



## RELEASE TO AUSTRALIAN SECURITIES EXCHANGE

THURSDAY, 8 AUGUST 2019

### MARKET UPDATE

#### Summary

- **IMF is aware of the report issued by a US investment firm on Wednesday, 7 August 2019 (Short Report) on Burford Capital Limited (Burford). IMF does not express a view on the issues in the Short Report as they pertain to Burford. IMF notes the following in relation to IMF's accounting policies and disclosures:**
  - **IMF's litigation funding assets, and those of investment vehicles managed or advised by IMF, are recognised at cost throughout the life of the investment. IMF does not record any unrealised gains attributable to market value adjustments of its litigation assets; and**
  - **as stated in prior announcements, IMF calculates its aggregate Return on Invested Capital (ROIC) and Internal Rate of Return (IRR) on concluded investments only (excluding any partial conclusions, withdrawals and overheads). These metrics include losses on concluded cases.**
- **IMF established funds with aggregate capital commitments of US\$1 billion in FY19 (including commitments from IMF of US\$200 million). This external capital secures IMF's medium-term funding requirements for its current and future litigation funding investments.**
- **In FY19, IMF completed an equity placement raising approximately \$75 million, refreshed the terms of its listed bonds pushing maturity out to FY23 and raising a further \$41 million from the issue of new bonds. More recently, IMF announced that it anticipates receiving income of approximately \$70 million in FY20 from conditional and in principle settlements which have occurred since 1 July 2019 to date, of which \$23.5 million relates to on-balance sheet investments.**

#### Overview

IMF Bentham Limited (IMF) is aware of the Short Report in relation to Burford which identifies a number of alleged deficiencies in Burford's disclosures and accounting treatment. IMF does not express a view on the accuracy or otherwise of those allegations. However, in response to a number of enquiries received from shareholders, and by way of clarification, IMF summarises below the way in which we account for our investments, and how we define some of the key metrics disclosed in our announcements.

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## Accounting Treatment of Litigation Finance Assets

IMF prepares its accounts in accordance with the Corporations Act and complies with the Australian Accounting Standards and the International Financial Reporting Standards (**IFRS**). IMF's accounts are subject to annual audit and half year review.

IMF's litigation finance assets are classified as intangible assets<sup>1</sup> and therefore, in accordance with IFRS, are recognised at cost throughout the life of the investment and are subject to impairment testing. Any gain on such investments is only recognised at the time of completion of the investment and after all appeal avenues have been exhausted. IMF does not therefore record any unrealised gains attributable to market value adjustments of its assets during the life of the investment. Losses on investments are recognised at the earlier of either negative developments which impact potential recoveries via an asset impairment, or from a loss at trial (even if subject to an appeal).

### IMF's Key Metrics

IMF calculates and discloses ROIC and IRR on our investments on the bases described in our various announcements<sup>2</sup>. Where we calculate ROIC and IRR on a portfolio basis, we only refer to completed investments (and not partially completed investments) and calculate the metrics after the inclusion of losses.

### Funding for Future Investments

During the course of FY19, IMF established Fund 4<sup>3</sup> for litigation finance investments in the US and Fund 5<sup>4</sup> targeting such investments in non-US jurisdictions. Each fund has aggregate capital commitments of US\$500m, including a US\$100 million commitment from IMF, with an option for the investors to establish a successor fund on the same terms. Both Fund 4 and Fund 5 have the ability to recycle capital from investments which complete within the four-year investment periods. IMF is not subject to mandatory draws under these funds and, whilst incentivised to deploy capital, will continue to invest in a prudent manner in accordance with its risk management protocols.

The result of these capital raisings is that IMF's medium-term requirement for third party capital to fund its future litigation financing investments has been secured. In terms of financing IMF's commitments, IMF notes that as at 30 June 2019, excluding the consolidated investment vehicles, IMF held cash of \$132.4 million and expects to receive \$7.6 million from the completion of the Ashley Services Group investment<sup>5</sup>. IMF has also announced that it currently expects to receive approximately \$70 million in income in FY20 from conditional and in-principle settlements which have occurred since 1 July 2019 to date in relation to balance sheet (\$23.5 million) and fund investments (\$45.7 million).

Following the successful completion of an equity placement of approximately \$75 million in October 2018 and the extension of the maturity of IMF's listed bonds, together with a top up issue of \$41 million of new bonds, IMF has no current expectation, save in relation to funding any potential strategic growth in its stated target markets such as Europe, of raising equity or debt finance at this time. IMF intends to either repay its OTC notes maturing on 30 June 2020 or seek noteholder approval to roll these forward.

<sup>1</sup> See Note 9 to IMF's financial statements for the year ending 30 June 2018.

<sup>2</sup> See IMF's announcement dated 30 July 2019 "ROIC is calculated as gross income to the Group less all reimbursed costs, divided by total expenditure (excluding overheads but including any adverse costs on lost cases), IRR is calculated on underlying flows for completed cases including losses but excluding withdrawals, overheads but including any adverse costs on lost cases".

<sup>3</sup> The Fund 4 structure comprises a series of managed accounts and a single fund of one which in aggregate contribute 80% of investment capital, with IMF providing the remaining 20%. See IMF' announcement dated 30 November 2018 for further details.

<sup>4</sup> See IMF's announcement dated 20 June 2019 for further details.

<sup>5</sup> See IMF Announcement dated 14 June 2019 regarding court approval of the settlement terms of this investment.

## **IMF Background**

IMF is one of the leading global litigation and dispute financiers, headquartered in Australia and with offices in the US, Canada, Singapore, Hong Kong and London. IMF has built its reputation as a trusted provider of innovative litigation financing solutions and has established an increasingly diverse portfolio of litigation and dispute financing assets.

IMF has been a leading pioneer of litigation financing in Australia since 2001, playing a significant role in the initial steps towards a globalised industry via its international expansion in the US, Canada, Asia and Europe. IMF has a highly experienced litigation financing team overseeing its investments, delivering, as at 31 December 2018, a 90% success rate across 184 completed cases (excluding withdrawals).

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