



CORPORATE GOVERNANCE MANUAL

UPDATED AS AT 18 JANUARY 2010.

IMF (AUSTRALIA) LTD

IMF (AUSTRALIA) LTD CORPORATE GOVERNANCE MANUAL

Index	Page No.
1. Introduction by Managing Director	3
2. The Business of IMF	5
2.1 Overview of Business	5
2.2 Other Activities	7
2.3 How the Business will be Operated	7
2.4 Physical Location	7
2.5 Legal Services	7
2.6 Acting as Principal	8
2.7 Typical Client	8
2.8 Statutory Framework (Licensing Requirements)	8
2.9 Continuing Education	9
3. Compliance Programme	10
3.1 Introduction	10
3.2 Management Commitment	10
3.3 Major Areas of Compliance	11
3.4 Debt Collection	12
3.5 Investigations	13
3.6 Corporations Act	13
3.7 Trade Practices Act	14
3.8 Compliance Responsibility	15
4. General Provisions in Relation to Corporate Governance	16
4.1 Head Office Location	16
4.2 Location of Board	16
4.3 Chairman	17
4.4 Terms of Appointment of Chairman	17
4.5 Responsibility of Chairman	17
4.6 Managing Director	18
4.7 Board Members	18
4.8 General	19
4.9 Chief Financial Officer/Company Secretary	20
4.10 Board Meetings	20
4.11 Advice	21
4.12 Trading in Company Securities	21
4.13 Responsibility of Board of Directors	21
4.14 Company Website	22
4.15 Code of Conduct	24
4.16 Financial Reporting	25
4.17 Public Disclosure	26
4.18 Risk Management	27
4.19 Managing Director and Remuneration Policy	29
4.20 Employee Arrangements	30
4.21 Community Involvement	31
4.22 Investment Management System	31
4.23 Investment Protocol	31
4.24 Privacy	31
4.25 Email Policy	32

5.	Complaints Handling Procedure	33
5.1	General	33
5.2	Types of Complaints	33
5.3	Complainants	33
5.4	General Approach	33
5.5	Commitment	34
5.6	Australian Standard	34
5.7	Procedure	34
5.8	Provision of Copy of Complaint Procedure	36
5.9	Remedies	36
5.10	External Dispute Resolution	36
5.11	Statistics	36
6.	Practice Manual	37
6.1	Preparation of manual	37
6.2	Updating	37
6.3	Staff Input	37
6.4	Staff Orientation	37
6.5	Compliance	37
7.	Occupational Safety and Health	37

1. Introduction by Managing Director

- 1.1 In March 2003 the ASX Corporate Governance Council produced and promulgated a document entitled "Principles of Good Corporate Governance and Best Practice Recommendations".
- 1.2 The stated aim of the Council was to provide for an enhancement of corporate accountability through the development and delivery of an industry wide, supportable and supported framework for corporate governance.
- 1.3 The Board of IMF adopted the necessity for good corporate governance principles at its meeting on 26 October 2001. Accordingly the Board directed management to prepare a corporate governance manual incorporating all of the appropriate principles of good corporate governance for IMF and its subsidiaries.
- 1.4 The Board does not see corporate governance as something imposed on the Company by the ASX or by the council set up by the ASX. The fact of the matter is that the corporate governance guidelines are not made mandatory by ASX. The Board believes that they should be embraced with enthusiasm and have directed management to implement the various principles and procedures as soon as possible.
- 1.5 This manual sets out the path by which the Board and management of IMF will seek to:
 - 1.5.1 manage the business of IMF;
 - 1.5.2 maximise the growth of IMF in a sensible and coherent manner;
 - 1.5.3 provide for the employment, development and personal growth of the people at IMF;
 - 1.5.4 communicate to clients, the market and the general public, details of the aspirations, activity and results of the business carried on by IMF; and
 - 1.5.5 ensure compliance with the Corporations Act and the conditions of its license.
- 1.6 A copy of this manual will be provided to all Board members and all employees.
- 1.7 It will be a condition of any new management employee's terms of employment that they familiarise themselves with the terms of this manual.
- 1.8 A separate copy of the manual will be provided to all future management employees who will be required to confirm their acceptance of those parts of the manual which impact on their position.
- 1.9 It will also be a condition of all future management employment contracts that the employee comply with the general requirements set out in this manual insofar as they affect or impact upon that employee.
- 1.10 The manual is designed to enable updates and new material to be inserted from time to time. It is the responsibility of each management employee to ensure that their copy of the manual is current at all times.
- 1.11 Any management employee who sees the necessity or opportunity for an improvement to the manual should put their suggestions in writing to the managing director and all management employees are strongly encouraged by the Board to do so whenever any such inspiration arises.

- 1.12 All employees should read the contents of this manual in the knowledge that all members of the Board and all members of the executive management group have committed themselves to its contents and expect all management employees to do likewise.

2. The IMF Business

2.1 Overview of Business

- 2.1.1 IMF is a Company the shares of which are listed for quotation on the Australian Securities Exchange under the ticker IMF.
- 2.1.2 Financial Redress Pty Ltd (“FR”) is a wholly owned subsidiary of IMF.
- 2.1.3 Since June 2001 IMF has carried on business in the following areas:
- (a) litigation funding;
 - (b) investigative services;
 - (c) management services; and
 - (d) large scale debt collection.
- 2.1.4 Various licenses are held by FR for the services referred to in paragraphs 2.1.3 (b) and (d).
- 2.1.5 The registered office of the companies is currently at Level 5, 32 Martin Place, Sydney, New South Wales.
- 2.1.6 IMF also has branch offices in Melbourne, Brisbane, Adelaide and Perth.
- 2.1.7 The business is an Australia wide business which is carried on from the five offices referred to above.
- 2.1.8 The clients of IMF come from:
- (a) Insolvency practitioners;
 - (b) Legal practitioners;
 - (c) Members of the public;
 - (d) stockbrokers; and
 - (e) financial advisers.
- 2.1.9 A typical client will have a legal cause of action either in debt or damages and will often be unable to afford or unwilling to risk litigation to enforce that cause of action.
- 2.1.10 The client will have four areas of financial risk:
- (a) the cost of the investigation required to establish and commence litigation;
 - (b) the legal and other costs of the litigation;
 - (c) the cost of providing security for the defence; and
 - (d) the cost of paying adverse cost orders awarded to the defendant against the client in circumstances where the client has lost the litigation.

- 2.1.11 Upon an approach from such a client IMF reviews the factual and legal circumstances regarding the claim and makes its own assessments of:
- (a) the likelihood of the claim being successful;
 - (b) the time it will take to establish the claim;
 - (c) the costs involved in pursuing the claim;
 - (d) the likely cost of failure; and
 - (e) other risks inherent in the litigation such as the inability of the defendant to pay all or part of the judgment.
- 2.1.12 IMF will, upon concluding such a review, make (in some cases) an offer of funding to the client.
- 2.1.13 A typical litigation funding agreement will have the following terms:
- (a) IMF will undertake to investigate the facts of the matter and to pay the costs of the investigation;
 - (b) IMF will undertake to pay all of the clients legal costs and court costs;
 - (c) IMF will undertake to pay into court any security required by the court in favour of the defendant;
 - (d) IMF will undertake to pay any adverse costs orders made in favour of a successful defendant against the client; and
 - (e) IMF will have the right to terminate the funding agreement at its discretion with IMF remaining liable for costs accrued to the date of termination.
- 2.1.14 In return IMF is entitled to the following payments from any judgment or settlement:
- (a) recoupment of all out of pocket payments;
 - (b) a management fee; and
 - (c) payment of a percentage of the judgment or settlement (generally on a sliding scale relating to the time taken in the litigation).
- 2.1.15 By the agreement the client assigns an interest in the recoveries to IMF so that IMF owns that property from the moment the litigation funding agreement is executed.
- 2.1.16 In some cases IMF will take an assignment of the cause of action itself with an agreement to pay a proportion of the proceeds to the client (the same result through a different route).
- 2.1.17 Once the litigation funding agreement has been issued then the litigation proceeds and all of the invoices from the client's lawyers and the court system are provided for payment to IMF.
- 2.1.18 If the court makes any order during the proceedings whereby the IMF client is required to pay money into court by way of security then IMF provides the security for that purpose. Alternatively IMF may provide a Deed Poll to the

defendant and the court whereby it undertakes to pay the defence costs if the client's claim is unsuccessful.

2.1.19 If the case is lost by the IMF client then no payments are required from the client. The defence costs incurred during the term of the litigation funding agreement are paid by IMF.

2.1.20 If the action is successful or if it is settled then IMF is paid as set out above.

2.2 Other Activities

2.2.1 As set out above IMF and FR are licensed as an investigators and a debt collector. In addition IMF provides management services in relation to litigation.

2.2.2 Neither IMF nor FR provide any advice to clients. Such advice is generally given, in relation to the litigation funding agreement, by the solicitors for the client.

2.3 How the business will be Operated

2.3.1 The business is operated Australia-wide from the five offices in Sydney, Melbourne, Brisbane, Adelaide and Perth.

2.3.2 Each of the five offices is headed by a person with senior litigation experience (10 years or more).

2.3.3 A more junior investment manager with legal experience understudies each of the senior personnel in Sydney and Perth.

2.3.4 Each of the Sydney and Perth state offices has a pool of investigators and other staff drawn generally from Police forces, the ASIC and the computing and accounting fields.

2.3.5 The websites of IMF at www.imf.com.au and www.financialredress.com.au provides a more particular overview of the business.

2.4 Physical Location

2.4.1 The business is essentially documentary.

2.4.2 Each office gathers the documents in relation to each funding opportunity and the documents in relation to matters which are likely to be funded are scanned and distributed to the members of the investment committee. A collegiate decision is made in relation to each funding application.

2.5 Legal Services

2.5.1 Neither IMF nor FR provides legal services.

2.5.2 This includes legal services provided to the client and also legal services provided to IMF.

2.5.3 All legal practitioners who join IMF as employees are required to give up their practising certificate so that there is a clear demarcation between the operations of IMF as a litigation funder/investigator and the legal services which are provided by others.

2.6 Acting as Principal

- 2.6.1 In every case IMF contracts with the client as a principal.
- 2.6.2 Any funds arising from a settlement/judgment are generally paid into the trust account of the solicitor for the client and distributed by that solicitor according to the litigation funding agreement. If no solicitor is acting at the time monies are received then they are paid into an IMF trust account.

2.7 Typical Client

- 2.7.1 Clients are generally single plaintiffs with large claims or numerous plaintiffs with smaller but common claims.
- 2.7.2 Many of the individual clients will be wholesale clients as that term is used in the Corporations Act. A number of them will be retail clients.
- 2.7.3 It is thought that the individual clients with the small claims (averaging around \$100,000) will be retail clients.
- 2.7.4 An appropriate dispute resolution procedure has been put in place (refer Part 5 hereof) and IMF has been accepted as a member of the Financial Ombudsman Service.

2.8 Statutory Framework (Licensing Requirements)

- 2.8.1 All management and staff should constantly keep in mind that IMF operates by virtue of a number of licenses from State and Federal authorities.
- 2.8.2 As a result of these licensing regimes, IMF needs to ensure that it complies with all the provisions of relevant legislation. Failure to do so may result in the licenses being revoked and IMF thus not being able to carry on its business.
- 2.8.3 IMF and FR carry out extensive investigation activity into the conduct of corporations and officers of corporations.
- 2.8.4 As a result in Western Australia IMF and FR are required to be licensed as investigators under the Securities and Related Activities (Control) Act.
- 2.8.5 Paul Rainford holds the primary licence as a representative of IMF.
- 2.8.6 In Western Australia, investigations cannot be carried out in relation to the "conduct of individuals or body corporates or the character of individuals" without the investigator holding a licence under the Act.
- 2.8.7 In each State those employed as Investment Managers or investigators should seek licensing as investigators.
- 2.8.8 Litigation funding agreements will either involve the pursuit of the repayment of debt or damages.
- 2.8.9 When a litigation funding agreement deals with debt, then a licence is required under each state regime.
- 2.8.10 IMF and FR should therefore hold a licence in each state where it enters into litigation funding agreements.

- 2.8.11 In Western Australia the relevant legislation is the Debt Collectors Licensing Act. Similar regimes exist in each State.
- 2.8.12 By Section 13(1) of the WA Act a person is not entitled to sue for or recover or retain any commission for or in respect of any services done by him as a debt collector unless:
- (a) he was licensed at the time of doing the service;
 - (b) his engagement to act was in writing signed by the client; and
 - (c) the commission in respect of the service was included in and not in excess of the commission agreed upon by the person acting as the debt collector and the person on behalf of whom the service is done.
- 2.8.13 IMF has been granted an Australian Financial Services Licence. Addendum 1 to this Manual sets out the requirements relevant to that licence.

2.9 Continuing Education

- 2.9.1 The material set out above gives a general description of the business carried on by IMF and FR. It is important that all staff have the same understanding and knowledge in relation to the business. The managing director is responsible for the continuing education program of the Company.
- 2.9.2 The continuing education program will take the following forms:
- (a) the appointment by the managing director of IMF employees to prepare and promulgate papers on specific matters affecting the business and the development of the business of the Company;
 - (b) the discussion of those papers at case management meetings;
 - (c) the attendance by nominated staff at appropriate seminars; and
 - (d) the undertaking by appropriate staff members of courses designed to improve the ability of those employees to carry on the business of the Company.
- 2.9.3 All staff should be aware of the necessity to educate themselves and their fellow staff members in this way and accordingly should advise the managing director of any papers, seminars or courses which they believe would be of benefit to themselves or other staff members of the Company.
- 2.9.4 The managing director will be responsible for putting aside the necessary funds for the continuing education program.
- 2.9.5 All time spent by staff on the continuing education program will be treated as work for the Company and remunerated accordingly.
- 2.9.6 The Company Secretary will keep a data base of all seminar attendances and the papers arising from the seminars will be made available in the data base.
- 2.9.7 All Investment Managers are expected to take part in appropriate seminars as they arise and to familiarise themselves with the papers placed in the data base.

3. Compliance Program

3.1 Introduction

- 3.1.1 IMF and its wholly owned subsidiary FR carry on business throughout Australia and (as set out above) are thereby subject to the laws of the Commonwealth and the various States of Australia.
- 3.1.2 In addition, as set out above, the companies hold or may be required to hold various licences under Commonwealth and State laws without which licences the companies cannot operate.
- 3.1.3 The Board of IMF has therefore directed management to prepare and implement a compliance program to ensure that the Company and its employees operate in accordance with the laws referred to above and the terms of the various licences held by the companies.
- 3.1.4 The preparation and implementation of a compliance program will formalise the approach which the Company has taken since its inception in 2001 ie...ensuring that all of its operations are on an acceptable moral, legal and ethical level.
- 3.1.5 The compliance program will also enable the Company to set out and explain its compliance requirements to new employees and to the market generally.
- 3.1.6 It is of paramount importance that senior management understands that the Board expects adherence to the compliance program both by management and by employees in general and that it has set management the task of formulating and implementing the compliance program on its behalf.
- 3.1.7 This compliance program should be read in conjunction with Part 5 of this Corporate Governance Manual (Complaints Handling Procedure) because it is through complaints made by our clients and the public that any serious compliance questions may first be raised.
- 3.1.8 This compliance program has been written by reference to the Australian Standard AS 3806 in 1998.

3.2 Management Commitment

- 3.2.1 As the Chief Executive Officer of the company it will be the managing director's responsibility to ensure that the compliance program is understood by all and that there is a commitment to its observation by all management employees of the company.
- 3.2.2 As a result, the managing director will be directly responsible to the Board for the design and implementation of the compliance program.
- 3.2.3 The initial draft of the compliance program and any material amendments will be brought before the Board for its ratification.
- 3.2.4 Any future amendments to the compliance program will require the approval of the managing director.
- 3.2.5 The responsible officer in each State is required to familiarise himself or herself with the terms and intent of the compliance program and to ensure that all management employees and other staff under his/her control are familiar with and observe the terms of the program.

- 3.2.6 A copy of the initial compliance program contained with this Corporate Governance Manual will be provided to each management employee with an invitation to comment and suggest changes or additions prior to its delivery to the Board.
- 3.2.7 This procedure is intended to:
- (a) ensure that all management employees have read and are familiar with the program;
 - (b) ensure that all management employees have had the opportunity for input into the original program;
 - (c) ensure that all management employees and other staff operate within its parameters.
- 3.2.8 Thereafter all management and staff are invited to provide input into the improvement and updating of the program. All suggestions should be made in writing to the managing director.

3.3 Major Areas of Compliance

- 3.3.1 The company has three main areas of operation as follows:
- (a) debt collection;
 - (b) investigation;
 - (c) litigation funding.
- 3.3.2 Each of these operations is carried out pursuant to the provisions of specific legislation as follows:
- (a) the Debt Collectors Licensing Act (Western Australia) and other similar legislation in other States;
 - (b) Security & Related Activities (Control) Act (Western Australia) and other similar legislation;
 - (c) Corporations Act and regulations.
- 3.3.3 The first two pieces of legislation deal with the following matters:
- (a) the need for licensing;
 - (b) the conditions in relation to the licence;
 - (c) the requirements of the legislation in relation to the conduct of the licensed business; and
 - (d) the suspension and cancellation of licences.
- 3.3.4 The first two pieces of legislation provide that without the requisite licence the business in question cannot be conducted by IMF/FR.

3.4 Debt Collection

- 3.4.1 On occasion IMF enters into litigation funding agreements whereby it undertakes to collect debt.
- 3.4.2 In all such cases it is necessary for IMF to be licensed as a debt collector under the various State licensing regimes.
- 3.4.3 IMF is currently licensed through either IMF or FR in New South Wales, Victoria and Western Australia.
- 3.4.4 All litigation funding agreements involving debts must be negotiated and executed in one or other of these States. The law of the agreement should be stated as the State in question.
- 3.4.5 In each jurisdiction the following requirements must be followed:
- (a) the debt collection agreement must be in writing;
 - (b) the person for whom the debt is being collected must sign the agreement;
 - (c) the agreement must state the full commission which is being charged.
- 3.4.6 Failure to carry out this requirement will result in an inability on the part of IMF to collect its commission/fee from any such transaction.
- 3.4.7 The legislation makes provision for the company to have a trust account for all funds received on behalf of clients.
- 3.4.8 When IMF receives any funds on behalf of clients in relation to debt collection activity those monies will be held in a trust account.
- 3.4.9 A trust account will be opened by the company secretary prior to any funds being received and all monies must be paid into that trust account and accounted for separately.
- 3.4.10 As the trust account system of the solicitors accommodates the requirements of the legislation no agreement is to be entered into which provides for IMF receiving client's funds without the specific involvement of the managing director.
- 3.4.11 The following matters are to be overseen by the company secretary in relation to the various State debt collection licences:
- (a) the term of the licence and therefore the necessity for its renewal from time to time;
 - (b) the monitoring of any conditions attached to the licence;
 - (c) keeping any bond attached to the licence up to date and current.
- 3.4.12 There are no general requirements of the debt collectors licensing legislation setting out any specific actions which are forbidden or required. In general terms IMF is required to act ethically and fairly with all of our clients during the negotiation of litigation funding agreements and during the course of their implementation.

3.5 Investigations

- 3.5.1 Whenever IMF enters into a litigation funding agreement there is a high likelihood that the agreement itself will require investigative services, or even if it does not, that such services will in fact be carried out, in any event, as part of our general operation in relation to that matter.
- 3.5.2 As a result where required by law all five state offices must be licensed under the relevant state legislation in relation to inquiry agents.
- 3.5.3 In addition, each senior member of that State office must be licensed as an investigator.
- 3.5.4 Section 28 of the Securities & Related Activities (Control) Act 1996 in Western Australia requires that any person who carries out investigations into the conduct of individuals or body corporates or the character of individuals is required to be licensed under the Act.
- 3.5.5 Similar provisions apply in other States.
- 3.5.6 Again the Acts do not make specific provision for the conduct of investigators or inquiry agents so that the general requirement is for IMF to act in an ethical and fair manner.
- 3.5.7 The following matters are to be overseen by the company secretary in relation to the various State investigation licences:
 - (a) the term of the licence and therefore the necessity for its renewal from time to time;
 - (b) the monitoring of any conditions attached to the licence;
 - (c) keeping any bond attached to the licence current.

3.6 Corporations Act

- 3.6.1 Because both IMF and FR have corporate status the operations of each company are closely regulated by the provisions of the Corporations Act.
- 3.6.2 The company secretary is responsible on a day to day basis for the following matters:
 - (a) the keeping of proper books and records by IMF/FR;
 - (b) the maintenance of registers for the two companies including:
 - (i) the register of shareholders;
 - (ii) the register of directors and secretaries;
 - (iii) the register of securities held over assets of the company;
 - (iv) the register of assets owned by the company;
 - (v) the preparation of annual and semi-annual accounts.

- 3.6.3 The company secretary is also responsible on a day to day basis for overseeing the audit of the financial records of the company on an annual basis and an audit check as at 31 December in each year.
- 3.6.4 The company secretary is directly responsible to the Audit Committee of the Board and will comply with the requirements of the audit protocol.
- 3.6.5 The company is required to be licensed under the Australian Financial Services Regime. Such a license has now been issued to IMF.
- 3.6.6 Addendum 1 to this Manual sets out the Corporate Governance requirements particular to the AFS licence.
- 3.6.7 The following requirements of that regime will be observed by all officers and employees of the company;
- (a) all things necessary to ensure our services are provided efficiently, honestly and fairly;
 - (b) compliance with the terms of any license which may be granted to the company;
 - (c) compliance with all financial services laws;
 - (d) adequate financial, technological and human resources;
 - (e) that all officers and employees are and remain competent to perform their tasks;
 - (f) all officers and employees to keep up to date through training both external and on-the-job.

3.7 Trade Practices Act

- 3.7.1 There is no doubt that litigation funding involves IMF/FR in trade and commerce in Australia.
- 3.7.2 As a result the operations of IMF/FR are subject to the provisions of the Trade Practices Act.
- 3.7.3 The major impact of the Act is in the area of statements made to clients and the public by IMF/FR, its officers and employees.
- 3.7.4 In general terms no false or misleading statements may be made during the course of our business dealings.
- 3.7.5 The company will be liable whether or not the person making the statement knew that it was false or intended any harm to the person to whom the statement was made. This is a particularly onerous standard and should be kept in mind at all times.
- 3.7.6 Even if the statements of others are repeated and turn out to be false or misleading then liability will attach to IMF/FR in most circumstances.

3.8 Compliance Responsibility

- 3.8.1 The managing director will be the officer directly responsible for the compliance program. Each responsible officer heading up a State office will also take responsibility for the program in the State office.
- 3.8.2 The managing director will provide a report on compliance to the Board as at 30 June each year. The report will detail any compliance breaches and how those breaches were handled.
- 3.8.3 Responsible officers will raise any compliance issues occurring in their office at the fortnightly meeting.
- 3.8.4 It will be the responsibility of responsible officers to ensure that all staff are aware of the compliance program and have access to a copy.
- 3.8.5 Responsible officers will maintain a copy of the Corporate Governance manual containing the compliance program and will ensure that the manual is kept up to date.

4. General Provisions in Relation to Corporate Governance

4.1 Head Office Location

- 4.1.1 Many aspects of corporate governance for the Company will be determined by the location of the head office.
- 4.1.2 It is important therefore to determine the likely permanent site of the head office.
- 4.1.3 75% of the cases funded by the Company are located in the courts of Sydney, Melbourne and Brisbane. By definition 75% of our customers are located in those 3 cities.
- 4.1.4 In addition, the percentage of shareholders resident in those three cities increases from month to month and is now about 75%.
- 4.1.5 It is sensible to locate the head office in that place from which the great majority of our work emanates and where the majority of shareholders are resident.
- 4.1.6 It is likely therefore that, throughout the life of the company, its head office will be located in Sydney.
- 4.1.7 As Sydney is the financial centre of Australia it is therefore, on that basis also, an appropriate location for the Company's head office.

4.2 Location of Board

- 4.2.1 The chief executive officer of the company should where possible be located in the head office of the Company. If the chief executive officer is not residing in Sydney, then he/she must be available to travel to Sydney and Melbourne on a regular basis.
- 4.2.2 The Company should generally seek a person who has the experience and expertise to fulfil the role of managing director in Sydney and who is prepared to do so.
- 4.2.3 That person should therefore be appointed as the managing director of the Company and thereafter the managing director should be a person who is prepared to travel to Sydney on a regular basis.
- 4.2.4 The chairman of the company should also be a resident of Sydney where possible. It is imperative that the chairman and the managing director are continuously available, one to the other, in furtherance of the business of the Company.
- 4.2.5 The Company should therefore seek a person who is a resident of Sydney and who is prepared to become a director of the Company and also to become its chairman. That person should be appointed as the chairman of the Company. If that person ceases to act as chairman of the Company then an alternative chairman should be chosen who is a resident or prepared to travel to Sydney on a regular basis.
- 4.2.6 The balance of the Board may be located throughout Australia. Preference should be given to board members in States other than New South Wales. It

would be preferable if there are eventually representatives of the Board in Sydney, Melbourne and Perth.

4.3 Chairman

- 4.3.1 The chairman must be a resident of Sydney or prepared to travel to Sydney on a regular basis.
- 4.3.2 The chairman must have experience in one or more of the following areas – finance, banking, listed company administration, law, accounting or insolvency.
- 4.3.3 The chairman must have a national business reputation and the contacts which result from such a reputation.
- 4.3.4 The chairman should be chosen by the majority vote of all directors after discussion with the substantial shareholders.
- 4.3.5 Preference should be given to candidates for the position of chairman who are not substantial shareholders of the company.
- 4.3.6 The chairman must always be a non-executive director of the company.
- 4.3.7 Any director may nominate a person to act as chairman of the Company but it will be the specific task of the nomination committee to identify nominees and to introduce such nominees to the Board.
- 4.3.8 A person is not eligible to become chairman of the Company if that person has been the managing director of the Company within the previous three years.

4.4 Terms of Appointment of Chairman

- 4.4.1 The chairman will be appointed for a specific period, at the end of which time his position as chairman will be reviewed by the Board. In order to assist that review the nomination committee other than the chairman will provide a report on the involvement, enthusiasm and effectiveness of the chairman during the previous period.
- 4.4.2 The remuneration of the chairman will be set by the Board on the recommendation of the remuneration committee from time to time.
- 4.4.3 The chairman will be a mentor of the managing director and will be required to provide a specific number of hours per week of his time to the Company. The remuneration set by the Board will take into account the hours spent by the chairman on work for the Company.
- 4.4.4 The appointment of the chairman will be in writing and will set out the terms and conditions of the appointment and the expectations of the Company in relation to his/ her performance.

4.5 Responsibility of the Chairman

- 4.5.1 It is the primary obligation of the chairman to oversee the operations of the Board.
- 4.5.2 With the assistance of the Managing Director and the Company Secretary, the chairman will set agendas for the board and will determine the time and place of Board meetings

- 4.5.3 The chairman will coordinate the choice by the Board of the managing director, chief financial officer and company secretary as well as such director positions as may become vacant from time to time.
- 4.5.4 The chairman will make himself available as mentor to the managing director.
- 4.5.5 The chairman will work with the managing director to:
- (a) prepare for Board approval a board succession plan;
 - (b) provide to the Board annual reviews of the performance of each non-executive director.
- 4.5.6 Whenever a Board vacancy occurs and it is necessary for the members in general meeting to elect a director then the chairman and managing director will prepare the following information for the meeting:
- (a) biographical details including competencies and qualifications of the nominee;
 - (b) details of the independence of the nominee;
 - (c) details of the relationship between the nominee and the company and the other directors of the company;
 - (d) details of the directorships held by the nominee; and
 - (e) particulars of any positions held by the nominee which would involve significant time constraints.

4.6 **Managing Director**

- 4.6.1 The managing director must be resident in Sydney or prepared to travel to Sydney on a regular basis while the head office of the company is located in Sydney.
- 4.6.2 The managing director must hold a bachelors degree in law and possess at least 10 years experience in one or more of the following fields – law, accountancy, company management or finance.
- 4.6.3 The managing director will be appointed pursuant to the terms of a written executive agreement the terms of which will be settled by the Board from time to time.
- 4.6.4 The managing director must apply his time fully to the interests of the Company and must not hold any other listed company directorships without the explicit written consent of the Board.

4.7 **Board Members**

- 4.7.1 The Board will consist of at least four members one of which will be elected as chairman and one of which will be the managing director.
- 4.7.2 Each board member must have at least a bachelors degree in law, accounting, finance or some similar discipline.
- 4.7.3 Board members must have at least ten years experience in one or more of the following disciplines; law, accounting, insolvency, finance or company administration.

- 4.7.4 The chairman and the managing director will, as the nomination committee, provide nominations for positions as members of the Board. Casual vacancies will be filled by majority vote of the Board.
- 4.7.5 Directors will be appointed for a period of three years and thereafter may be reappointed for further periods of three years.
- 4.7.6 The Board upon the recommendation of the remuneration committee will determine the remuneration to be paid to Board members from time to time.
- 4.7.7 All Board members must undertake to provide a specific period of time per week to their Board duties and must provide that time on average over quarterly periods.
- 4.7.8 All directors will be appointed pursuant to the terms of an agreement in writing which will be settled by the chairman and managing director.
- 4.7.9 The written agreement will cover the following matters:
- (a) the term of the appointment;
 - (b) the time commitment required from the director;
 - (c) the powers and duties of the director;
 - (d) any special duties assigned to that director;
 - (e) the committee work to be carried on by that director;
 - (f) remuneration and expenses;
 - (g) superannuation arrangements;
 - (h) requirements to disclose the director's interests;
 - (i) a requirement to comply with the trading policy of the Company;
 - (j) access to independent professional advice;
 - (k) indemnity and insurance arrangements; and
 - (l) confidentiality and rights of access.
- 4.7.10 The chairman and managing director will carry out an annual review of the performance of each member of the Board and of the Board itself and will take into account the results of that review in determining nominations from time to time.
- 4.7.11 Each member or potential member of the Board will advise the company secretary of current appointments as officers of other companies and will outline in writing any interests which may be thought to be in conflict with their position as a director of the Company.

4.8 General

- 4.8.1 No more than two members of the Board (including the managing director) will be drawn from management and the balance will be non-executive members.

- 4.8.2 Full details of each director will be provided on the company website from time to time and such details will be updated where necessary.
- 4.8.3 At least half the board members shall be independent directors. Directors will be taken to be independent if they:
- (a) are not and or not associated with, a substantial shareholder;
 - (b) have not in a material respect been a professional adviser or consultant to the company within the last five years;
 - (c) have not been a material supplier to the company; and
 - (d) have no material contracts with the company.

4.9 Chief Financial Officer/Company Secretary

- 4.9.1 The chairman and the managing director will determine from time to time and report to the Board as to whether the Company requires the appointment of a separate chief financial officer as well as a company secretary.
- 4.9.2 The chairman and managing director will be responsible for appointing, and setting the terms of appointment of, the company secretary/chief financial officer.
- 4.9.3 The company secretary/chief financial officer must have the necessary training, expertise and experience sufficient for him/her to administer and manage the financial affairs and records of the Company.

4.10 Board Meetings

- 4.10.1 The Board will hold a meeting once every two months either in Sydney or at a location decided by (and in the form established by) the chairman and managing director. Board meetings may occur by video link.
- 4.10.2 The chairman, in conjunction with the Managing Director and Company Secretary, will determine the agenda for each board meeting and will provide a copy of the agenda and supporting documents to the members of the Board at least three days before the meeting occurs.
- 4.10.3 The Company will observe and comply with the guideline for notices of meeting set out as Attachment A to the ASX Corporate Governance Council Principles of Good Corporate Governance and Best Practice Recommendations.
- 4.10.4 The chairman and managing director will provide Board members with the following details regarding each nomination to the Board:
- (a) biographical details outlining qualifications, competency and management history;
 - (b) relations, if any, with the Company and/or other directors;
 - (c) other directorships currently held or previously held;
 - (d) a police clearance;

- (e) a bankruptcy clearance;
- (f) significant time commitments.

4.10.5 The Company secretary will obtain a police clearance and a bankruptcy clearance on each current director and will keep a register of those clearances. The register will be updated as each new director is appointed to the board

4.11 Advice

4.11.1 Each member of the Board may obtain independent professional advice on any matter which affects his position on any matter then before the Board if such advice is reasonably necessary.

4.11.2 The Company will, upon receipt of an invoice, pay for such independent professional advice.

4.12 Trading in Company Securities

4.12.1 Any director or management employee (responsible officers, investment managers and investigators) will advise the Company Secretary in writing of their (or their associates) intention to deal in the securities of the Company (including the sale and purchase of Company shares and the sale and purchase of options over unissued Company shares.)

4.12.2 The Company secretary will keep a register of dealing notifications.

4.12.3 If the chairman (or his associates) wish to deal in Company securities then he shall advise the managing director. The Company secretary will include such notification in the register referred to in clause 4.12.2 hereof.

4.12.4 Directors and the Company Secretary and their associates may only deal in the securities of the Company with the approval of the Chairman.

4.12.5 Management Employees may only deal with the approval of the Company Secretary.

4.12.6 Only in exceptional circumstances will approval be forthcoming from either the Chairman or the Company Secretary outside of the period which is four weeks after one day following the announcement of the half yearly or yearly accounts, the holding of the AGM or the promulgation of an earnings forecast or update.

4.12.7 Notification is also required for any transactions in financial products issued in relation to the securities of the Company if the value of those securities is extracted by the dealing in the financial product or if the risk of holding Company securities is reduced or eliminated by such dealing.

4.12.8 The rules in this clause are subject to and in no way in derogation of the laws and regulations relating to dealing in securities.

4.12.9 The Company Secretary will announce all dealings by directors to the ASX.

4.13 Responsibility of Board of Directors

4.13.1 The Board is responsible to the shareholders for the overall control, operations, accountability and reporting of the Company.

- 4.13.2 The Board is responsible for the appointment and removal of the managing director and the terms and conditions of that appointment and removal.
- 4.13.3 There shall be a nomination committee consisting of the chairman and the managing director.
- 4.13.4 The Board is responsible for the appointment of the chief financial officer and/or company secretary once those positions have been filled pursuant to clause 4.9.2 hereof. The Board is also responsible for ratifying the removal of the chief financial officer.
- 4.13.5 The Board will provide input into and give the final approval for the corporate strategy of the Company as developed and presented to the Board by management.
- 4.13.6 From time to time the Board will review and ratify:
- (a) all systems of risk management;
 - (b) all systems of internal compliance control,
 - (c) all codes of conduct;
 - (d) all legal compliance questions;
 - (e) the operations of the accounting system;
 - (f) the use of the investment protocol referred to in paragraph 4.23 hereof; and
 - (g) the use of the case management system referred to in paragraph 4.22 hereof.
- 4.13.7 The Board will monitor the performance of:
- (a) the chairman; and
 - (b) the managing director.
- 4.13.8 The Board will be responsible for:
- (a) all fund raising by the Company;
 - (b) any acquisition of property (other than litigation funding agreements) in excess of \$250,000;
 - (c) any disposal of property (other than litigation funding agreements) in excess of \$250,000; and
 - (d) any litigation funding agreement where the liability of the Company may exceed 10% of the net assets of the Company from time to time.

4.14 Company Website

- 4.14.1 The Company will maintain and update a website dedicated to providing for relevant and timely information to shareholders, customers and the public.
- 4.14.2 The website will contain at least the following materials:

- (a) about us – describing the personnel and operations of the company;
- (b) contacts – providing contact points in each State office;
- (c) personnel – giving full details of all directors and senior management;
- (d) funded cases – providing details of all cases where the likely return is above \$500,000;
- (e) completed cases – giving a description of the major cases which have been completed and either won or lost;
- (f) applying for funding – up to date forms to be used by those seeking litigation funding;
- (g) shareholder information – current share price and annual reports;
- (h) announcements – all recent announcements made to the Australian Stock Exchange;
- (i) presentations – copies of any major presentations made to shareholders, stock brokers or the public;
- (j) pro bono publico – details of all pro bono work carried out by the Company;
- (k) maintenance and champerty – details of all developments in this area of the law; and
- (l) corporate governance – a copy of this manual.

4.14.3 The website will also contain up to date details in relation to:

- (a) the role, rights, responsibilities and membership requirements for the nomination committee;
- (b) the nomination committee's policy for the appointment of directors;
- (c) a description of the procedure for the selection and appointment of new directors to the Board;
- (d) the code regulating the conduct of directors and executive management;
- (e) the share trading policy of the Company;
- (f) the charter of the audit committee;
- (g) information in relation to the selection and appointment of the external auditor and the rotation of audit engagements;
- (h) a summary of the Company rules regarding disclosure requirements to ASX;
- (i) the Company's risk management program;
- (j) the Company's compliance program;

- (k) a description of the process by which the Board will evaluate the performance of its members, committees and key executives; and
- (l) the charter of the remuneration committee and a summary of its role, rights responsibilities and membership.

4.14.4 The requirement in paragraph 4.14.3 will be satisfied so long as a copy of this manual is maintained on the website.

4.15 Code of Conduct

4.15.1 The Board will be responsible for promoting ethical behaviour and responsible decision making by the Board, its directors and executive management.

4.15.2 The Board will oversee and update from time to time the compliance program set out in Part 3 of this manual. In doing so the Board will actively promote compliance with all laws and regulations governing the business of the Company.

4.15.3 All members of the Board and the executive management group will avoid conflicts of interest between their position and the interests of the Company, its clients and its shareholders. Where any such conflict arises or may arise then the party concerned will provide a written report in relation to the conflict or potential conflict to the managing director who will then, if required, refer the matter to the Board.

4.15.4 It is recognised that there will always be conflicts of interest to a minor degree in all business activity. What is required to be disclosed to the Board by these corporate governance rules is a conflict or matter which has the capacity to embarrass the Company or to impact adversely on a client.

4.15.5 All corporate opportunities in the area of business occupied by the Company will be carried on by the Company and will not be the subject of any investment or involvement by Board members or members of the executive management group. In particular, no investment in litigation funding opportunities will be made even if the Company declines a particular litigation funding opportunity.

4.15.6 No Board member or member of the executive management group will invest in any company operating in competition with the Company.

4.15.7 No member of the Board or the executive management group will act in competition with the Company on any matter including matters which the Company does not wish to be involved in.

4.15.8 Except with the concurrence of the Board after full disclosure, no member of the board or executive management committee will purchase property from the Company or enter into any other transaction with the Company other than employment contracts, consultantancy contracts or property novations entered into as part of a salary package.

4.15.9 All members of the Board and the executive management group will keep the affairs of the Company confidential. All statements to be made on behalf of the Company will be made by or through the managing director. In particular no member of the Board or senior management should make any public statement without first discussing the matter with the managing director. Even where members of the Board or senior management are required or intend to make public statements in relation to matters under their control, such statements should be discussed with the managing director in order to

enable him/her to coordinate the public stance of the Company in relation to that matter.

- 4.15.10 The Board will be responsible for overseeing, implementing and updating the complaint handling procedure outline in Part 5 of this manual.
- 4.15.11 The managing director will be responsible for overseeing the use of Company property and in particular will ensure that no directors, management or other employees use Company property in an unauthorised or inappropriate manner. In general terms the use of Company property should only be permitted for the purposes of the Company or where such use is authorised by the contract between the Company and the person in question.

4.16 Financial Reporting

- 4.16.1 The audit committee of the board will be constituted by the non-executive directors of the Company plus the managing director. The chairman of the audit committee will be a non-executive director who is not the company chairman.
- 4.16.2 The audit committee will meet as required but in any event prior to the half-yearly Board meetings.
- 4.16.3 The agenda for the meetings of the audit committee will be prepared by the company secretary in conjunction with the chairman of the audit committee. Each member of the audit committee will receive a copy of the agenda and the papers relevant to the agenda no less than three days before the meeting.
- 4.16.4 The company secretary will prepare a monthly cash report to the managing director.
- 4.16.5 Copies of these cash reports and cash statements will be included in the agenda papers for meetings of the audit committee.
- 4.16.6 The audit committee will act independently of the Board and of executive management and will conduct its own proceedings as it sees fit.
- 4.16.7 Members of the audit committee will be given complete access to all records of the Company and may require any member of the executive management or any employee to provide information or attend at meetings of the audit committee.
- 4.16.8 The audit committee may obtain any outside professional assistance they require at the expense of the Company and need not involve any member of the executive management group in the acquisition of that assistance.
- 4.16.9 The audit committee will oversee the activities of the auditor and will report thereon to the Board and shareholders.
- 4.16.10 The audit committee will involve itself in the audit process as it sees fit and will meet with the auditors either with or without the presence of executive management as and when they see fit.
- 4.16.11 The audit committee may require the auditors to carry out any further work the committee believes is to the advantage of the Company.
- 4.16.12 The audit committee will comply wherever possible with the Best Practice Guide – Audit Committees Second Edition August 2001.

- 4.16.13 The audit committee will monitor the independence of the auditor in accordance with the provisions of the Professional Statement issued by the Institute of Chartered Accountants in Australia and CPA Australia in 2002 and in pronouncement I, Code of Ethics of the National Institute of Accountants.
- 4.16.14 The audit committee will keep minutes of its meetings and the company secretary will maintain those minutes in a separate minute book kept for the purpose. A copy of the minutes of each meeting will be promulgated to members of the Board upon their completion.
- 4.16.15 The audit committee will report to the full Board in relation to any matters of concern to the audit committee.
- 4.16.16 In particular the audit committee will provide a report to the Board after the six monthly and annual reports have been completed covering the following matters:
- (a) whether the reporting is consistent with information known to the audit committee;
 - (b) whether the reporting is adequate for shareholder needs;
 - (c) assessing whether management processes support the external reporting;
 - (d) determining whether the auditors should be retained or replaced;
 - (e) assessing the performance of the auditors;
 - (f) ensuring that the auditors are not providing other services to the Company which may impact on their audit responsibilities; and
 - (g) providing oversight to the risk management, legal and licensing compliance and internal compliance provisions of this manual.

4.17 Public Disclosure

- 4.17.1 The Company will comply with all requirements of ASX and the Corporations Act in relation to its continuous disclosure obligations.
- 4.17.2 All statements made to ASX by the Company will be made by and under the hand of the chairman, the managing director or the company secretary.
- 4.17.3 Where appropriate the managing director will discuss any such announcement with the chairman and with any members of the Board and/or the executive management group who are affected by the disclosure.
- 4.17.4 All announcements to ASX will then be included on the Company website and a copy sent forthwith to each director and all management employees.
- 4.17.5 The Company will also provide a copy of all ASX announcements to substantial shareholders and other interested parties nominated by the managing director.
- 4.17.6 The Company secretary will maintain a register of all ASX announcements and will keep that register up to date.

- 4.17.7 All announcements made to ASX will be made as soon as possible after the facts are known and will disclose all positive and negative aspects of the transaction being reported upon.
- 4.17.8 In particular unless the board directs otherwise, the Company will provide the following to ASX:
- (a) a quarterly report in relation to its cash position;
 - (b) a quarterly report in relation to all cases where the potential earn to the Company is in excess of \$500,000; and
 - (c) the acquisition, completion or disposal of any litigation funding agreements where the potential earn of the Company is in excess of \$0.5 million; and
 - (d) with the consent of the defendant/respondent any mediation proceedings.
- 4.17.9 It is the responsibility of the managing director to ensure that Company announcements are made to ASX:
- (a) in a timely manner;
 - (b) containing factual material;
 - (c) which do not omit material information; and
 - (d) which are expressed in a clear and objective manner such that investors can assess the impact of the information when making investment decisions.
- 4.17.10 All directors and members of the executive management group are required to alert the managing director to any matters which they believe may require disclosure by the Company.

4.18 Risk Management

- 4.18.1 The three primary components of the operational risk profile for the Company are:
- (a) choice of cases;
 - (b) liquidity; and
 - (c) compliance with the requests of the Corporations Act and the AFS license.
- 4.18.2 In choosing cases members of the executive management group will adhere to the requirements of the practice manual promulgated by the managing director.
- 4.18.3 The first element of case selection will be the probable ability of the defendant to pay if the plaintiff is successful.
- 4.18.4 The managing director will convene a meeting of the Investment Committee in relation to case selection as and when required. Case selection will be based upon a veto approach ie...if any member of the meeting votes against a particular case then it will not be funded. The meeting will adhere to the

- principles set out in the investment protocol referred to in paragraph 4.23 hereof.
- 4.18.5 Litigation funding agreements must be executed by two directors or a director and a company secretary.
- 4.18.6 Case selection will be upon the basis of virtual certainty of success - expressed as a percentage, no case should be taken on unless it is thought that it has at least an 85% chance of success or there are special reasons that the committee thinks justify a deviation from this approach.
- 4.18.7 No litigation funding agreement will be entered into where the total potential loss is in excess of 10% of the net assets of the Company except with prior Board approval and so long as specific arrangements are made in relation to the funding thereof (total potential loss will be taken to be budgeted outgoings plus 66%).
- 4.18.8 All funded cases on the Watch List will be reviewed and any cases which appear to be less than 85% certain will, if appropriate, be reassessed and a strategy implemented in conjunction with the client and the solicitor for the client to enable the Company to withdraw from the funding.
- 4.18.9 Liquidity is the second major risk factor for the Company. The Company will keep budgets which demonstrate the likely monthly amount required to fund each funded case.
- 4.18.10 In assessing the contingent liability represented by all adverse cost cover the Company will work on the basis that its maximum liability under all adverse cost orders from time to time is represented by 66% of the cash payments made on behalf of clients in relation to those funded cases and that the liquidity buffer required to be kept by the Company is 20% of that figure.
- 4.18.11 The Company will comply with the liquidity requirements of the Corporations Act.
- 4.18.12 If any contract is written outside of the terms of this risk profile then notice thereof must be given in writing by the managing director to the Board. The Company secretary must give advice to the Board if the cash reserves of the Company fall below the figure referred to in clause 4.18.11 hereof.
- 4.18.13 The company secretary must certify in writing before each Board meeting that:
- (a) no case is likely to exceed the 10% of asset test;
 - (b) the cash reserves of the Company are sufficient to meet the adverse cost test; and
 - (c) the Company is in compliance with the requirements of the Corporations Act in relation to its AFS license.
- 4.18.14 The audit committee will review the certificate referred to in clause 4.18.14 from time to time with the company secretary and where appropriate make spot checks of the records of the Company so as to determine that these risk profiles have not been exceeded.
- 4.18.15 The managing director will oversee the implementation of a formal and documented case management system which will enable management to:
- (a) maintain an oversight of all funded cases;

- (b) determine the amounts paid out on each funded case;
 - (c) determine the amounts yet to be paid out in relation to such cases;
 - (d) determine the likely revenue from such cases; and
 - (e) determine whether each case is suitable to continue to receive litigation funding from the Company.
- 4.18.16 All cash assets of the Company will be deposited with a national or international bank and held on appropriate deposit rates. No monies will be invested with non-bank institutions.
- 4.18.17 All cash payments will be paid over the signature of at least two members of the executive management group.
- 4.18.18 A list of all payments made directly to directors or members of the executive management group will be provided to the audit committee at its bi-monthly meeting with an explanation as to the purpose of the payment.
- 4.18.19 The company secretary will be responsible for the following security steps in relation to the computer systems of the Company:
- (a) all data files will be backed up daily on a 15 tape rotation or a three week period;
 - (b) each fifth tape (ie.. 5, 10 and 15) will be taken off site on the Friday of each week before being recycled into the cycle of 15. Each fifteenth tape will be stored off site and replaced with the next fifteenth tape in the cycle.
- 4.18.20 In general terms the Company recognises the importance of risk management to its operations and has in place a policy and system that follows the principles in Australian Standard AS/NZS 4360 – 2004 risk management in so far as those principles are relevant to the operations of the Company.

4.19 **Managing Director and Remuneration Policy**

- 4.19.1 The remuneration committee (which shall consist of the chairman and at least one other non-executive director) will review the salary of the managing director and other senior employees every 12 months and may in their discretion and after taking advice review those salaries upwards.
- 4.19.2 The following principles will be the basis of the remuneration policy of the Company;
- (a) the payment of a salary which will be sufficient to recognise the training, experience and expertise of the employee and which is sufficient to induce the employee to accept the position;
 - (b) the Company will pay bonus amounts as set by the remuneration committee and promulgated to shareholders;
 - (c) written contracts will be entered into with Executive Directors for three years with a termination entitlement of 12 months if termination occurs other than for misconduct by the party receiving the notice;
 - (d) no loans will be made by the Company to any employee;

- (e) the remuneration committee will set the expenses which may be claimed by employees;
 - (f) superannuation payments will be made on behalf of employees by the Company according to law; and
 - (g) the Company will not make sign on payments.
- 4.19.3 The remuneration committee will also determine the salary package and conditions of employment for the following:
- (a) the company secretary/chief financial officer; and
 - (b) non-executive directors.
- 4.19.4 The remuneration committee shall obtain expert assistance in relation to the setting of salary packages for the managing director and non-executive directors.
- 4.19.5 The remuneration committee will (as they see fit) consult substantial shareholders in relation to any material increase in the salary packages of those parties.

4.20 Employee Arrangements

- 4.20.1 The aim of the Board and management is to ensure a fair, safe and enjoyable working place for all staff of the Company.
- 4.20.2 Any staff member who feels that the Company is not living up to this ideal or who has any other complaint in relation to his or her employment should take up the matter in the first instance with the Company secretary. All complaints will be handled in a completely confidential manner.
- 4.20.3 All staff have the personal obligation of further education. All staff members who become aware of educational opportunities should refer the opportunity to the Company secretary with a request that the Company fund that further education. The managing director and the Company secretary will make a determination in each case.
- 4.20.4 The aim of the Company is to retain the services of its staff. In this regard the Company encourages staff to move from office to office if and when the opportunity arises.
- 4.20.5 The Company will establish and maintain a formal policy in relation to maternity and paternity leave. The principle will be that expectant mothers will be encouraged to take time off during this period.
- 4.20.6 All staff members should endeavour to take the whole of their annual leave during the year in which it accrues.
- 4.20.7 The Company and its Board provides and maintains a healthy and safe working environment for its employees in accordance with relevant occupational safety and health legislation and has systems in place to handle any issues regarding the health and safety of its employees. Any concerns a staff member may have about their health or safety should be taken up in the first instance with the Company secretary.

4.21 Community Involvement

- 4.21.1 The Company has started a pro bono publico program. From time to time the Company will support worthy causes either with cash or with the efforts of its employees.
- 4.21.2 Members of staff are invited to refer any such worthy causes to the Company Secretary for consideration as part of the program.
- 4.21.3 Both management and staff are encouraged to take part in the development of the program under the leadership of the managing director.

4.22 Investment Management System

- 4.22.1 Management, under the direction of the managing director will be responsible for the preparation and updating of a investment management system (IMS) capable of recording the introduction and progress to completion of all applications for funding.
- 4.22.2 The IMS will be designed so as to enable:
 - (a) the recording of applications through the due diligence funding and completion stages;
 - (b) the interrogation of that record and the preparation of status reports.
- 4.22.3 The IMS must be available to all staff and capable of continuous access.
- 4.22.4 The IMS must be integrated with the accounting system so as to give current accountancy information in conjunction with management information.

4.23 Investment Protocol

- 4.23.1 Management, under the direction of the managing director will prepare and update an investment protocol outlining the basic parameters for decision making in relation to applications for litigation funding.
- 4.23.2 The investment protocol will be distributed to all management employees so that they have an understanding of the methodology of litigation funding.
- 4.23.3 All management employees involved in the assessment of litigation funding applications will take heed of the protocol and apply it in the course of their assessment of litigation funding applications.
- 4.23.4 Where a management employee wishes to go outside the terms of the protocol he or she will not do so without bringing the matter to the attention of the managing director.

4.24 Privacy

- 4.24.1 IMF takes seriously its obligation to safeguard personal information regarding its customers.
- 4.24.2 In addition, IMF wishes to observe requirements of confidentiality, legal professional privilege and common interest privilege in relation to the documents belonging to or associated with its customers.

- 4.24.3 IMF and its staff will comply with the National Privacy Principles contained in the Privacy Act 1988 and with the Privacy Policy promulgated by the company from time to time.
- 4.24.4 Management, under the direction of the managing director will prepare, update and promulgate the privacy policy of IMF and will ensure that all staff of IMF receive a copy of the policy. The policy will be continuously maintained on the company website.

4.25 **Email Policy**

- 4.25.1 Management, under the direction of the managing director will prepare and promulgate the email policy of IMF.
- 4.25.2 The policy will be in the form of an agreement to be signed by each member of staff of the Company.

5. Complaint Handling Procedure

5.1 General

- 5.1.1 IMF has both wholesale and retail clients.
- 5.1.2 Wholesale clients are generally those who have net assets of \$2 million, income of \$250,000 in the previous two years or are professional investors. It is thought that virtually all of our insolvency practitioner clients will be wholesale clients.
- 5.1.3 Wholesale clients are also defined as those who deal with us at a price to them in excess of \$500,000.
- 5.1.4 The price paid by our clients is the dollar amount of the assignment of the future fruits of action; this will nearly always be in excess of \$500,000.
- 5.1.5 The exception is where we have multiple clients in relation to an action where the price paid to us is collectively in excess of \$500,000, but each client has a claim less than \$100,000. There would be many thousands of such clients.
- 5.1.6 To this end it has been decided that we will implement a complaint handling system for both wholesale and retail clients without differentiating between the two.

5.2 Types of Complaint

- 5.2.1 It is likely that, in due course, we will receive complaints of the following general types:
 - (a) in relation to the form of our agreement;
 - (b) in relation to the deal negotiated with the client;
 - (c) in relation to our implementation of the deal;
 - (d) in relation to our communication with the client; and
 - (e) in relation to our response times.

5.3 Complainants

- 5.3.1 It is likely that complaints will come from within the following groups:
 - (a) clients;
 - (b) solicitors; and
 - (c) other service providers.

5.4 General Approach

- 5.4.1 Clearly we do not want circumstances giving rise to complaints and the best way to avoid them is to provide a service about which no-one wishes to complain. The implementation of a complaints handling procedure will, at the very minimum, highlight to all management employees those areas which

require attention in order to minimise circumstances giving rise to future complaints.

5.5 Commitment

- 5.5.1 What is required therefore is the commitment of all management employees to this complaints handling procedure.
- 5.5.2 It is absolutely essential that all of us recognise the inherent right of all of the complainants referred to above to complain to us if our service is not up to scratch.
- 5.5.3 The aim of the complaints handling procedure is to provide an efficient and fair resolution to any complaint which may be made.
- 5.5.4 We have repeat business from insolvency practitioners and they, in particular, will want to see a consistent and improving level of service from us. In other cases we will only have a one off transaction with many clients and we should ensure that they are sufficiently satisfied with that experience that they pass on details of our business to other people who might be in the same position as them.

5.6 Australian Standard

- 5.6.1 Australian Standard AS4269 – 1995 – Complaints Handling – (a copy of which is to be found at Tab 3 of this manual) sets out the general principles upon which our complaints handling procedure has been established. Please familiarise yourself with the standard.

5.7 Procedure

- 5.7.1 Complaints will be written or oral. If they are written then the writing must be retained. If oral then a statement of the oral complaint must be prepared as soon as the complaint is received.
- 5.7.2 A statement must then be prepared by the person receiving the complaint. The statement must detail:
 - (a) the person making the complaint;
 - (b) details of the complaint itself;
 - (c) the validity or otherwise of the complaint; and
 - (d) how the employee intends to handle the complaint.
- 5.7.3 A copy of the statement and any written complaint must then be delivered to the company secretary within 10 days of receipt of the complaint.
- 5.7.4 The management employee receiving the complaint should, in the first place, then attempt to deal with the subject of the complaint, remembering the following basic matters:
 - (a) the right of the person to make a complaint;
 - (b) the fact that the reputation of IMF in part depends upon how the complaint will be handled; and

- (c) the requirement to be as fair as possible to the complainant (while at the same time, of course, remembering that there is an obligation to protect the interests of IMF).
- 5.7.5 If the management employee deals with the complaint to the satisfaction of the complainant then the management employee will provide a report to the Company secretary in relation to how the complaint has been handled and the result thereof.
- 5.7.6 The complaint must be handled and reported upon within 24 days, at the expiration of which time, if the matter has not been resolved, then the company secretary is to take over the resolution of the complaint.
- 5.7.7 During the course of handling the complaint the management employee must provide the following material to the complainant:
 - (a) the name of the Company Secretary;
 - (b) the contact details of the Company Secretary; and
 - (c) an invitation to contact the Company Secretary.
- 5.7.8 If, after 14 days have elapsed from the receipt by the Company Secretary of the initial statement from the management employee, no resolution report has been received, then the Company Secretary will liaise with the management employee in order to ensure that the complaint is resolved.
- 5.7.9 If the Company Secretary becomes involved in the resolution of the complaint then a report on that resolution will be provided to the Managing Director by the Company Secretary once the complaint has been resolved. That report should detail the steps taken by the Company Secretary and the outcome of the complaint procedure.
- 5.7.10 The Company secretary will set up and maintain a complaints file upon which will be included:
 - (a) the management employee statements under clause 5.7.2;
 - (b) the resolution reports under clauses 5.7.5 and 5.7.9referred to above.
- 5.7.11 If no resolution report has been achieved by the Company secretary after 42 days then the matter will be referred to the managing director.
- 5.7.12 The managing director upon receipt of a report will liaise with the Company Secretary and the employee to determine the procedure to deal with the complaint. That procedure may include a meeting between the complainant and the management employee, the company secretary and the managing director to discuss the complaint.
- 5.7.13 If the complaint is resolved by the management employee, the Company Secretary or the managing director then a written statement as to the outcome of the complaint will be provided to the complainant. That statement will include any reasons for decision by the employee, the Company Secretary or the managing director.

5.8 Provision of Copy of Complaints Procedure

- 5.8.1 A copy of the complaints procedure will be posted on the IMF web site and will be kept up to date.
- 5.8.2 The complaints handling procedure is to be without charge to any complainant. Where costs are incurred (such as time and travelling costs) then they will be written off to general overheads. The accounts section will keep a separate accounting for any out of pocket expenses in relation to complaints so that an assessment can be made from time to time as to the cost of the procedure.

5.9 Remedies

- 5.9.1 All remedies short of termination of the litigation funding agreement and any monetary payment are available to the management employee handling the complaint.
- 5.9.2 Remedies involving a termination of the litigation funding agreement or any monetary payment will be a matter for discussion and decision between the Company Secretary and the managing director.

5.10 External Dispute Resolution

- 5.10.1 IMF is or will become a member of Financial Ombudsman Service which is a specialist in dispute resolution.
- 5.10.2 Whenever a conflict gets to the level of the Managing Director, the complainant must be advised in writing of the existence and workings of this external dispute resolution mechanism.
- 5.10.3 Our membership of Financial Ombudsman Service will be referred to on our website and in our annual reports to members.

5.11 Statistics

- 5.11.1 The Company secretary will extract on a six monthly basis a report to the managing director in relation to:
 - (a) complaints made during the period;
 - (b) resolution of such complaints;
 - (c) an assessment of the type of complaints being made; and
 - (d) any recommendations in relation to the business of IMF as a result of the complaints or the types of complaints being made.
- 5.11.2 A copy of that report will be included in the board papers for the next Board meeting after the report has been prepared and a copy will be provided to the auditors along with access to the complaint file.
- 5.11.3 The managing director will include in his board report and discussion with auditors his view of the complaints handling procedure after receipt of the six monthly reports from the Company secretary. The managing director will seek input from the Board and the auditors and implement any changes which may be recommended.

6. Practice Manual

- 6.1 The managing director will cause a practice manual to be prepared in relation to the step by step procedures to be adopted in relation to the assessment of litigation funding proposals and the management of funded cases.
- 6.2 The managing director will ensure that the practice manual is kept updated at all times and is available to all members of staff.
- 6.3 All members of staff are urged to consider the updating of the practice manual and recommendations in that regard are to be provided to the managing director as and when appropriate.
- 6.4 The orientation of new staff will include instruction on the contents of the practice manual.
- 6.5 All staff are required to comply with the practice manual and to seek the consent of the Managing Director to go outside the terms of the manual in any material respect.

7. Occupational Safety & Health

- 7.1 Pursuant to various legislation around Australia an employer in the position of IMF has a duty, so far as is practicable, to provide and maintain a working environment in which it's staff members are not exposed to anything that may result in injury or harm to their health. Significant penalties are provided in the legislation for breaches of requirements relating to the safety and health of staff members.
- 7.2 It is the direct responsibility of the Company secretary to put in place a formal occupational safety and health program and to ensure that the details of the program are known to all staff members.
- 7.3 It is also the direct responsibility of the Company secretary to ensure that all staff members take part in mandatory fire and safety drills and that they are made directly aware of the rules relating to such safety issues.



IMF (Australia) Limited Corporate Governance Manual

**Addendum 1
Australian Financial Services Licence
Updated – 18 January 2010**

1. Introduction

- 1.1 IMF has now been issued with an Australian Financial Services Licence pursuant to the provisions of Section 913B(3) of the Corporations Act.
- 1.2 IMF is now required to comply with the relevant provisions of the Act and all of the conditions attached to the licence.
- 1.3 This addendum sets out;
 - (a) an explanation of the basis for the licensing;
 - (b) the requirements of the Act in relation to the licence;
 - (c) the requirements of the conditions attaching to the licence;
 - (d) arrangements to ensure compliance;
 - (e) the consequences of breach;
 - (f) reporting; and
 - (g) risk management.

2. The AFS Licence

- 2.1 Licence number 286906 licences IMF to carry on a financial services business of dealing in financial products by issuing derivatives in the form of litigation funding agreements to retail and wholesale clients.
- 2.2 The litigation funding agreements are derivatives pursuant to the provisions of Section 761D(1) of the Act as they are arrangements in relation to which the following conditions are satisfied:
 - (a) under a litigation funding agreement, a party to the arrangement (IMF) must or may be required to provide, at some future time, consideration of a particular kind to someone else (the client); and
 - (b) that future time is not less than the number of days prescribed by regulations (regulation 7.1.04 prescribes one day); and
 - (c) the amount of the consideration varies by reference to the value or amount of something else (legal fees charged by the client's solicitors and/or judgments for costs made against the client and/or the amount of the settlement or judgment, if any, in favour of the client).
- 2.3 Under Section 764A(1)(c) of the Act, a derivative is defined to be a financial product.
- 2.4 Pursuant to Section 761E(3), a derivative is issued when the litigation funding agreement is entered into.
- 2.5 Under Section 761E(4), IMF is the issuer of the financial product.
- 2.6 We will deal with a client as a retail client where we undertake to pay less than \$500,000 on the client's behalf or the amount we are to receive is not in excess of that figure. In cases where the amount is above that figure, our client will be a wholesale client.

- 2.7 IMF has decided to deal with all clients as though they are retail clients so as to ensure certainty in our observation of the law in this area.
- 2.8 During the course of its business, IMF will be providing a financial service because it is dealing in a financial product (Section 766A(1)(b) and the Act).
- 2.9 IMF will be dealing in a financial product because it will be issuing a financial product (refer Section 766C(1)(b) of the Act).

3. Officers, Agents, Employees

- 3.1 Under Section 769B of the Act, IMF is responsible for all financial services conduct engaged in by its directors, employees or agents within the scope of their actual or apparent authority and for the conduct of any other person who acts at the direction or with the consent or agreement of a director, employee or agent of IMF where those acts are within the scope of the actual or apparent authority of IMF's directors, employees or agents (refer Section 769B).

4. Statutory Obligations

- 4.1 The Act provides by Section 912A(1) a list of general obligations which must be observed by IMF as follows;
- (a) IMF must do all things necessary to ensure that it acts efficiently, honestly and fairly in relation to its litigation funding business;
 - (b) IMF must have in place adequate arrangements for the management of conflicts of interest in relation to activities undertaken by both IMF and its representatives;
 - (c) IMF must comply with the conditions of the licence;
 - (d) IMF must comply with the financial services laws;
 - (e) IMF must take reasonable steps to ensure that its representatives comply with the financial services laws;
 - (f) IMF must have available adequate resources (including financial, technological and human resources) to provide the financial services covered by the licence and to carry out supervisory arrangements;
 - (g) IMF must maintain the competence to provide the financial services;
 - (h) IMF must ensure that its representatives are adequately trained and are competent to provide the financial services;
 - (i) In circumstances where litigation funding agreements are provided to retail clients, IMF must have a dispute resolution system which complies with the Act; and
 - (j) IMF must have adequate Risk Management Systems.

5. Provision of Efficient, Honest and Fair Service

- 5.1 The general terms of IMF's Corporate Governance Manual set out the basis upon which the financial services of IMF will be provided on an efficient, honest and fair basis.
- 5.2 Investment Managers and Investigators will interact with clients of IMF. Their interaction will be by reference to and in compliance with the Investment Management

System referred to in Clause 4.22 of the Manual, the Investment Protocol referred to at Clause 4.23 and the Practice Manual referred to at Clause 6.

- 5.3 If all officers and employees follow these requirements then compliance will automatically follow.
- 5.4 In addition, all officers and employees are required to read and observe the extra requirements contained in this addendum.

6. Risk

- 6.1 The risk of the provision of inefficient, dishonest or unfair service will be minimised if the terms of the Corporate Governance Manual are observed.
- 6.2 If inefficient, dishonest or unfair service does occur then its potential impact upon IMF will be as follows:
- (a) clients may withdraw from their transactions;
 - (b) clients may issue legal proceedings to have their transaction amended or set aside; and/or
 - (c) clients may attempt to avoid payment under their transaction.
- 6.3 From the client's point of view, they may be induced to take up a litigation funding agreement when they would not otherwise have done so.

7. Reporting

- 7.1 All Investment Managers and Investigators are to report in writing to the Managing Director as to any occurrence of inefficient, dishonest or unfair conduct towards clients (including their own conduct) and the Managing Director is to resolve any report with the reporter and with the officer or employee responsible for the conduct.
- 7.2 The Managing Director will ensure that an initial briefing regarding the licence is be given to all officers and employees and that as changes to the Act or personnel occur, regular briefings are provided.

8. Conflicts of Interest

- 8.1 It is almost impossible that there will be a conflict of interest between officers and employees of IMF on the one hand and any particular client of IMF on the other.
- 8.2 A conflict might arise where the officer or employee of IMF knows of the client or is connected with the client in some way.
- 8.3 The financial risk to IMF of any such conflict is minimal in that the litigation funding agreement is, in the end, signed by officers of IMF after it has proceeded through a rigorous review process at meetings of the Investment Managers.
- 8.4 The effect of a conflict of interest may be that the client is provided with litigation funding on terms which are adverse to the interests of IMF. There is no probable adverse impact on the client.
- 8.5 IMF requires that all Investment Managers report to the Managing Director any situation in which they know any of the parties involved in an application for litigation funding and any application in which they have any financial interest or potential advantage.

8.6 The Managing Director will decide whether the reporter should continue working with the client despite the conflict or whether an alternative Investment Manager should be appointed.

9. Compliance with Conditions of the Licence

9.1 The licence requires compliance with the following conditions:

- (a) IMF must be able to pay all its debts as and when they become due and payable;
- (b) IMF must have total assets that exceed total liabilities and adjusted assets that exceed adjusted liabilities;
- (c) IMF must have no reason to suspect that total assets will not exceed total liabilities and adjusted assets will not exceed adjusted liabilities on a current balance sheet;
- (d) IMF must meet the cash needs requirement by complying with the reasonable estimate projection plus cash contingency basis (known as option 1);
- (e) If at any time IMF is required to hold money or other property, then IMF must ensure that it has at least \$50,000 in surplus liquid funds;
- (f) IMF must hold adjusted surplus liquid funds in the sum of:
 - (i) \$50,000; plus
 - (ii) 5% of adjusted liabilities;
- (g) IMF must report to ASIC if its adjusted surplus liquid funds fall below 5.5% of adjusted liabilities;
- (h) IMF must lodge with ASIC an annual opinion by a registered company auditor that IMF has complied with the financial requirements of the Act during that relevant period;
- (i) Where IMF provides services to retail clients, it must be a member of one or more external dispute resolution schemes.

9.2 The Audit Committee will review these requirements at six monthly intervals (30 June and 31 December), report to the Board whether compliance has been achieved and provide any details of non-compliance.

10. Solvency

10.1 IMF employs a fulltime Company Secretary and other accounting staff.

10.2 The Company Secretary is to advise the Managing Director if any question as to solvency arises and in particular if net assets fall below \$5 million.

10.3 The Managing Director is then to raise the matter with the Board and to increase solvency by appropriate means.

10.4 IMF is listed on the Australian Stock Exchange and has access to equity and loan funds.

10.5 IMF has stated to the market that it will retain profits until it has achieved a \$50 million cash position. This position will not change without Board approval.

11. Assets/Liabilities

- 11.1 The three major asset categories of IMF are cash, litigation work in progress and receivables.
- 11.2 IMF is a company which keeps a very liquid position and as a result total assets have historically been well in excess of total liabilities.
- 11.3 The Company Secretary is to prepare a balance sheet at the end of each calendar month and provide a copy thereof to the Managing Director within 7 days of the end of each month.
- 11.4 The Company Secretary must advise the Managing Director, who in turn must advise the Board, if either of them have any reason to suspect that total assets will not exceed total liabilities on a current balance sheet.

12. Option 1

- 12.1 Because IMF keeps a high level of cash and other liquid financial resources at all times Option 1 is the appropriate table to determine its cash needs requirement.
- 12.2 The Company Secretary must prepare a report at the beginning of each month which shows the cash on hand as a percentage of the expected cash outflow for the following three months and the actual cash outflow for the previous three months.
- 12.3 Option 1 requires that the company hold cash equal to 20% of the larger of these two amounts.
- 12.4 The Company Secretary is to provide a copy of the cash report to the Managing Director within seven days from the beginning of each month.

13. Holding Cash

- 13.1 IMF does not generally hold funds on behalf of clients. All funds are held by the solicitors for the client in the solicitor's trust account. Where no solicitors are acting, then any funds received for clients will be deposited in a trust account pursuant to the provisions of the Corporations Act.
- 13.2 This practice is not to change without the concurrence of the Board.

14. Adjusted Surplus Liquid Funds

- 14.1 The Company Secretary is to prepare an adjusted surplus liquid funds report at the end of each month and provide a copy thereof to the Managing Director within seven days of the end of the month.
- 14.2 If at any time such a report gives rise to the possibility of adjusted surplus liquid funds falling below 50% of adjusted liabilities this fact must be made known to the Board.

15. Auditor

- 15.1 The company auditor will be tasked by the Board to provide a review to the Board of the monthly adjusted surplus liquid fund reports and cash position reports prepared by the Company Secretary for the Managing Director.
- 15.2 The auditor will also be tasked to provide a report addressed to IMF and to ASIC concerning whether:
 - (i) on a positive assurance basis IMF has complied with its financial requirements;

- (ii) IMF has at all times, a projection (covering at least the following three months) that purports to and appears on its face to comply with Option 1; and
 - (iii) the projections are correctly calculated on the basis of the assumptions adopted for those projections.
- 15.3 The auditor will also be tasked to provide a report to IMF and to ASIC on a negative assurance basis that the auditor has no reason to believe that:
- (i) IMF did not satisfy the requirements for managing risk;
 - (ii) IMF did not comply with cash needs requirements;
 - (iii) IMF relied upon unreasonable assumptions in determining Option 1.

16. Compliance with Financial Services Laws

- 16.1 Now that IMF holds an AFS licence, it will be necessary for IMF, its officers and employees to comply with a number of provisions of the Corporations Act as set out below.
- 16.2 Each officer and employee must familiarise themselves with these provisions of the law and ensure that they and IMF comply with those provisions at all times.
- 16.3 All officer and employees should be aware that without the AFS licence IMF would not be able to carry on business. The licence may be lost if IMF, its officers or employees breach the provisions of the Corporations Act or the conditions of the licence.
- 16.4 In addition all officers and employees should be aware that breaches of the Corporations Act and/or the conditions of the licence may lead to economic loss on the part of IMF.
- 16.5 Pursuant to Section 912D IMF is required to advise ASIC of any significant breach or likely breach of the provisions of the Corporations Act or the conditions of its licence. Breaches will be significant depending upon the matters set out in Section 912D(b).
- 16.6 Any such breaches must be reported to the Managing Director who in conjunction with the Board will make a decision as to whether it is necessary to report the breach to ASIC pursuant to Section 912D.
- 16.7 Now that we are licensed it is necessary to cite our licence number in certain documents. The requirements of Regulation 7.6.01C (1) indicate that the number is required in the Financial Services Guide and the Product Disclosure Statement as well as any such supplementary documents.
- 16.8 A licence is granted under Section 913B(3)(a)(i) if the responsible officers of the body corporate are of good fame and character.
- 16.9 If therefore any changes to the responsible officers of the company is to be made the Managing Director must ensure that the proposed responsible officers are of good fame and character as those terms are used in the Corporations Act. This will include police clearances, credit checks, officer certifications and appropriate contractual clauses. The Managing Director will also apply these tests to any person dealing with the property of clients from time to time.
- 16.10 Section 941A requires IMF to provide a Financial Services Guide to potential clients.
- 16.11 Section 1012B of the Corporations Act requires IMF to provide a Product Disclosure Statement to each client.

- 16.12 Section 1013M of the Corporations Act allows a Financial Services Guide and a Product Disclosure Statement to be combined in the one document in certain circumstances.
- 16.13 IMF is in compliance with the circumstances referred to in Section 1013M and therefore a combined Financial Services Guide and Product Disclosure Statement as set out in the Schedule to this Addendum will be provided to each potential client of IMF.
- 16.14 The content of these documents complies with Section 942B(2) in relation to the Financial Services Guide and 1013D in relation to the Product Disclosure Statement.
- 16.15 It is an offence against the Act not to give required disclosure documents or to provide defective disclosure documents. As a result the form used in the Addendum is not to be altered without the approval of the Managing Director in any particular case.
- 16.16 Section 991A provides that a financial services licensee must not in, or in relation to, the provision of a financial service engage in conduct that is, in all the circumstances, unconscionable.
- 16.17 This is a very wide section which would cover any unfair conduct on the part of IMF.
- 16.18 All officers and employees should be on guard to ensure that our dealings with clients are fair and reasonable and based upon full disclosure.
- 16.19 Particular care must also be taken in relation to the methods by which IMF offers litigation funding agreements or invites offers for such agreements. Section 992A deals with the hawking of financial products and provides that financial products must not be offered for issue in the course of, or because of, an unsolicited meeting with another person. Sub-Section 3 also limits offers or invitations in the course of unsolicited telephone calls.
- 16.20 A general mail out to shareholders, creditors or other groups associated with IMF would not be prohibited by this section.
- 16.21 Section 1017B deals with the ongoing obligation of IMF to disclose any material changes and significant events which would affect the client.
- 16.22 It is highly unlikely that there would be any change to the material set out in the Product Disclosure Statement but if that does occur then it must be disclosed to the client.
- 16.23 If any officer or employee of IMF recognises any such change then he or she is to refer that change to the Managing Director who will then determine whether any notification should be given to clients.
- 16.24 Section 1018A deals with advertising and other promotional material. These documents must refer to the Product Disclosure Statement contained in the Schedule to this Addendum. Any advertisement or promotional material must identify the issuer of the product (ie...IMF), indicate that a Product Disclosure Statement is available and where it can be obtained and indicate that persons should consider the Product Disclosure Statement before deciding whether to acquire the product.
- 16.25 Section 1019A provides for a 14 day cooling off period which begins five days after the issue of the litigation funding agreement. IMF has provided a 21 day cooling off period in order to be certain of this provision.
- 16.26 The importance of these provisions of the Corporations Act is emphasised by the fact that breaches of many of them are offences against the Act which are punished by the terms of the Act. It is an offence, for instance, to fail to give a disclosure document (Section 1021C) or to give a defective disclosure document (Section 1021D and 1021E).

16.27 Section 1015D requires that the Product Disclosure Statement in the Schedule to the Addendum must be lodged with ASIC within five business days after the first copy of the statement is given to someone in an issue situation. Thereafter the statement must be kept by IMF for a period of seven years. It must be available to ASIC or to any other person upon a reasonable request being made for it.

17. Risk Mitigation

17.1 IMF intends to mitigate the risk of breaches of the Act and/or the licence conditions in the following manner:

- (i) by the current and continuing education of all officers and employees in relation to the requirements of the Act and the licence;
- (ii) by implementing and enforcing the Investment Management System, Corporate Governance Rules, Investment Protocols and the Privacy Policy of the company;
- (iii) by constant peer review at the fortnightly Investment Committee meeting during the course of which the requirements of the Act and the licence will be under constant review;
- (iv) by requiring and enforcing the reporting of breaches and potential breaches of the Act and the terms of the licence.

17.2 In view of the consequences to clients and to IMF, its officers and employees if any such breaches occur, all officers and employees are urged to actively ensure compliance with the Act and the condition of the licence whenever they are dealing with clients or potential clients.



IMF (Australia) Ltd

**Combined Financial Services Guide and Product
Disclosure Statement**

Dated the 18th day of January 2010

1. Introduction

- 1.1 This document is provided to you by IMF (Australia) Ltd which is referred to as “IMF”, “us” or “we”.
- 1.2 It is provided to you pursuant to sections 941A and 1012B of the Corporations Act (“the Act”) because you have sought litigation funding services from us and is divided into the following two parts:
- (a) a Financial Services Guide; and
 - (b) a Product Disclosure Statement.

2. Financial Services Guide

- 2.1 This guide is to help you decide whether to use our litigation funding services.
- 2.2 The guide is given to people who ask us to fund their claims and litigation. It explains:
- (a) what money we might receive if you enter into a litigation funding agreement with us; and
 - (b) how you can complain about our service should you wish to do so.
- 2.3 We provide litigation funding services pursuant to written litigation funding agreements. If we decide to fund your claim, we will negotiate the terms of a written agreement with you.
- 2.4 Our litigation funding agreements are “financial products” as that term is used in the Act. For the purposes of the Act, if we offer to enter into a litigation funding agreement with you and you accept our offer, we:
- (a) have “issued” a financial product to you; and
 - (b) are providing a “financial service” to you (as that term is used in the Act).
- 2.5 You are dealing with a company, IMF (Australia) Ltd, whose ABN is 45 067 298 088. Our shares are listed for quotation on the Australian Securities Exchange (“ASX”) under the stock code “IMF”. Our contact details are set out on the last page of this document. We also maintain a web site at www.imf.com.au.
- 2.6 Our web site contains the following information which may help you to decide whether to use our financial services:
- (a) our audited accounts;
 - (b) our Corporate Governance Manual;
 - (c) our Privacy Policy;
 - (d) public announcements made by us to the ASX; and
 - (e) general information about litigation funding.
- 2.7 Our Chairman is Robert Ferguson and our Managing Director is Hugh McLernon. Both may be contacted by telephone on +61 2 8223 3567.
- 2.8 No other companies, entities or persons (other than our officers and employees) are involved in any way in the provision of our financial services.
- 2.9 A litigation funding agreement is a contract which both you and IMF may enforce.
- 2.10 We hold Australian Financial Services Licence No. 286906 and are lawfully entitled to enter into litigation funding agreements with retail and wholesale clients pursuant to the provisions of the Act and the conditions of that licence.

- 2.11 A copy of the licence will be made available to you upon request. A copy may also be sourced from our web site.
- 2.12 When we enter into litigation funding agreements, we are acting on our own behalf and not on behalf of you or anyone else. We cannot and do not make any recommendations as to whether you should enter into a litigation funding agreement with us. We will not provide you with any advice on the meaning, effect or content of the litigation funding agreement. Since we are the other party to the agreement, it would not be appropriate for us to provide you with such advice. We recommend that you obtain your own independent advice on the meaning, effect and content of the litigation funding agreement before you decide whether to execute it.
- 2.13 Once the litigation funding agreement is executed, you and IMF will have similar (but not the same) interests because we both stand to benefit from a successful resolution of your claim.
- 2.14 Our litigation funding agreements are entered into on a “no win, no fee” basis. This means that we will not be paid any money unless and until:
- (a) you have executed a litigation funding agreement;
 - (b) your claim has been settled or concluded by a judgment in your favour; and
 - (c) you have received at least some of the settlement or judgment moneys. (You will never be asked to pay more than you have actually received.)
- 2.15 The litigation funding agreement explains how any money we will be paid is calculated.
- 2.16 Clause 5 of our Corporate Governance Manual, which can be found on our website, explains how our dispute resolution process works.
- 2.17 IMF is also a member of the Financial Ombudsman Service scheme. You can contact the Chief Ombudsman, Colin Neave AM, by ringing 1300 780 808 (within Australia) or +61 3 9613 7333 (outside Australia) or by sending a fax to +61 3 9613 7345.

3. Product Disclosure Statement

- 3.1 We have prepared this Product Disclosure Statement.
- 3.2 In general terms, we will decide whether we want to enter into a litigation funding agreement with you by assessing:
- (a) the strength of your claim;
 - (b) the type of claim;
 - (c) when your claim arose;
 - (d) the jurisdiction in which your claim will be heard;
 - (e) the amount of your claim;
 - (f) any legal or factual difficulties;
 - (g) the ability of the proposed defendant to pay you if you are successful; and
 - (h) how much documentary evidence there is to support your claim.
- 3.3 To assist us in making our initial assessment, we may require you to provide us with documents and other information. We will treat this information as confidential.
- 3.4 We do not charge anything for our initial assessment.
- 3.5 If we decide not to fund your claim, we will return your documents to you promptly.
- 3.6 If we decide to fund your claim, we will offer to enter into a litigation funding agreement with you.
- 3.7 The litigation funding agreement will cover three major areas:
- (a) investigation;

- (b) litigation management; and
 - (c) funding.
- 3.8 If we enter into a litigation funding agreement with you, we will continue to investigate your claim.
- 3.9 We will appoint the solicitors to provide the relevant legal work to you on the terms of an agreement, referred to as the Standard Lawyers Terms. This is an agreement between us and the solicitors. The solicitors will also wish to have a retainer agreement directly with you.
- 3.10 We will pay the following costs: - incurred during the term of the funding agreement
- (a) the reasonable legal fees of prosecuting the relevant proceedings;
 - (b) expenses reasonably incurred by the solicitors including counsel's fees and expert fees ;
 - (c) court costs;
 - (d) out of pocket expenses associated with our investigation and project management; and
 - (e) any costs of the other side that are ordered to be paid.
- 3.11 We will pay the costs charged by the solicitors, as agreed. We will seek reimbursement from you of the costs we pay, but only from any recoveries you obtain from any settlement or judgement in the proceedings. If you do not win your litigation and receive payment from the other side then you will have nothing to pay to IMF.
- 3.12 We will also provide any other non-legal assistance which you or your solicitors may reasonably request.
- 3.13 If, in any litigation, you are required to provide security for the other side's legal costs, we will provide that security on your behalf by:
- (a) paying money into court or providing a bank guarantee if required to do so by order of the court;
 - (b) providing our guarantee to the defendant or to the court; or
 - (c) providing a Deed Poll to the other side and to the Court undertaking to be directly liable for all of the costs.
- 3.14 We will provide the solicitors with their day to day instructions. However you can override our instructions if you wish and in the event of any conflict arising between your interests and those of IMF, your interests are to prevail. In the case of funding agreements with insolvency practitioners, instructions to the solicitors are given by the insolvency practitioner, although we may assist in that respect.
- 3.15 If your claim is unsuccessful and you are ordered to pay the other side's costs, we will pay those costs on your behalf. If your claim is settled or successfully concluded by judgment in your favour, we will be entitled to receive from any recovery:
- (a) repayment of all money we have paid on your behalf;
 - (b) a project management fee; and
 - (c) an agreed percentage of your recovery.
- 3.16 The litigation funding agreement provides for any recoveries in respect of your claim to be paid into the solicitor's trust account and to be distributed to IMF in respect of its entitlements referred to above (with the balance available to you, subject to any other obligations you may have).
- 3.17 We will not charge for any non-financial assistance we provide to you during the course of any litigation other than our project management fee.

- 3.18 Except where you are suing in the same legal proceedings with others (being multi party cases, including class actions referred to in paragraph 7 below), only you can decide whether to settle your claim. We may, however, ask you to obtain senior counsel's opinion on any settlement offer with the opinion being binding on you and us (except in the case of funding agreements with insolvency practitioners). We will pay for that opinion. In multiparty cases there are specific clauses in the funding agreement that deal with the circumstances in which you can be bound by a global settlement. In addition, with respect to class actions, there are court rules that deal with settlement.
- 3.19 After you execute a litigation funding agreement, you will have a 21 day "cooling off" period. During that period you may tell us that you wish to terminate the litigation funding agreement. You may tell us by letter, email or fax.
- 3.20 If you decide to terminate the litigation funding agreement during that period, we will not charge you anything.
- 3.21 After the 21 day "cooling off" period has ended, you will only be able to terminate the litigation funding agreement in accordance with its terms.
- 3.22 We may terminate the litigation funding agreement at any time by giving you 7 days written notice.
- 3.23 If you enter into a litigation funding agreement and your claim goes to trial, you may be required to give evidence in court. You may also be required to provide copies of all your relevant documents to the other side. We do not pay you to give evidence, to gather and supply your documents to your solicitors or to help with the case generally.
- 3.24 If other people have the same or similar claims as you, we may decide to fund their claims too. This may mean that you and they become claimants in the same litigation or that you become a representative party or are represented by another (usually in a class action). You will not become a representative party without your written consent. Multiparty litigation is referred to in paragraph 7 below.

4. Risks

- 4.1 The most obvious risk is that you may commence litigation and lose. If that happens, and subject to paragraph 4.4, you will not be required to pay any money. You will, however, lose the time and effort you have put into the litigation.
- 4.2 Even if you are successful with your litigation, the other side may not be able to pay all of the judgment sum. As we only get paid from any money you actually obtain, we are always careful to investigate whether the other side will be able to pay you. Of course, we can never guarantee that they will have enough money to do so.
- 4.3 As explained in paragraph 3.22, we may terminate the litigation funding agreement. If that happens, we may lose all the money we have paid and will receive nothing for any work we have put into your claim. If we terminate the litigation funding agreement and you later receive some money in respect of your claim, you must still reimburse us from that money for the legal and other expenses we have paid on your behalf. Extremely few litigation funding agreements are terminated by us.
- 4.4 As your claim proceeds, we will pay your legal costs, court costs and other funded expenses on a monthly basis. As a company, however, we could become insolvent and be unable to meet any order that you pay the other side's legal costs. You will need to make your own assessment of our financial position. Audited accounts of the company are contained on our web site.
- 4.5 We are not aware of any taxation implications for you if you enter into a litigation funding agreement with us. You should obtain your own independent taxation advice in this regard.

5. Dispute Resolution

- 5.1 If you are unhappy with any part of our service, please see Clause 5 of the Corporate Governance Manual which can be found on our web site. That clause explains our internal complaint resolution procedure.

- 5.2 If you have a complaint, you should raise it first with the investment manager who has been responsible for your litigation funding agreement. Any complaints will then be dealt with in accordance with the procedure set out in Clause 5.
- 5.3 If we cannot resolve your complaint ourselves, you can use the external dispute resolution procedure provided by the Financial Ombudsman Service - see paragraph 2.17 above.
- 5.4 Your complaints will be dealt with by the Ombudsman at no cost to you.
- 5.5 This Product Disclosure Statement has been provided by us because we may offer to enter into a litigation funding agreement with you. Our contact details are:

IMF (Australia) Ltd
Level 5, 32 Martin Place
SYDNEY NSW 2000

Attention: Diane Jones

Tel: +61 2 8223 3567

Fax: +61 2 8223 3555

Email: djones@imf.com.au

6. Privacy

- 6.1 Our privacy policy can be found on our website. IMF will adhere to that policy
- 6.2 From time to time we will make contact with you regarding this and other Litigation in which you are, or may wish to become, involved.

7. Multi-Party Litigation

- 7.1 From time to time IMF funds more than one person with the same or similar claims. The cases may be funded as representative actions (otherwise known as class actions) or as a group action.
- 7.2 In class actions, hundreds of clients and sometimes thousands of clients are joined into the one set of proceedings. Such class actions may include persons who have not entered into a funding agreement with IMF.
- 7.3 Common questions of law or fact are answered for the benefit of all members of the class and then, in a secondary set of proceedings, the separate claim of each client is determined (if there is no earlier settlement).
- 7.4 The costs in these matters are paid by IMF and any recoupment from settlement or judgement is divided between the clients on a pro rata basis according to the size of their claim.
- 7.5 In this way, if the legal costs paid by IMF in a class action are say \$4M and a clients claim represents say 1 % of the total claim, then the amount deducted from the payment to that client in respect of their share of the costs is \$40,000.
- 7.6 The solicitors acting in the class action determine the size of each clients claim for the purposes of determining the costs to be reimbursed to IMF by each client.
- 7.7 Because of the large number of class members it is not possible to permit each client to appoint solicitors. In these class actions there is one set of solicitors appointed for all members of the class.
- 7.8 Generally, only the representative party will be required to provide documentation and to give evidence during the course of the initial part of the proceedings (i.e. where the common questions are answered by the Court). If the matter is not settled (and most cases are settled at that point) then it may be necessary for all clients to provide discovery of their documentation and to give evidence on their own particular matter. All clients are expected to provide material to establish the amount of their loss for the purpose of settlement.

- 7.9 If there is a lump sum settlement of the class action then the distribution to each client is determined on a pro rata basis depending on the size of their claim. Settlement of class actions can only occur with the consent of the Court.
- 7.10 You may be given the opportunity to opt out of a class action in which you are either the representative or are represented, with the consequence that you are no longer included in the action. If you opt out, the litigation funding agreement provides that you will still be obliged to pay to IMF its entitlements, from any recovery you make in respect of your claims that were included in the class action. If you do not make any recovery then you will have no obligation to pay anything to IMF.
- 7.11 As is usually the case in class actions, control of the proceedings is in the hands of the representative, the solicitors and IMF. Control of the second part of the proceedings is in the hands of each individual client and the solicitors.
- 7.12 Because of the expense involved in class actions, funding will not occur unless sufficient numbers agree to become members of the class.
- 7.13 In addition class actions may be managed investment schemes under the Corporations Act and may require registration.
- 7.14 No matter, which is a Managed Investment Scheme, will proceed unless IMF and the solicitors involved receive an exemption from ASIC under the Corporations Act permitting the Managed Investment Scheme to go forward without registration or the Corporations Act and/or the regulations made there under are amended to remove the necessity for such registration.

8. Group Actions

- 8.1 In some cases large groups of clients are joined together in what is known as a group action where each client is a party to the proceedings.
- 8.2 This type of proceeding has the advantage that all questions of liability and damage are answered in the one hearing.
- 8.3 In group actions, all clients will be required to provide documentation and to give evidence relating to their claim.
- 8.4 In group actions IMF pays all legal costs and pays the defendant's costs if the action is not successful, incurred during the term of the funding agreement.
- 8.5 The points made in paragraph 7.11 to 7.13 above also apply to group actions.
- 8.6 In group actions a committee of clients may be formed to make decisions on behalf of all clients in respect of the day to day conduct of the case.

Dated the 18th day of January 2010