

Five Commonly-Asked Questions About Omni Bridgeway's Litigation Funding Process

Omni Bridgeway has reviewed thousands of cases around the globe, investing in nearly 200 cases and portfolios since becoming the world's first publicly-listed commercial litigation funder in 2001. We've used a highly-skilled team of litigators and a proven process for evaluating litigation for potential investment. Over time, this approach has allowed us to achieve an impressive track record, with 90 percent of the cases we've invested in reaching a successful settlement or judgment.

Our success has yielded investor confidence and facilitated our ability to raise the extensive capital and resources necessary to adequately fund the largest claims to a successful conclusion. It has also prompted questions from third parties interested in understanding the practices we've employed to thrive in such a high-risk business. A selection of the questions we hear most often from such parties are discussed below.



1. How does the funding process work?

We begin the funding process by executing a non-disclosure agreement to protect confidentiality, followed by an initial analysis of the case. If there is mutual interest in proceeding, we then propose a term sheet outlining what the financial terms of the investment are likely to be if we fund the case.

Once a term sheet is signed, we conduct extensive diligence into the investment opportunity. We leverage our in-house investment team, which is comprised of senior litigators with experience from elite law firms, to assess the merits of the claims, potential damages, settlement and collection prospects, and the amount of capital needed to pursue the litigation. We also frequently engage trusted outside diligence counsel to provide a second opinion about the likelihood of the case resulting in a favorable outcome.

Finally, we enter into a written litigation funding agreement which sets out in detail the terms and conditions of the investment. Omni Bridgeway's funding is non-recourse, which means we do not receive a return on our invested capital unless there is a successful recovery or settlement.

2. What do we look for in an investment?

Omni Bridgeway focuses on high-value litigation with strong prospects for success. For single-case funding requests, we typically only finance amounts in excess of \$1 million and generally require the anticipated

judgment to exceed \$10 million (exclusive of punitive damages). We also fund portfolios of cases for law firms and companies, helping them increase their revenue by taking measured risk while treating litigation as a financeable asset. Portfolios proposed for funding must include three or more plaintiff-side cases, and funding requested must exceed \$2 million. In single-case and portfolio funding, we will only invest when the defendants have a clear ability to pay a judgment or settlement.

The cases we fund can run the gamut from traditional corporate litigation to international arbitrations, intellectual property and whistleblower claims, as well as bankruptcy matters and funding for appeals. We do not fund personal injury, discrimination or malpractice claims.

3. What does Omni Bridgeway need to see from a claimant to evaluate a case?

As we conduct due diligence, we usually ask the claimant, its counsel, or both to discuss the matter with us and to provide documents and other information. That said, we are exceptionally careful about confidentiality: As noted previously, we sign an NDA at the outset, and we only seek information that will help us make a decision about our investment. We are not seeking privileged communications between the claimant and its counsel.

The information we gather helps us determine the potential value of the case, its strengths and weaknesses, the ability of a defendant to pay, and the length of time a case may take. In other words, we are seeking the kind of information any large, sophisticated investor would need when determining whether to make an investment.

4. Does a dispute have to be at a certain stage in the litigation to qualify for funding?

We fund matters at various stages of the dispute resolution process, from the pre-trial/hearing phase through appeals and enforcement.

In the pre-trial/hearing phase, our team can provide claimants and their counsel with sophisticated insight about the strengths and weaknesses of their claims. This is especially valuable for assessing the viability of claims. Similarly, our pre-investment due diligence may help claimants develop new strategies for reaching successful resolutions.

On appeal, we help appellees monetize portions of judgments even while decisions are pending. In most cases, we fund up to 25 percent of the damages award for appeals expected to conclude in two years or less. And in enforcement matters, claimants who have won a judgment can use funding to pursue collection of the judgment—which can be particularly useful when a debtor refuses to pay, for cases involving fraud victims, or in matters involving sovereign entities looking to repatriate assets lost due to corruption.

5. How does Omni Bridgeway raise capital and do investors have input into the company's investment decisions?

Market demand to invest in litigation is increasing rapidly. Earlier this year, for instance, our parent company announced that two of its litigation investment funds would be upsized because they had reached their investment targets ahead of schedule.

In addition, this past November, we announced the formation of a new fund for U.S. investments with an initial size of \$500 million and the potential to increase to \$1 billion. This fund is being capitalized by Omni Bridgeway and by outside investments from a leading outsourced U.K. investment office for endowments, foundations, investment professionals, and family offices, as well as an Ivy-league endowment.

Omni Bridgeway directs U.S. investment opportunities and retains the right to re-invest capital from investments that are completed during this time. The investments are allowing Omni Bridgeway to take on larger investment deals and expand our team in the wake of a sharp increase in qualified requests for funding.

When it comes to individual cases or portfolios, we continue to leave decisions about legal matters in the hands of claimants and their counsel. While we may provide insight or advice if requested to do so, we do not control the cases in which we invest.

Have more questions? Contact us for a consultation.