

Premium Income Fund

NSX Release: 3 November 2009



Wellington

Class Action Update

Mercedes Holdings Pty Ltd & Ors v KPMG & Ors – Federal Court Proceedings NSD324/2009

On 26 June 2009, Wellington Capital Limited as responsible entity of the Premium Income Fund advised the market that following negotiations with the Applicants' legal representative these proceedings have by mutual agreement been discontinued against the former responsible entity of the Premium Income Fund with no order as to costs.

This agreement was recorded in the attached agreement.

At the date of this release, the former responsible entity has not been discontinued as a Respondent in the proceedings.

A hearing of the class action took place on Friday 30 October 2009 before Justice Perram in the Federal Court in Sydney.

A Notice of Motion will be filed by the former responsible entity in accordance with the Court timetable which was set out by Justice Perram on 30 October 2009. The Notice of Motion will seek to have the former responsible entity (currently the Third Respondent) discontinued as a party to the class action.

The Notice of Motion to have the former responsible entity discontinued as a party to the class action will be heard from 16 December 2009.

Further announcements will be made as the proceedings progress.

For further information please contact:

Jenny Hutson
Chairperson
Wellington Capital Limited
as responsible entity of the Premium Income Fund
ACN 114 248 458 AFSL 291 562

Phone: 1300 854 885
Email: investorrelations@newpif.com.au





24 June 2009

Ms Jennifer Hutson
Managing Director
Wellington Capital Limited
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OUR REF: AAC:GH:KP:2095753
ASK FOR: Arthur Carney

BY EMAIL: jhutson@wellcap.com.au

Dear Ms Hutson,

RE: **MERCEDES HOLDINGS PTY LIMITED & ORS V. ANDREA JANE WATERS, MICHAEL
JOHN ANDREW T/AS KPMG & ORS
FEDERAL COURT PROCEEDINGS NSD. 324 OF 2009**

We refer to the conference between yourself, Tony Martin SC, Greg Drew and myself yesterday afternoon.

We confirm that we have instructions from our clients to put to you the following offer:

1. Wellington Capital Limited as responsible entity of the Premium Income Fund (formerly the MFS Premium Income Fund) (subject to its' obligations as responsible entity) will:
 - (a) for the purposes of section 177(1A)(b) of the *Corporations Act 2001* (Cth), approve the use by the applicants in these proceedings (including their agents, legal representatives and parties who may provide litigation funding) of any information obtained from the register kept under Chapter 2C of the *Corporations Act 2001* to contact or send information to existing or former unitholders about and concerning the proceedings; and
 - (b) permit, facilitate and co-operate in good faith to make available for examination by nominated representatives of the applicants during normal business hours, at least the following documents in the custody, possession or control of Wellington Capital Limited:
 - (i) the books and records of the fund evidencing or recording the related party transactions (within the meaning of Part 5C.7 of the *Corporations Act 2001*) entered into by or on behalf of the fund ("the related party transactions") in the period from 1 January 2005 until 15 October 2008 ("the period");

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- (ii) the books and records of the fund evidencing or recording any deliberations and decisions concerning the entering into of each of the related party transactions during the period;
 - (iii) the books and records of the fund evidencing or recording compliance with the fund's Constitution in respect of each of the related party transactions during the period;
 - (iv) the books and records of the fund evidencing or recording compliance with the fund's Compliance Plan in respect of each of the related party transactions during the period; and
 - (v) the books and records of the fund evidencing or recording compliance with s 208(1) of the *Corporations Act 2001* (as modified by s 601LC) in respect of each of the related party transactions during the period, and
- (c) undertake not to commence, nor permit any of its related entities to commence, proceedings in any court in relation to or concerning the subject matter of these proceedings, for so long as these proceedings remain on foot.
2. In consideration for the matters referred to in paragraph 1 above, the applicants will forthwith discontinue these proceedings as against the third respondent (Wellington Investment Management Limited) with no order as to costs.

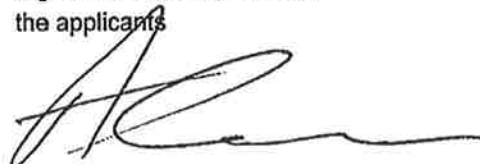
Please confirm your acceptance of this offer by signing a counterparty copy of this letter where indicated and returning it to me.

Signed for and on behalf of
Wellington Capital Limited
ACN 114 248 458



Jennifer Hutson
Managing Director

Signed for and on behalf of
the applicants



Arthur Carney
Solicitor for the applicants

Yours faithfully,
CARNEYS LAWYERS



ARTHUR CARNEY