



Third Party Funding

What is third party funding? |

- Augusta provides funding for a portion or all of the costs of conducting a claim in return for a share of the damages **if the claim is successful**.

- Funding is **non-recourse**. If the case is won, Augusta receives its money back plus a portion of the damages. However, if the case is lost, Augusta does not recover its investment.

What is third party funding? |

- Augusta provides funding for **claims of all sizes**.
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- Funding is available for claims conducted by arbitration, litigation and adjudication.
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- Funding is available for **all stages** in the dispute resolution process – claim preparation, statements of case/submissions, mediation, hearing, enforcement.
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- Funding available for **individual claims and portfolios**.

Benefits of Funding

- **Commercial benefits:**

- Contractors are able to monetise claims without downside risk.

- Reduced legal expenditure frees up cash flow for core operations and investment.

- Funding is recorded “off balance” and has a neutral impact on the financial position of a claimant.

- Claimant will receive the benefit of a claim if it is successful, representing a risk-free source of revenue.

- Legal department shifts from being a “costs centre” to a positive source of revenue for a business.

Benefits of Funding

- **Access to justice:**
 - contractors can pursue legitimate claims that they otherwise could not afford or justify;

 - commitment of funding addresses “war of attrition” or “David v Goliath” scenario.

- **Strategic advantage:**
 - disclosure of funding sends a clear, positive signal to both parties on the strength of the case;

 - may incentivise settlement.

Funding Construction Cases

Common Issues in Construction

Construction disputes are unique and expert evidence is often required at an early stage to determine the strength and quantum of the claim

Parties often have multiple claims and require a business-wide financial solution.

Many construction claims vary in size and are dealt with via adjudication as well as litigation and arbitration.

Portfolio Funding

- “Portfolio” funding is an efficient option for claimants seeking to conduct multiple claims.
- Augusta provides a dedicated facility to fund all claims that meet a minimum qualifying criteria.
- All funded claims are “pooled” under the single facility, which reduces risk and improves price for the claimant.
- Price is agreed in advance and fixed for all funded claims.

What does a funder look for in a claim?

1. Likelihood of success and anticipated damages

- Opinion on prospects of success
- Assessment of realistic quantum

2. Enforcement and recoverability

- Solvency and asset position of the respondent
- Strategy for enforcing the award

3. Clear budget for conducting the claim

- No minimum or maximum budget size
- Ratio of budget to damages must be at least 1:10 for funding to be viable

Pricing and economics

Augusta's return is generally equal to:

- a **fixed multiple** based on the funds drawn at the date of resolution; or
- a **fixed percentage** of the total recovery.

The fixed multiple is calculated by reference to:

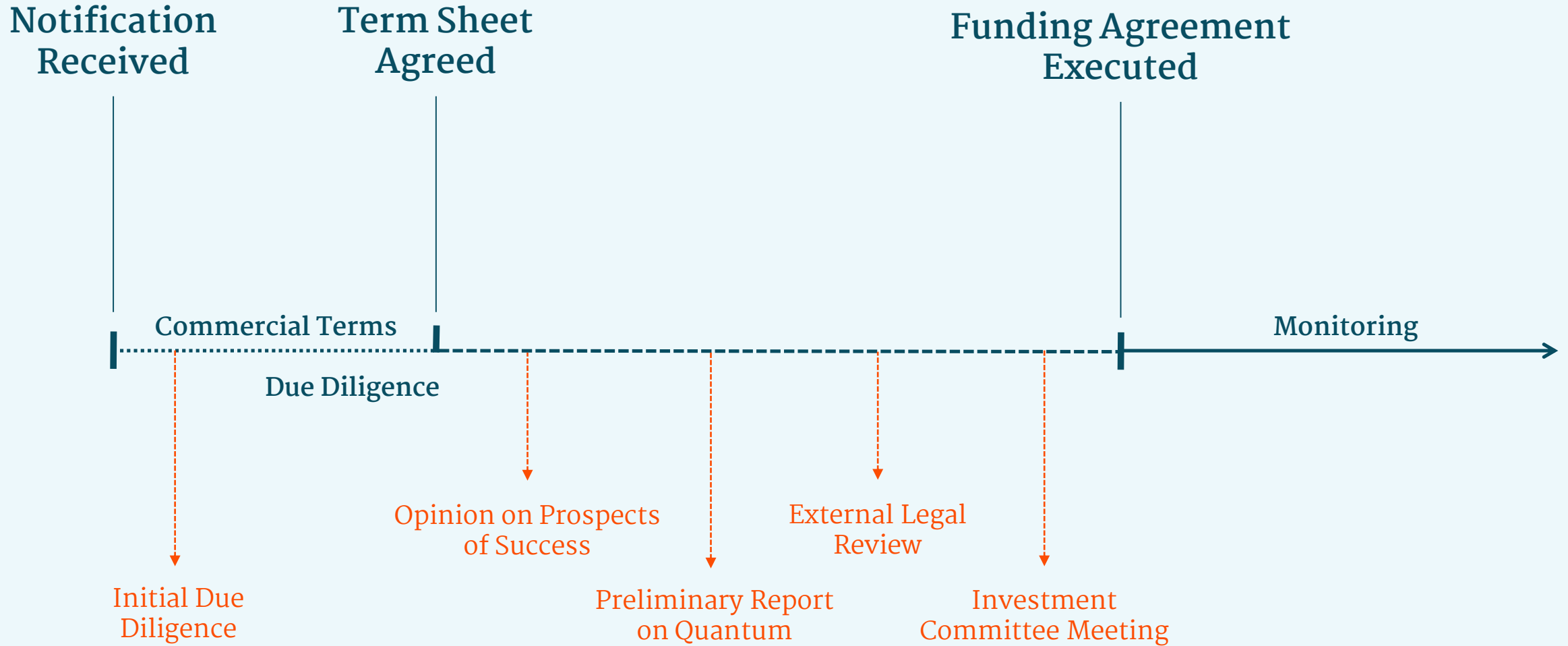
- the **length of time** from the date of execution of the funding agreement to the date the case is resolved; and
- the amount of the facility that has been **drawn at the date of resolution**.

To reflect the length of our investment and to incentivise settlement, the fixed multiple is lower the earlier that a claim is resolved or settled.

Worked Example – ICC Arbitration

- **Claimant:** Central European Contractor
- **Respondent:** UK Developer
- **Claim Description:** ICC arbitration commenced by Contractor seeking damages for repudiatory breach following termination by Developer of main contract in respect of multi-purpose coastal development.
- **Amount Claimed:** \$30m
- **Facility:** \$3m

Worked Example – ICC Arbitration



Worked Example – ICC Arbitration

- **Success Fee :**

Resolution Date (Months)	0 – 6	7 – 12	13 – 18	19 – 24	25 - 30
Uplift on Drawn Funds	150%	175%	200%	250%	300%
Uplift on Undrawn Funds	15%	15%	15%	15%	15%

Worked Example – Scenario #1

- **Resolution Date:** Month 9
- **Settlement Amount:** \$15,000,000
- **Amount Drawn:** \$1,000,000
- **Amount Undrawn:** \$2,000,000
- **Success Fee:**

	Amount	Uplift (%)	Uplift (£)
Drawn Amount	\$1,000,000	175%	\$1,750,000
Undrawn Amount	\$2,000,000	15%	\$300,000
Total			\$2,050,000

- **Claimant's Share:**

Resolution Amount: \$15,000,000

Amount Drawn: (\$1,000,000)

Uplift: (\$2,050,000)

Balance: \$11,950,000

Augusta – Pinsent Masons – Preferred Funder

- Pinsent Masons has agreed an innovative **£25m funding facility** with Augusta Ventures.
- Augusta has agreed to provide clients of Pinsent Masons with access to a **pre-agreed preferred funding facility**, with the following key features:
 - preferred, discounted rates for clients of Pinsent Masons;
 - dedicated fast-tracked due diligence for cases seeking funding;
 - commercial terms of funding have been pre-agreed.

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