

# Premium Income Fund

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## Wellington Capital to seek Special Leave to Appeal to the High Court of Australia

The Australian Securities and Investments Commission have had the decision in favour of Wellington Capital Limited before Justice Jagot of the Federal Court overturned on appeal before the full court of the Federal Court. ASIC challenged the decision handed down by Her Honour Justice Jagot on 17 October 2012 in favour of Wellington Capital Limited as responsible entity of the Premium Income Fund.

ASIC's appeal sought orders from the full Federal Court to overturn Justice Jagot's decision on the basis that she erred in finding the in specie distribution of shares was within the power conferred by the Constitution of the Fund and the Corporations Act.

The appeal was brought by ASIC after Her Honour Justice Jagot determined that Wellington Capital Limited's decision to distribute 830,532,678 shares in Asset Resolution Limited in specie to Unitholders, following the sale of some of the Fund's assets to the company for \$90.75 million, complied with the Fund's Constitution and the Corporations Act.

The full Federal Court has found that the in specie distribution was beyond the power conferred by the Constitution and not in compliance with section 231 of the Corporations Act.

Jenny Hutson Managing Director said *'The decision today by the full Federal Court is disappointing. Wellington Capital Limited as responsible entity of the Premium Income Fund strongly maintains that the in specie distribution of Asset Resolution Limited shares to the Unitholders of the Premium Income Fund announced on 5 September 2012 was an appropriate course of action. The inspecie distribution was not only undertaken in the best interests of Unitholders, but undertaken with due consideration to the power conferred on it by the Premium Income Fund constitution and the Corporations Act, which Justice Jagot agreed with in her decision at first instance.'*

*Wellington Capital Limited will seek leave to appeal the decision of the full court of the Federal Court to the High Court of Australia.'*

### For further information please contact:

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