



Annexure A

FEDERAL COURT OF AUSTRALIA

NOTICE OF PROPOSED PARTIAL SETTLEMENT AGAINST SEVENTH RESPONDENT

INVESTPORT CLASS ACTION (NSD939/2020)

This is an important notice approved by the Federal Court of Australia and issued to you because you are likely to be a group member in the Linchpin and Endeavour Class Action.

On 7 March 2025, the Federal Court of Australia made final orders in the Class Action against the seventh respondent (**AIG**).

This notice is provided pursuant to orders made by the Federal Court of Australia to inform you about (a) the proposed settlement of claims relating to interest and costs against AIG; (b) the proposed amendment of the Settlement Distribution Scheme approved by the Federal Court of Australia on 19 June 2023; and (c) your right to object to the proposed settlement and amendment.

You should read this notice carefully, as your legal rights may be affected by the proposed settlement and amendment of the Settlement Distribution Scheme.

WHY IS THIS NOTICE IMPORTANT?

A. WHAT IS THE CLASS ACTION ABOUT?

1. A class action (the **Investport Class Action**) has been commenced in the Federal Court of Australia by J & J Richards Super Pty Ltd as trustee for the J & J Richards Superannuation Fund (**Applicant**) against Linchpin Capital Group Ltd (In Liquidation) ACN 163 992 961 (**Linchpin**), Paul Nielsen (**Nielsen**), Ian Comrie Williams (**Williams**), Paul Anthony Raftery (**Raftery**), Peter Eugene Daly (**Daly**) and Endeavour Securities (Australia) Ltd (In Liquidation) ACN 079 998 819 (**Endeavour**) (together, the **Respondents**). Nielsen, Williams, Raftery and Daly are referred to as the **Director Respondents** in this notice.
2. The Investport Class Action sought compensation (that is, money) for persons (the **Group Members**) who made investments in either:
 - (a) an unregistered managed investment scheme called the 'Investport Income Opportunity Fund' (the **Unregistered Fund**), of which Linchpin was the trustee; and/or
 - (b) a registered managed investment scheme, also called the 'Investport Income Opportunity Fund (the **Registered Fund**), of which Endeavour was the responsible entity,



and who have signed a litigation funding agreement (LFA) with LCM Funding Pty Ltd (LCM).

3. As noted above, both Linchpin and Endeavour are in liquidation and have David Orr and Jason Tracy appointed as joint and several liquidators. Neither Linchpin nor Endeavour have taken an active position in the Investport Class Action.
4. The solicitors acting for the Applicant are Corrs Chambers Westgarth (Corrs).
5. The Respondents' insurers, AIG Australia Limited ACN 004 727 753 (AIG) and RiverStone Managing Agency Limited for and on behalf of all the underwriting members of Lloyd's Syndicate 2014 (RiverStone) (together, the **Insurers**), were also joined as parties to the Investport Class Action. AIG provided a policy of insurance for directors and officers (**D&O Policy**). Lloyd's Syndicate 2014 provided two policies of insurance, a professional indemnity policy bearing policy number IL1705770 (**PI Policy**) and an investment management insurance policy bearing policy number IL1708070 (**IMI Policy**).
6. The settlement of claims against the Director Respondents and RiverStone and the discontinuance of claims against the first and sixth respondents was approved by the Federal Court of Australia on 19 June 2023 (**First Settlement Approval**).
7. Orders made in connection with the First Settlement Approval included:
 - (a) the payment by RiverStone of a "Settlement Sum" of \$4,400,000.00, along with an additional sum of \$2,300,000.00 be held in escrow (that is, held temporarily until certain conditions have been met) on behalf of the Director Respondents in respect of certain Defence Costs and certain other specified costs that they anticipated to incur in the future (with any residual funds not released to the Director Respondents to form part of the Settlement Sum to be paid to Group Members on the occurrence of certain events);
 - (b) the approval of an interim Settlement Distribution Scheme (**Interim SDS**); and
 - (c) the appointment of Mr David Kennedy of Ernst & Young (EY) as the Settlement Administrator (**Settlement Administrator**).
8. On 12 – 14 July 2023, the case brought against AIG by the Applicant was heard by the Federal Court of Australia. On 18 December 2024, the Federal Court of Australia delivered judgment in favour of the Applicant and on 7 March 2025 final orders and declarations were entered.
9. On 20 March 2025, pursuant to the orders of 7 March 2025, AIG paid \$10,000,000 to an account in the control of the Settlement Administrator.
10. Following the above payment, a dispute remained in relation to AIG's obligations to pay interest and the Applicant's costs.
- B. THE PROPOSED SETTLEMENT**
11. This notice is to inform you that the Applicant has agreed to settle the claims for interest and costs against AIG (**Proposed Settlement**).
12. Subject to the Court's approval of the Proposed Settlement, AIG has agreed to pay an additional \$2,150,000.00 with respect to the claims for interest and costs.



13. The Applicant has proposed amendments to the Interim SDS (the **Final SDS**) to facilitate a final distribution of all amounts recovered in the Investport Class Action (**Recovered Amounts**).
14. Under the terms of the proposed Final SDS, it is proposed that the Recovered Amounts will include maximum distributions as follows:
 - (a) Up to \$5,508,961 will be distributed to pay LCM the amounts due to LCM in accordance with the terms of the LFA. These amounts include:
 - (i) reimbursement of certain "Action Costs" being costs funded by LCM in relation to the Investport Class Action, and
 - (ii) the premiums paid and payable by LCM for after the event insurance obtained with respect to the Investport Class Action, and
 - (iii) the "Funder's Interest" to which LCM is entitled under the LFAs into which it has entered with each Group Member, being the higher of 25% of the Recovered Amounts or a multiple of 3x the Action Costs funded by LCM in relation to the Investport Class Action.

These amounts were not paid to LCM as part of the First Settlement Approval;

- (b) Up to \$1,097,832 will be distributed to Corrs in respect of deferred legal fees (being Corrs' legal fees incurred in relation to the Proceeding payable upon a successful outcome) and uplift on deferred legal fees (being an uplift of 25% on deferred legal fees payable upon a successful outcome of the Proceeding), to which Corrs is entitled to in accordance with the LFA and its engagement letters. These amounts were not paid to Corrs as part of the First Settlement Approval;
- (c) Up to \$25,000 will be distributed to the Applicant to reimburse it for the time spent and expenditure reasonably incurred in the Proceeding for the benefit of the Group Members; and
- (d) Up to \$196,755.00 will be distributed to John Pacholski on account of agency fees and success fees. Group Members appointed John Pacholski as their agent to provide instructions to and receive updates from Corrs in relation to the Proceeding.

The remainder will be distributed to the Applicant and Group Members in accordance with the terms of the Final SDS, subject to any Administration Costs. The precise amount that will be payable to each Group Member is not yet known and cannot yet be accurately estimated. Amongst other things, it will be affected by the deduction of the amounts outlined above, as well as the costs incurred by the Settlement Administrator in determining each Group Member's entitlement and facilitating the distribution of those amounts.

15. The settlement and Final SDS must now be approved by the Federal Court as being fair and reasonable, and in the interests of Group Members. The Applicant has filed an application with the Federal Court seeking approval of the settlement and Final SDS as well as evidence in support of its application. The Applicant, LCM and AIG will have an opportunity to file any further evidence and submissions with the Federal Court which they consider to be relevant to the Federal Court's consideration of the fairness and reasonableness of the proposed settlement and Final SDS.
16. Group Members should be aware that, if the settlement is approved, they will not be able to bring any claim against AIG in respect of the claims the subject of the Investport Class Action. However,



the settlement does not affect Group Members' entitlement to submit a proof of debt in the liquidations of Linchpin or Endeavour.

C. COURT APPROVAL

17. In response to this notice, Group Members have two options.

Option 1 – Do nothing

18. If you **do not** wish to object to the Proposed Settlement of the claims for interest and costs against AIG, there is nothing you need to do at the present time. You are not required to respond to this notice.

Option 2 – Object to the Proposed Settlement by submitting a "Notice of Objection to Proposed Settlement and Discontinuance"

19. If you wish to object to the Proposed Settlement of the interest and costs claims against AIG, you should tell the Judge and the parties why by submitting a "Notice of Objection to Proposed Settlement and Discontinuance" (**Notice of Objection**) in accordance with the following instructions:

- (a) First, you must complete the Notice of Objection provided to you with this notice.
- (b) Secondly, you must submit your completed Notice of Objection by sending it by email to:
 - (i) the Federal Court Registry at nswreg@fedcourt.gov.au; and
 - (ii) Corrs Chambers Westgarth at IIOF.class.action@corrs.com.au.

20. Before you submit any Notice of Objection, you may consider seeking legal advice in relation to your contractual obligations under the LFA.

21. Your completed Notice of Objection must be sent by 4.00 pm on 17 April 2025. Please make sure that you do so by this time to ensure that your Notice of Objection is considered.

22. If you do complete and submit a Notice of Objection, you will have until 4.00 pm on 24 April 2025 to file with the Court and serve on Corrs Chambers Westgarth (by email to IIOF.class.action@corrs.com.au) any affidavits and written submissions on which you intend to rely in opposing the proposed settlement and/or discontinuance.

23. Any affidavit should be made in accordance with Form 59 (which can be accessed at the following link: (<https://www.fedcourt.gov.au/forms-and-fees/forms/federal-court-rules>)). There is no specific form of written submissions.

24. Please note that, if you do not wish to provide the Court with anything other than your Notice of Objection, you do not need to do so. However, if you do wish to provide the Court with any affidavits and written submissions, please make sure that you do so by the time stated in paragraph 22 above to ensure that any affidavits and written submissions on which you intend to rely are considered.

Group Members who have opted out of the Linchpin and Endeavour Class Action

25. Group Members who submitted an opt-out notice prior to the Court-imposed deadline of 4.00 pm on 6 October 2022 do not need to do anything in response to this notice. Those Group Members will not be affected by the Linchpin and Endeavour Class Action, the proposed settlement with AIG and amendment to the Interim SDS.

D. WHERE CAN YOU OBTAIN FURTHER INFORMATION?

26. Please consider the above matters carefully. If you have any questions in relation to this notice or the proposed settlement, or if there is anything of which you are unsure, you should feel free to



contact Corrs Chambers Westgarth by email to IIOF.class.action@corrs.com.au or to seek your own legal advice from your own solicitor.

27. Copies of relevant documents, including the Second Further Amended Originating Application, the Fourth Further Amended Statement of Claim, any defences and any other pleadings filed in the Investport Class Action may be obtained by:
- (a) inspecting them at the Federal Court by visiting a District Registry of the Court in Sydney, Canberra, Melbourne, Brisbane, Adelaide, Perth, Hobart or Darwin. The addresses for these registries are available at <http://www.fedcourt.gov.au> or by calling the New South Wales District Registry on 1300 720 980; or
 - (b) sending an email requesting those documents to IIOF.class.action@corrs.com.au.

E. WHERE CAN YOU OBTAIN LEGAL ADVICE?

28. Please note that Corrs Chambers Westgarth will be able to provide you with legal advice in relation to the Proposed Settlement. If you have any questions in relation to the impact that the Proposed Settlement will have on your legal rights and/or in relation to the terms of the Proposed Settlement more generally, you also may wish to obtain independent legal advice.