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Lodgement of Market Briefing

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Market Briefing

IMF Bentham CEO on FY2016 results and growth outlook

Interview with Andrew Saker (CEO)

In this Market Briefing interview, Andrew Saker, IMF Bentham's CEO, gives an update on the company's FY2016 result and growth outlook, including the:

- *Sound growth in underlying profit after tax;*
- *Continued development of international portfolio with the US and Canada now representing 48% of the total portfolio;*
- *Increase in the current estimated portfolio value compared to FY15*
- *Nearly 40% growth in new cases funded in FY15; and*
- *Positive outlook for FY2017.*

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FY2016 saw IMF Bentham's earnings rebound strongly with underlying earnings rising 70% over the 12-month period. What were some of the key drivers behind this result?

Andrew Saker

The company has delivered a solid result for shareholders and the company and this can be attributed to a number of factors. To keep it in perspective, we were coming off a low base given the results of FY15. The FY16 results continue to reflect outcomes from a small number of cases, predominately S&P, the write-up with Lehman and a further and final recovery with respect to US Case 008. Having said that, FY16 saw us execute on our strategy to diversify risk, with a substantial increase in the number of cases we are funding, the investments, and an expansion of our geographic footprint into Canada.

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During FY2016 IMF Bentham continued the implementation of its strategy with increased geography, a larger number of smaller matters and investment in personnel. Can you talk about the logic behind this strategy and future progress?

Andrew Saker

The FY16 results reflect the successful execution of our strategic plans to diversify risk. Whilst a number of small cases did not evolve as expected, we funded 27 cases and committed to deploy \$81 million in FY16, which was a 28% increase in the number of cases, and a 50% increase in funds committed for deployment over FY15. The objective of this strategy is to reduce the company's exposure to idiosyncratic risk and embrace the systemic risk associated with a portfolio approach to our investments, and thereby produce a more stable income stream. We remain committed to the current strategy for FY17 and we have set operational goals of 54 cases and \$107 million of funds committed for deployment.

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The company has operations in Australia, the United States and Canada. Can you talk about the differences in these markets and the development of litigation funding generally?

Andrew Saker

Whilst sharing a common law legal system, there are quite significant differences in both risk and market characteristics in each of these jurisdictions. Obviously there are volumes that can be written on the subject, but some of the key issues are:

- (a) Australia and Canada have a loser pays system, whereas the US generally has the American rule, where there are few circumstances where adverse costs are ordered against a losing party;
- (b) The US and Canada use contingency fee arrangements for lawyers, whereas Australia is yet to permit this fee structure for the legal profession;
- (c) Awareness of litigation funding is anecdotally lower in the US and Canada than in Australia;
- (d) Given the issues with privilege, we are limited in what we can disclose in the US and Canada, whereas in Australia we are able to be more fulsome in our disclosure;
- (e) In Australia we do a substantial amount of work in class actions, whereas in the US (due to differences in the local legal regime) we do not directly fund class actions; and,
- (f) We expect to achieve similar commercial returns in each of the jurisdictions in which we operate, but without the adverse cost risk in the US and a truncated average investment period, the return rates are higher.

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It appears that there are few competitors in the domestic market. What is the situation in other markets you operate in?

Andrew Saker

The competition in the domestic market is increasing. In recent months, two international litigation funders have announced their increased commitment to Australia. At this stage we are yet to see what, if any, impact these competitors are likely to have in the domestic market. We welcome competition as it reinforces and develops the industry, as IMF is no longer the outlier. In Canada, IMF is new to the market, and there are a few established competitors. In the US, IMF competes

with a number of large specialised litigation funders, and bespoke special situation funders. Competition in the US has not materially changed over the past 12 months.

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With the company exiting the European JV does this preclude you from re-entering this region?

Andrew Saker

Yes, we are restrained from funding in some parts of Europe for a period of 12 months from the completion of the sale of our interest, ending in July 2017. Given the limited opportunities the JV embraced during the time of our involvement, we do not consider this to be a significant issue as we remain focussed on our core markets.

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The US and Canadian business is nearly half of the investment portfolio and is clearly a material business. Are there opportunities to develop a different funding model for these markets?

Andrew Saker

During the course of FY17 we will be exploring opportunities with our placement agent and legal advisers to develop a funding model that will enhance shareholder returns. We may look at opportunities that include the management of other people's money with a view to reducing liquidity risk and providing an alternative income source. We will also participate in the funding structure to ensure that we retain an appropriate interest in the investment outcome. If this opportunity proves to be viable, it will be a new approach to capital funding for IMF.

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IMF Bentham has an incredibly high success rate with its investments. Can you articulate the core skills in the business that drive this outcome?

Andrew Saker

The core skills are those within the investment management process that is characterised by talented, experienced professionals and robust systems. The people include:

- (a) the investment management team, which is over 25 people in nine locations around the world, all of whom are experienced litigators and/or litigation funders;
- (b) the chief investment officers and chief executives for each region; and,
- (c) the investment committees, of which there are now three, including small claims committees for Australia and the US, and a large claim committee that oversees all large investments.

We believe we have superior investment management protocols in place that set out the minimum legal, factual and commercial arrangements that drive our investment decisions. These have been developed and refined over 16 years of providing litigation funding.

Our funding rate is approximately 1 in 20 opportunities that we identify. As such, selection criteria is high, and the process is robust.

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Your business model sounds very similar to an Investment Manager with Portfolio Managers, Investment Committees and Chief Investment Officers. Can you explain?

Andrew Saker

There is a great deal of similarity between the two types of business models, as litigation funding is, at its core, a unique and specialised type of financial investment not dissimilar to any other investment opportunity. There is a range of litigation funding opportunities including commercial litigation, patent, qui tam, family law, mass tort, class action, all of which are investment opportunities. Our investment managers have the skill and experience to identify investment opportunities within these various types of litigation, by identifying the risks, how they manage those risks and an appropriate return for that risk. All of these steps are common to any investment manager.

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What will be the key priorities and strategic focus for the company over the next 12 months?

Andrew Saker

The key priority for FY17 will be to continue to execute our strategy to diversify risk, that will include:

- (a) geographical expansion, possibly in the US and/or Asia;
- (b) expansion of product offerings in the relevant jurisdictions in response to market demands;
- (c) appropriate capital management;
- (d) increasing the number of completions; and
- (e) meeting our goals in relation to matters and the financial investment for funding.

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In closing, what is the outlook for the FY2017?

Andrew Saker

The hallmarks of IMF include industry leadership and deep experience, financial discipline, stability and a consistent record of success. In a continuously fluid environment, there will always be challenges facing our business and the wider industry however, with the strength of the Board, management team and capital position we now enjoy, we believe we have a strong platform to deliver profitable growth for shareholders.

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Thank you, Andrew.

For further information, please contact IMF Bentham on 1800 016 464, or visit www.IMF.com.au

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