a contract has been signed to host the Victorian PGA Championship at the Novotel Forest Resort Creswick located at Creswick, Victoria.

Wellington Capital Limited as responsible entity of the Premium Income Fund is mortgagee in possession of the underlying security property at Forest Resort located at Creswick, Victoria which comprises of a hotel, golf course, residential development, water treatment plant and two level villas.

The Novotel Forest Resort Creswick is a luxury four and a half star, 144 rooms eco-friendly hotel which opened on 26 March 2008. The hotel comprises various facilities in addition to the golf course including gym, day spa, restaurants, conference facilities and tennis courts. The hotel is situated amongst 150 acres of bushland and is a short distance from Bendigo and Ballarat.

The 18 hole, 72 par championship golf course was designed by internationally renowned golf course architect Tony Cashmore.

The Novotel Forest Resort Creswick will have the rights to host the Victorian PGA Championship at the Novotel Forest Resort Creswick for the next five years from 2012 to 2016.

Managing Director, Jenny Hutson said

'To sign a contract to host the Victorian PGA Championship at the Novotel Forest Resort Creswick represents an exciting opportunity to economically benefit both the Fund and residents of the Forest Resort and greater community. It is pleasing that an excellent result for the Novotel Forest Resort Creswick has been achieved with a party who intends to promote the Victorian PGA Championship at a premier regional venue and add value to a great asset.'





Contracts

Wellington Capital is committed to returning the net cash from sales to Unitholders as security properties are sold whilst also ensuring that properties are well positioned for sale.

The Fund has contracts to sell the following:

Asset	Contract	Proceeds
Kooralbyn International Resort, Queensland	Conditional contract announced 18 May 2011. Settlement within 18 months.	\$22 m
Holiday Inn, Gold Coast, Queensland	A call option over 31 apartments has been entered into for a period of three months. 63 apartments remain to be sold.	\$5.68 m
Chifley Wollongong apartments, New South Wales	Settlement has occurred in relation to a penthouse level apartment in the Chifley Wollongong complex. Five Chifley residences remain to be sold.	\$0.94 m
Icon Port Macquarie, New South Wales	Settlement has occurred in relation to one apartment in the Icon Port complex. 15 apartments remain to be sold.	\$0.55 m
Mackay, Queensland	Conditional contract for sale of adjacent residential land with development approval for apartments. Completion due September 2011.	\$2 m
Tweed Heads, New South Wales	Conditional contract of sale for development site. Completion due September 2011.	\$7 m
Lithgow, New South Wales	Conditional contract for sale of vacant land with development approval. Completion due August 2011.	\$0.25 m
Residential land, Forest Resort, Creswick, Victoria	13 conditional contracts for sale of vacant residential land. Three contracts will settle during July 2011. The remaining 10 contracts will settle within 12 months.	\$2.28 m
Total		\$40.7 million

These sales represent a positive step in the sales program of the underlying security assets. Specialised marketing campaigns to sell the remaining assets continue, with the aim being to return maximum funds to Unitholders.

Fund Asset Update

Recently settled contracts

Chifley Wollongong, New South Wales



Security type:

Residential apartments within hotel complex

Status:

Settlement has occurred in relation to a penthouse level apartment in the complex. Settlement proceeds were \$0.94 million.

Five Chifley residences remain to be sold.



Recently settled contracts

Port Macquarie, New South Wales



Security type:

Residential apartment complex

Status:

The development of this property has been completed by the Fund.

15 of 26 apartments remain available for sale. Most recent sale of one apartment saw proceeds returned to Fund of \$0.55 million.

Trinder Avenue, Maroochydore, Queensland



Security type:

30 lot residential subdivision with development approval

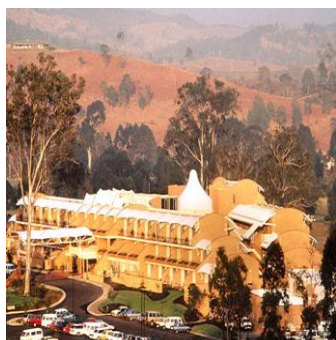
Status:

This asset has been sold.

Return to the Fund is in three parts: \$100,000 which has been paid, together with \$40,000 per lot sold and then 50% of the net profit after project costs.

Properties currently under contract

Kooralbyn International Resort, Kooralbyn, Queensland



Security type:

100 room hotel, golf course, school and residential land.

Status:

Conditional contract entered into. On settlement, net proceeds to be returned to the Fund are \$22 million.

The contract is subject to an 18 month deferred settlement and is conditional upon finance and finalisation of town planning considerations by the Conditions Date which is eight months from the contract date namely 16 January 2012.

Holiday Inn, Surfers Paradise, Queensland



Security type:

104 apartments in the Holiday Inn

Status:

A conditional call option over 31 apartments has been entered into.

On settlement of the 31 apartments, proceeds to the Fund will total \$5.68 million.

The balance 73 apartments are for sale.



Properties currently under contract

Mackay, Queensland



Security type:

Status:

Adjacent residential land with development approval in place

Conditional contract entered into. Due to settle September 2011.

On settlement, net proceeds will be \$2 million.

Tweed Heads, New South Wales



Security type:

Status:

Land with development approval

Conditional contract of sale. Completion due September 2011.

On settlement, net proceeds will be \$7 million.

Lithgow, New South Wales



Security type:

Status:

Residential property

Conditional contract of sale. Due to settle August 2011. On settlement, proceeds to be returned to the Fund will be \$0.25 million.

Forest Resort, Creswick, Victoria



Security type:

Status:

Residential land

The existing residential lots are being marketed for sale.

13 conditional contracts for vacant residential land have been entered into. 10 contracts have a settlement period of up to 12 months. The remaining 3 will settle shortly. The total purchase price for the 13 lots is \$2.28 million.



Other assets held by the Fund as security for loans

Forest Resort, Creswick, Victoria



Security type:

91 of the 144 rooms in the hotel are held as security together with the 18 hole golf course and surrounding residential land. The hotel is operated by Accor as the Novotel Creswick.

Status:

There are three potential purchasers who have expressed interest in buying the whole of the Forest Resort.

A formal marketing campaign will commence shortly.

Dunns Creek, Hunter Valley, New South Wales



Security type:

20 lot residential land subdivision

Status:

Funds raised in the recent placement to be applied to optimise this asset for sale.

Helidon, Queensland



Security type:

Sandstone quarry

Status:

The Fund is mortgagee in possession of the freehold property and the quarrying lease.

Marketing of the property for sale continues.

Lane Cove, New South Wales



Security type:

Strata titled storage facility

Status:

This property is immediately adjacent to another storage facility in Lane Cove. Marketing of the property for sale continues.

Main Beach Parade, Gold Coast, Queensland



Security type:

Waterfront land with development approval

Status:

This project has development approval for a 16 level highrise. Capital is required to undertake development directly or with a development partner. Marketing of the property for sale or joint venture continues.



Other assets held by the Fund as security for loans

Mission Beach, Queensland



Security type:

Land with development approval for tourist facility

Status:

Negotiations to sell the land continue to be conducted by the borrower.

Nambucca Heads, New South Wales



Security type:

Land with development approval for 12 apartments

Status:

This site is being marketed for sale by Colliers.

Nelsons Bay, New South Wales



Security type:

Land with development approval for 33 apartments

Status:

This site is being marketed for sale by Colliers.

Port Macquarie, New South Wales



Security type:

Residential apartment complex – Icon Port

Status:

The development of this property has been completed by the Fund. 11 apartments have been sold.

15 apartments remain for sale. Apartments are being marketed for sale by LJ Hooker and Ray White Port Macquarie



Other assets held by the Fund as security for loans

Townsville, Queensland



Security type:

Land with development approval

Status:

Funds raised in the recent placement are to be applied to this asset to optimise its realisable value.

Chifley Wollongong, New South Wales



Security type:

Units in the trust which owns 168 room hotel, together with five Chifley residences above the hotel

Status:

168 room hotel is complete and operated by Constellation as the Chifley Wollongong.

Negotiations are well advanced in relation to the sale of 50% of the Fund's interest in the trust that owns the Chifley Wollongong Hotel at valuation.

Other investments

The Fund also holds direct interests in the form of interests in other managed investment schemes and has four investments in asset backed securities including with Living & Leisure Australia.



Class Action

Wellington Capital Limited in its capacity as Responsible Entity for the Premium Income Fund has entered into a funding agreement with IMF (Australia) Limited (ASX:IMF) in relation to Federal Court Proceedings NSD 324/009. The consequence is that Wellington Capital will become an applicant in the claim in its capacity as responsible entity of the Premium Income Fund.

Jenny Hutson Managing Director said:

'As advised on 30 March 2011 Wellington Capital remains focussed on ensuring that every legal action which has the potential for positive recovery to Unitholders is vigorously pursued. Our aim has always been to understand the time cost and benefit of potential litigation and to position the Premium Income Fund and our Unitholders to ensure the best potential outcome'.

'The legal representation and strategy for class action members changed in November 2010. Wellington Capital as responsible entity for the Premium Income Fund has been in discussions with IMF and HWL Ebsworth to reach this agreed way forward.'

Application of any proceeds from NSD 324/009

Wellington Capital has entered into the agreement with IMF on behalf of the Premium Income Fund. It has agreed in that capacity that it will convene a Unitholders meeting of the Premium Income Fund within 30 days of receipt of proceeds in finalisation or settlement of the claim. The purpose of the meeting of Unitholders will be to enable the Unitholders in general meeting to consider an amendment to the Constitution of the Premium Income Fund, so that those Unitholders who were members of the Premium Income Fund on 15 October 2008, and remain members at the time of the finalisation or settlement of the claim, are pro-rata the beneficiaries of the proceeds.

Takeover bid by ALF PIF

On 18 April 2011 ALF PIF Finance Limited sent material to Unitholders in relation to the purported extension of its takeover offer for units in the Premium Income Fund. The material contained misleading, ambiguous, unfounded and inflammatory statements about the Fund and Wellington Capital.

Wellington Capital made application to the Takeovers Panel regarding the offer made by ALF PIF.

The Takeovers Panel made a declaration of unacceptable circumstances on 3 June 2011 in relation to the affairs of the Fund and ordered that:

- ✿ ALF PIF make an announcement to the market (in a form approved by the Panel) that its off market takeover bid for all the units in PIF ended on 28 February 2011 without the conditions having been fulfilled or waived and that all acceptances would be returned as soon as is practicable.
- ✿ No acceptances be processed that have not already been processed by ALF PIF in relation to the bid.
- ✿ Any acceptances that have been processed be reversed.

- ✿ All acceptances received by ALF PIF in relation to the bid be returned to Unitholders as soon as practicable after the date of the order.
- ✿ None of ALF Finance, Mr James Byrnes or any associate of either of them communicate with Unitholders in PIF, except as required by the orders, until after ALF PIF has complied with the orders and ALF PIF has confirmed satisfaction of the orders.
- ✿ ALF PIF confirm in writing to the Panel and all parties when it has complied with the orders.

As a consequence of the orders by the Takeovers Panel, all acceptances of the takeover offer were returned to Unitholders and the takeover offer is at an end.

Unitholder meeting declared invalid

On 13 July 2011 His Honour Justice Dowsett of the Federal Court made orders in relation to the Federal Court Proceedings 140 of 2011 brought by Wellington Capital in respect of the meeting convened by the PIF Action Group Incorporated and the requisitioning members.

His Honour made orders to the effect that:

'Pursuant to section 1322(2) of the Corporations Act 2001 (Cth) the meeting of unitholders of the Premium Income Fund first convened on 16 June 2011, adjourned to 23 June 2011 and again adjourned to 14 July 2011 was invalidly convened and gave rise to a substantial injustice that cannot be remedied by the Court and that the meeting was therefore invalid.'

His Honour indicated he had made an additional finding, namely that if he had otherwise been of the view that the meeting was validly convened, the meeting was dissolved at 11.15am on 23 June 2011, due to the absence of quorum at the meeting.

Wellington Capital invited his Honour to make the order referred to above, so that Unitholders would be informed, but otherwise could refrain from making further formal orders until his reasons were finalised. His Honour adopted that course.

Managing Director, Jenny Hutson said:

'Justice Dowsett's decision vindicates our position on the meeting notice issued by Castlereagh and the PIF Action Group. What the Judge has determined is that it is necessary to comply with the Corporations Act and the Constitution of the Fund when calling a meeting and holding a meeting. His Honour has recognised that there has been a substantial injustice not capable of remedy by the courts, Castlereagh or the PIF Action Group.'

Wellington Capital would have remained responsible entity of the Premium Income Fund if the vote had gone ahead.

Investors in the Premium Income Fund have had a significant number of corporate actions to deal with over recent months.

Wellington Capital, whilst addressing the Castlereagh meeting and the unsuccessful ALF PIF takeover has ensured that its team has also remained focused on maximising asset value realisations so that the Fund is in the strongest possible position, the aim being to maximise the return to Unitholders.'



Further updates will be provided once His Honour delivers his judgement.

23 June 2011 meeting

Wellington Capital Limited as responsible entity of the Premium Income Fund sought to facilitate the meeting of unitholders in the Premium Income Fund scheduled to occur at 11.00am, 23 June 2011 which had been adjourned on 16 June 2011.

Wellington Capital Limited arranged for all proxies received by it to be collated and reviewed in relation to the 7 proposed motions to be considered at the adjourned meeting.

The quorum required for the meeting to validly proceed in accordance with Clause 10.3 of the Constitution required a minimum of four persons holding or representing in person, by proxy or attorney, at least 51% of units on issue in the Fund by number to be present.

The registry services arranged by Wellington Capital were excluded from occupancy of the premises by the meeting convenors. The registry was relocated to an adjacent floor at the meeting venue. The floor in between was locked on instructions from the meeting convenors, thereby physically excluding those who sought to register or attend the meeting through the registry services provided by Wellington Capital.

Computershare Investor Services, on behalf of the meeting convenors, then sought to facilitate registration of Unitholders for the meeting. They did not have in their possession the proxies held by Wellington Capital Limited as responsible entity of the Premium Income Fund and therefore were unable to properly determine who was present in person or by proxy.

Conversely, Wellington Capital Limited as responsible entity of the Premium Income Fund had access to all proxies, but due to its registry being excluded it did not have access, nor could it participate, in the determination of who was entitled to exercise their right to vote at the meeting.

The proxy position as set out on the following page was disclosed to the meeting convenors and Castlereagh Capital Limited prior to commencement of the meeting. The meeting convenors continued to refuse to allow Wellington Capital Limited's appointed registry to process registrations.

Jenny Hutson, Chairperson of Wellington Capital Limited said on 23 June 2011,

'If the meeting today had proceeded as it should have, there would have been a quorum and final resolution of these matters.

It is extremely disappointing that unitholders who have chosen to participate do not have a final outcome today.

I was ready, willing and available to chair today's meeting as is contemplated by the Premium Income Fund Constitution and the Corporations Act. All relevant steps had been taken to ensure that an orderly meeting that properly reflected the will of the Unitholders could occur.

Immediately prior to the meeting I had discussions with the meeting convenors with a view to cooperatively determining a way forward to validly conduct today's meeting in a way that

was in the best interests of Unitholders. When negotiations became intractable, the door to the room in which I was present was locked, preventing my exit. I required security assistance to be able to leave.

I understand that the meeting, which did not have the required quorum, was purportedly adjourned, but am presently unable to confirm this as Wellington Capital Limited was excluded from the meeting.'

Investor forums conducted by Castlereagh

Wellington Capital is aware that Castlereagh held an investor forum on 6 July 2011 where a range of questions were asked and responded to by Castlereagh.

The Investor Forum broadcast on 6 July 2011 makes false and misleading statements about Wellington Capital and its conduct and should be disregarded by Unitholders in the Fund.

Meeting on 23 June 2011

Wellington Capital was ready, willing, able and available to properly participate in the meeting on 23 June 2011. Castlereagh obstructed that occurring by:

- ✿ refusing to agree a way forward as to the meeting chair; and
- ✿ excluding Link Registry Services from participation in the meeting registration process.

Managing Director of Wellington Capital Jenny Hutson said:

'I have over 20 years experience in corporate meeting procedure. All of my actions and those of Wellington Capital were aimed at ensuring that Unitholders properly had the opportunity to participate in the meeting on 23 June 2011. Despite my best efforts that could not be achieved.

The majority of Unitholders by number and value who have voted by proxy have supported Wellington's continuation as the manager of the Premium Income Fund.

I am particularly grateful for the letters, emails and calls of encouragement and support received from investors in the Fund. I am committed to ensuring that my team continues to work for Unitholders with integrity, diligence and in a professional way to achieve the best possible outcome.'

Wellington Capital Limited attended the nominated venue for the 23 June 2011 meeting. The Fund's registry services provider Armstrong had sub-contracted the registry role to Link Market Services and engaged two scrutineers from Bentleys to oversee the meeting process.

Mr Armstrong of Castlereagh during discussions with Jenny Hutson, Managing Director, Wellington Capital, excluded Link from providing registry services to the meeting. He indicated that it was the requisitionists' meeting and that Computershare had been contracted by them and was the only party that would be providing registry services.

Mr Armstrong had been made aware by Jenny Hutson of the proxy position which was in favour of Wellington Capital. The proxy position which was subsequently released to NSX on 23 June 2011 is set out on the following page.



Resolution	Open Proxies	For Proxies	Against Proxies	Abstain Proxies
Motion 1	10,324,406	208,857,600	272,666,544	1,899,377
Motion 2	10,324,406	208,587,233	272,354,085	2,654,839
Motion 3	10,324,406	210,407,738	270,796,529	1,896,977
Motion 4	10,324,406	202,817,688	279,307,090	3,117,844
Motion 5	10,324,406	208,638,814	310,739,020	1,844,132
Motion 6	10,324,406	208,359,693	311,476,706	1,809,532
Motion 7	10,324,406	208,595,400	271,685,486	2,782,739

Wellington Capital sought to provide a proper avenue for the tabling and consideration of all proxies that had been lodged with Wellington. This included all proxies received at that time by the respective registry providers of the parties.

Investors present

Wellington's aim was to ensure that those investors who had expressed their opinion by way of proxy or corporate representative or sought to be present in person had that vote counted. This opportunity was denied by the actions of Castlereagh.

Relationship with ASIC

Wellington Capital Limited has worked co-operatively with ASIC in relation to a range of important issues affecting the Fund and is committed to continuing to work cooperatively with ASIC to optimise the available outcomes for Unitholders.

Placement and Rights Issue

On 6 June 2011 Wellington Capital Limited was served with an originating process in the Federal Court of Australia, Victoria District Registry. The proceedings were lodged by the PIF Action Group Incorporated and Mark Robert Hodges and Charles Robert Hodges as custodian for the PIF Action Group Incorporated.

The application was for:

- declarations under section 21 of the *Federal Court of Australia Act 1976* (Cth);
- an injunction under sections 1323 and or section 1324 of the *Corporations Act 2001* (Cth); and
- other orders pursuant to section 1325 of the *Corporations Act 2001* (Cth).

The application was returnable on Wednesday 8 June 2011 at 10.15am before Justice Gordon.

8 June 2011 hearing before Justice Gordon

Wellington Capital Limited as responsible entity of the Premium Income Fund appeared before Justice Gordon of the Federal Court in Melbourne on 8 June 2011 in relation to the urgent interlocutory injunction sought by the PIF Action Group Incorporated and Mark Robert Hodges and Charles Robert Hodges as custodian for the PIF Action Group Incorporated.

Wellington Capital Limited was prepared at Her Honour's suggestion to have the matter heard on a final basis. The PIF Action Group Incorporated and Mark Robert Hodges and Charles Robert Hodges as custodian for the PIF Action Group Incorporated were not prepared to proceed on that basis.

As a consequence the parties agreed to the following arrangements:

- ✿ Wellington Capital Limited as responsible entity of the Premium Income Fund agreed not to issue any units pursuant to the rights issue set out in the Information Booklet dated 19 May 2011 until after such time as the matter had been heard and Her Honour's decision handed down;
- ✿ The PIF Action Group Incorporated and Mark Robert Hodges and Charles Robert Hodges as custodian for the PIF Action Group Incorporated agreed that all necessary steps be taken to adjourn the members' meeting that was scheduled for 11.00am on 16 June 2011 to 11.00am on 23 June 2011.
- ✿ PIF Action Group Incorporated and Mark Robert Hodges and Charles Robert Hodges as custodian for the PIF Action Group Incorporated was to provide further evidentiary material by close of business on 9 June 2011.
- ✿ Wellington Capital Limited as responsible entity of the Premium Income Fund was to provide further evidentiary material by 4.00pm on 10 June 2011.

Justice Gordon set the matter down for hearing in Melbourne from noon on 14 June 2011.

Jenny Hutson, Managing Director said at the time:

'I am surprised at having brought an urgent injunction application that the applicants were not in a position to have the matter determined finally today. The consequence is that the scheduled meeting needs to be adjourned to 11.00am on 23 June 2011 as agreed with the applicants. The rights issue will close as scheduled tomorrow, 9 June 2011. Allotment however will be unable to occur until such time as the hearing has been finalised and judgement delivered by Her Honour.'

Judgement of Federal Court

Justice Gordon of the Federal Court handed down her decision in the proceedings brought by the PIF Action Group Incorporated and Mark Robert Hodges and Charles Robert Hodges as custodian for the PIF Action Group Incorporated on 20 June 2011.

The consequence of the decision was that the 75.5 million units issued on 17 May 2011 by way of placement remain on issue and enjoy all of the usual rights attaching to units in the Premium Income Fund, including the right to vote.

The rights issue however, was not able to proceed, and units were not be issued to those Unitholders who applied. All money has been returned to those Unitholders who subscribed.

Justice Gordon noted there were two separate bundles of units, those units issued the subject of the placement and those units proposed to be issued under the rights issue. She said:



'in my view, relief of the kind sought by the Plaintiff should now not be granted in relation to the units that have been issued and allotted as a result of the placement.

Leaving aside there is no separate representation of any of the holders of those newly issued units, the fact that the rights of third parties have now been intervened, is reason enough to require the conclusion that the relief of the kind now sought by the Plaintiff should not be granted.

...

That conclusion is fortified by the fact that the Plaintiffs were aware of Wellington's intention to make the placement as early as 6 May 2011 (before any issue or allotment of the units) but did not institute proceedings in this court until 6 June 2011.

If, as here, the plaintiff sought relief other than damages, they should have moved earlier.'

The Court made the following orders:

- ✿ in relation to the rights issue, a declaration that the modification of the Scheme Constitution which the first, third and fourth defendants purported to make by deed poll dated 9 May 2011 was and is contrary to section 601GC of the *Corporations Act 2001*;
- ✿ in relation to the rights issue, a declaration that the modification of the Constitution which the first, third and fourth defendants purported to make by deed poll dated 6 May 2011 was and is contrary to section 601GC(1)(b) of the *Corporations Act*;
- ✿ an order restraining the defendants and each of them, whether by themselves, their servants and agents or howsoever otherwise, from allotting or issuing to any person any unit in PIF pursuant to the rights issue;
- ✿ the defendants pay the plaintiff's costs of the proceeding, such costs to be taxed in default of agreement.

Rights Issue subscriptions returned

The Rights Issue originally announced on 6 May 2011 and closed on 8 June 2011 could not proceed as a consequence of Orders made by Her Honour Justice Gordon in the Federal Court of Victoria on 20 June 2011.

The consequence of Her Honour's decision is that all Unitholders who subscribed for units under the Rights Issue have had their money refunded to them.

Managing Director Jenny Hutson said:

'I greatly appreciate the support demonstrated by Unitholders in this issue. It is disappointing that having taken appropriate legal advice in relation to the issue that the outcome is a decision by Justice Gordon that the issue cannot proceed.

Returning this capital will mean that we are able to proceed with two of the three planned projects namely those located in Townsville and the Hunter Valley in the short term and will need to revisit the source of capital for the Gold Coast project.'

Taxation statements for 30 June 2011

Taxation statements will be mailed to all Unitholders by the end of August 2011.

These statements will set out the taxation treatment for the cash payments made to Unitholders on 29 October 2010 and 11 April 2011.

Annual Financial Report for 30 June 2011

The Annual Financial Report for the Fund for the period ended 30 June 2011 will be released to Unitholders by 15 September 2011. A copy will be provided by post to all Unitholders.

Capital raising

On 6 May 2011, Wellington announced a proposed rights issue and placement which was anticipated to raise up to \$33.9 million in capital for the Fund. \$7.55 million was raised by way of placement. The capital raised in the rights issue has been returned to Unitholders following orders by Justice Gordon in the Federal Court.

Wellington Capital as responsible entity of the Premium Income Fund now proposes to undertake a further capital raising. The opportunity will be offered to both existing Unitholders and new investors in the Fund.

Wellington is currently in discussions with prospective underwriters in relation to the capital raising.

The units which will be offered will be a new class of units. The class will be issued in accordance with the Constitution of the Fund as it currently stands. The capital required will be determined once negotiations in relation to the sale of 50% of the Fund's interest in the trust that owns the 168 room Chifley Wollongong Hotel have been finalised.

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