



Target Market Determination for the Mesoblast Litigation Funding Scheme ARSN 654 319 810

1. Introduction

- 1.1. This document sets out the class of consumers in the target market for the product, distribution conditions and restrictions, frequency of reviews and triggers to review the target market.
- 1.2. This document is required under s.994B of the *Corporations Act 2001* (Cth).

2. Product Description

- 2.1. The Mesoblast Litigation Funding Scheme (**Scheme**) provides the framework for potential members to pool their interests in a class action against Mesoblast Ltd (**Class Action**).
- 2.2. The Scheme is created by pooling the:
 - (a) Funder's promises to pay certain costs and expenses, whilst mitigating the impact of adverse cost orders, to conduct the Class Action and operate the Scheme;
 - (b) Manager's promises to provide services in connection with the management of the Class Action and Scheme;
 - (c) the Lawyer's promises to conduct the Class Action with a portion of their professional fees at risk; and
 - (d) Potential member's individual interest in the proceeds from the Class Action where successful.
- 2.3. The potential member's rights to a claim in the Class Action remains their own personal property. These cannot be assigned as the rights are personal to them and particular to their own circumstances.
- 2.4. Members contribute an interest in the proceeds from the Class Action to the Scheme with an expectation that the costs, services and risk mitigation contributed by the Funder, Manager and Lawyers achieve a successful outcome in the Class Action, leading to a financial benefit being created for the members.
- 2.5. The Court will determine at the conclusion of a successful Class Action, the payments to be made to the Manager, Funder and Lawyer (if any) for the contribution of the costs, services and risk mitigation. The residual amount after deducting these amounts will be distributed to members on the basis determined by the Court.
- 2.6. These interests in the Scheme are classified as **Product(s)**.
- 2.7. The issuer of the Product will be the Responsible Entity of the Scheme (**Issuer**).

3. Class of Consumers in the Target Market

- 3.1. Whilst the Funder, Manager and Lawyer are likely to be members of the Scheme, this Target Market Determination is applicable only to individual retail claimants who may have potential claims in the Class Action (**Consumers**).
- 3.2. The Product is targeted at Consumers who meet the definition of a class member (**Class Member Definition**), as amended from time to time, within a prospective Class Action that is yet to be filed, or

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an actual Class Action that has been filed in an Australian Court.

3.3. Collectively, all Consumers are referred to as the **Target Market**.

4. Appropriateness of the Target Market

4.1. The Product is likely to be consistent with the objectives, financial situation and needs of the class of Consumers in the Target Market as the qualifying criteria to be a potential member defines a finite pool of Consumers that meet, and can demonstrate they meet, the Class Member Definition.

4.2. An analysis of the Class Action against Mesoblast Ltd and the likely costs, timelines and outcomes is undertaken by the Funder, Manager and Lawyer to determine whether there are good prospects of generating a net financial benefit for the claimant that will be both fair and reasonable.

4.3. This analysis is undertaken on a 'whole of class' basis and does not consider the individual circumstances that may affect the strength or outcomes of an individual claimant's claim aside from those lead plaintiff(s) (**Representative Member**) in the Class Action where their individual circumstances have been assessed.

4.4. It is possible that where the Class Member Definition is amended, certain Consumers may no longer have a relevant interest in the Class Action and the Target Market will change accordingly.

5. Distribution Conditions and Restrictions

5.1. The Issuer expects to market the Product to retail consumers (and non-retail consumers) who meet the Class Member Definition.

5.2. The Issuer will comply with applicable legislation and regulatory requirements in the distribution of the Product.

5.3. The Product may be distributed through some or all of the following channels:

- Via the Issuer's website;
- Via an online application on the Issuer's website;
- Via physical delivery;
- Via the Manager or Funder of the Scheme on the condition that they hold an appropriate Australian Financial Services Licence (**AFSL**) or is an authorised representative of another licensee who holds an appropriate AFSL and meets the requirements of the Issuer.

5.4. It has been determined that the Distribution Conditions and Restrictions (as outlined in this section) make it likely that Consumers who acquire the product will be in the Target Market.

6. Provision of Information by Distributors

6.1. As the Class Member Definition leads to a finite pool of Consumers, there is no likelihood that there will be any dealing outside the Target Market. This relies wholly on the determination by the Consumer they meet, and can demonstrate they meet, the Class Member Definition.

6.2. Distributors will be required to:

- (a) follow dispute resolution procedures approved by the Issuer and report all complaints received in relation to the Product;

- (b) provide feedback on the Target Market or Product and any events or circumstances that may reasonably suggest that the Target Market Determination is no longer appropriate; and
- (c) provide any other information reasonably requested by the Issuer to enable the Issuer to meet its legal and compliance obligations.

6.3. The Reporting Period for providing the information required in 6.2 above is as soon as practicable, and in any case within 7 business days of the end of the quarters ending on 31 March, 30 June, 30 September and 31 December.

7. Frequency of Reviews

7.1. This Target Market Determination started on 13 October 2021.

7.2. This Target Market Determination is to be reviewed not less than every 12 months, with the last review being 4 May 2022 and the next review date being 4 May 2023.

8. Triggers for Review

8.1. A review of the Target Market Determination will be undertaken within 10 business days of the occurrence of any of the below:

- An amendment to the Class Member Definition in the Class Action;
- Receipt of a material number of complaints from Consumers who have acquired this Product, or the receipt of any complaints that are material in nature;
- A material change to the key Product features, terms and conditions which renders this Target Market Determination no longer appropriate;
- A material change in the legislation affecting either the Scheme or the Class Action which renders this Target Market Determination no longer appropriate; or
- The Target Market Determination and/or Product is found to include materially incorrect or contains misleading information