

29 September 2022

Dr James Popple
Chief Executive Officer
Law Council of Australia
19 Torrens Street
BRADDON ACT 2612

Email only: james.popple@lawcouncil.asn.au

Dear Dr Popple

EXEMPTIONS FOR LITIGATION FUNDING SCHEMES

I refer to the invitation to participate in consultations on the exemptions for litigation funding schemes, received from the Law Council of Australia on 6 September 2022.

The Law Society does not wish to make a detailed submission on this matter; however, we note that the case on which the previous government relied to support its position that a funded class action was a managed investment scheme (*Brookfield Multiplex Ltd v International Litigation Funding Partners Pte Ltd* (2009) 180 FCR 11), was recently overruled by the Full Federal Court in *LCM Funding Pty Ltd v Stanwell Corporation Limited* [2022] FCAFC 103.

The Law Society would like to enquire whether the Law Council of Australia will ask the government if it intends to proceed with this aspect of the draft regulations considering this Full Federal Court decision.

The Law Society agrees that the amendments made by the *Corporations Amendment (Litigation Funding) Regulation 2020* should be revoked. The draft regulations should reflect the arrangements for litigation funding schemes as they were prior to 22 August 2020.

Yours sincerely



Rebecca Lee
President