EnterpriseUK
The Financial Ecosystem

The Ultimate Lower Risk Investment

W W W . E N T E R P R I S E U K . C O . U K

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ALLANSONS LLP MISCALCULATED MORTGAGE PAYMENTS PRODUCT

This product is in an Alternative Asset Class known as Litigation Finance, however it differs from traditional versions of Litigation Finance by;

Identifying an area of litigation that is not widely known.

Offering a relatively low-priced entry point for Investors to directly finance a whole case rather than investing in a mutual fund which then finances the cases.

Claiming a high rate of return for a low level of risk when compared to traditional Litigation Funding investments.

This report will seek to provide potential investors with a clear picture of the product to assist them in deciding whether to invest, or not.

I. LITIGATION FINANCE AS AN ASSET CLASS

Litigation Finance in various forms has been around for centuries and most people today will be aware of it, though they may not realise they are, in the form of the “No Win, No Fee”, “Where there’s blame, there’s a claim” type of law firms whose advertisements are widely seen on TV and in the newspapers.

Litigation Finance is where, in return for a percentage of any settlement, a 3rd party finances the costs of Litigation where the plaintiff cannot afford to. Cases could be relatively low-cost ones for individual plaintiffs who are in the low-income bracket or very high cost ones where although the plaintiff has substantial assets the costs of the action are prohibitive.

Arguments for and against third-party funding of legal cases have played out across centuries. On one side, it is argued funding cases can lead to nuisance or opportunistic claims, on the other it is claimed the practice opens up justice and prevents it being dominated by businesses or individuals with large financial resources at their disposal. A tactic often used is to delay and extend court proceedings for as long as possible until the other side’s funds run dry. Today however, even with the advent of professional funding, it is unlikely that a law firm will take on the case of a claimant where, in their view, they would not have a success rate of less than 60%.

Although Litigation Finance has been around for centuries and is common now it was itself outlawed for many centuries. The fear of weak, spurious, or vexatious cases with no merit being brought led to the development, in English law, of the legal concepts of Maintenance, Champerty and Barratry which effectively prohibited financing of legal cases. At the beginning of the 19th Century however, case law started to allow outside finance of cases in limited circumstances. In the 20th Century various changes in legislation, notably the introduction of Legal Aid in 1949 and Conditional Fee Arrangements (CFAs) in 1995 have led to our current situation.

A comprehensive history of Litigation finance can be found in “From Barratry, Maintenance and Champerty to Litigation Funding” Harbour Litigation Funding First Annual Lecture given by Lord Neuberger, President of The Supreme Court at Gray’s Inn, 8 May 2013

For an investor seeking a diversified portfolio litigation funding is an attractive option since it is a completely uncorrelated asset class. It is uncorrelated to events and sentiment which would affect the main stream asset classes. The economic cycle, political crises and natural disasters do not affect law but they do affect stock, bond and property markets.

II. THE PRODUCT

Overview

Allansons, in association with Mortgage Audit Services (MAS), have discovered that many UK Mortgage lenders have miscalculated their clients mortgage payments, thus breaching the mortgage contracts. MAS have developed proprietary software and methodology which they use to examine Mortgages to see if the repayments have been calculated incorrectly.

The criteria required for a mortgage to be audited by MAS are:

The amount borrowed must be over £100,000.

The term of the loan must be at least 6 years.

Having audited 58 mortgages MAS found that 43, or 74% showed that there was a claim with a value of at least £10,000 (the “quantum” value which is the amount where a claim becomes viable).

MAS have had their methodology examined by an independent firm of Barristers, Pallant Chambers, and they rate the chances of success of any claim that goes to court as 75%, so well within the parameters of risk that Litigation Funders would consider acceptable.

In return for funding the £4,000 cost of bringing each legal action against the lender, they are offering Investors a return of 5% of any settlement and 30% of the legal fees paid. They estimate the chance of success for any individual case litigated in court as 75% and an additional protection for the investor is that an insurance policy will repay their £4,000 in the event that the case goes to Court and is lost.

It is important to understand that the premise of this product is not based on claiming that the mortgage was mis-sold to the borrower. The premise is that the audit numbers will show definitively if the payments have been calculated wrongly or not, and if they have, then a breach of the mortgage contract has occurred.

After The Event (ATE) Insurance

Allansons will put an ATE insurance policy in place for each claim. This is insurance which covers the legal costs and expenses involved in bringing the case and can be used in any type of litigation. ATE insurance policies normally cover the legal costs incurred, which a Claimant must pay to a defendant in the event that a claim is unsuccessful. These types of policies are commonly used in Conditional Fee Agreement or “No win, no fee” claims where the claimant’s solicitor agrees that they will not charge for their services if the claim is unsuccessful.

Therefore, in the event of a claim being unsuccessful, this policy will ensure that an investor in this scheme will get their investment back. In this instance the investor would be offered a replacement case or a refund of their original invested capital.

Allanson's ATE Insurance policies are arranged through Box Legal Ltd, a specialist ATE Insurance Broker who are regulated by the Financial Conduct Authority.

The chances of a successful claim

In their marketing literature Allansons/MAS say that legal opinion rates the chances of litigation success at 75%. However, since the basis for bringing the claim is pure mathematics the implication seems to be that the chance of success is higher and that the 25% chance of a claim failing is an over estimate of the chief risk, which is human error.

As the claim is based on a calculation then Allansons/MAS believe that when a lender sees this calculation they will have no option other than to concede defeat and settle without the need of a Court hearing. An out of Court settlement will generally be the preferred option since this means that everyone gets paid out much sooner than they would if the Court were involved.

Potential Returns

As a result of a successful claim an investor will receive 5% of any settlement amount, 30% of the solicitors fee (Fixed at £2,500) and their initial investment of £4,000 (disbursement fee). Allansons state the average claim amounts to £25,000 and their minimum "quantum" threshold for taking on a claim is £10,000.

Example of a £ 25,000 settlement	
£ 25,000 claim x 5% (award) =	£ 1,250
Solicitors fees £2,500 x 30% =	£ 750
Disbursement fee =	£ 4,000
Total =	£ 6,000
	which equates to a 50% return

Example of a £10,000 settlement	
£10,000 claim x 5% (award) =	£ 500
Solicitors fees £2,500 x 30%=	£ 750
Disbursement fee =	£ 4,000
Total =	£ 5,250
	which equates to a 31% return

In the event of the claim being unsuccessful the ATE Insurance should ensure the return of the investors £4,000.

Outside investors are being sought because Allansons/MAS do not have the resources to fund claims themselves without a detrimental effect on their cash flow.

III. WHO ARE ALLANSONS AND MORTGAGE AUDIT SERVICES?

Allansons LLP - Allansons Solicitors was established by Roger Allanson in the Salford suburb of Boothstown in December 1993 by Roger Allanson. The firm offers a full menu of services that you would expect to find at a small law firm, including conveyancing, criminal and personal injury. From 2008 it has operated as a Limited Liability Partnership (LLP) with 2 Partners, Roger Allanson and Mohamed Patel.

Mortgage Audit Services Ltd (MAS) – This is a Limited company incorporated in November 2015. There are 2 shareholders Bryan Turner, 72%, and Charles Hayles, 28%. The firm audits to solicitors and independent businesses. The Cost of Investment – This is fixed at £4000 per case and covers the initial costs of the claim including the report from MAS and filing the claim with the lender. Allansons cover any other costs and recover these as part of the successful claim or from the insurance policy in the event of an unsuccessful claim.

IV. RISKS

On the face of it this might seem to be a risk-free investment due to the existence of the ATE Insurance policy. However, there are risks involved that an investor should be aware of.

- The amount of the return on capital invested in a successful claim is not guaranteed and will vary from case to case depending on the final amount settled. Claims are allocated amongst investors by Allansons/MAS on a random basis.
- There is a possibility that an error in the calculation or in another administrative process will mean that a claim will not succeed.
- There is a possibility of a claim not being successful, in which case the return on investment will be 0%
- The investor’s money will be tied up for an expected 6-18 months, so this would not be a suitable investment for someone who needs readily available cash.
- There is a theoretical risk that the defendant would not be able to pay if they lost. This is unlikely given we are talking about large companies and relatively small claims but it is still a theoretical possibility.

CONCLUSION

In their marketing literature Allansons/MAS put a good case for their unique and novel product. Having considered the background of the industry, the people involved and the product itself we can find no obvious red flags and it certainly merits consideration for inclusion in a diversified investment portfolio.

However, as a general principle I would always urge caution and be sure to carry out satisfactory due diligence (you can refer to our Invest Safe Initiative)

Due to the unique nature of the investment it is only suitable for High Net Worth or sophisticated investors and before investing in this product you may wish to take independent professional legal and financial advice.

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DISCLAIMER

Many Investors are realising high growth through “Alternative Investments” that differ from traditional asset classes, such as developed market equities and sovereign bonds.
Deemed to carry a higher risk, alternatives, also offer the potential of higher returns.
Through our Invest Safe Initiative, we identify exclusive opportunities that we introduce to our growing community of investors. Opportunities like these tend to appeal to investors who self-manage at least a part of their portfolio.
These investors often will use an IFA or professional wealth advisors, particularly for the design and implementation of their core investments and these core investments will typically be in the traditional asset classes, whether invested directly or through managed funds.
However, if they are savvy and can manage a part of their portfolio themselves, they may want access to innovative opportunities that are often in asset classes that are not systematically or even typically researched or offered by conventional routes.
These alternatives very often have zero correlation to publicly traded investments.
We conduct primary due diligence on the investment concepts we feature so investors can have access to key facts. This usually provides investors with enough information to make up their minds if the proposition is sufficiently interesting for them to carry out the additional research and due diligence they would need to know if the investment is appropriate for their portfolio and whether to make an investment.
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Alternative investments are only appropriate for investors who are able and willing to accept the higher risk associated with such investments. It is generally recommended that such investments are made part of a broadly diversified portfolio. Professional advice is recommended before making any investment decisions.

AmazonaGroup

Small things make a big difference.

We support NGO´s that focus on preserving the Amazon and supporting the local people who protect and nurture this beautiful land.

We commit 1% of our revenue to environmental causes close to our heart.

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