



Claim and Award Acquisition





What is claim and award acquisition?

This is when Harbour buys all or part of a claim, a judgment, or an arbitral award allowing claimants to receive money immediately, rather than waiting until the conclusion of proceedings. Doing so removes the risk of the claim being unsuccessful or payment being delayed or refused.

Claim and award acquisitions offered by Harbour

Harbour can purchase all or part of your claim, award or judgment.

	Claims	Awards and judgments
Who uses this?	<p>Claimants who want to be paid immediately, without going through the costly, time-consuming, and risky process of pursuing and enforcing an award or judgment.</p> <p>Insolvency practitioners seeking liquidity for creditors of an insolvent estate.</p> <p>New or existing owners of a business with litigation claims amongst its assets and better uses for its capital.</p>	<p>Claimants wishing to receive compensation immediately who:</p> <ul style="list-style-type: none">• Are faced with significant costs and delays to enforce against a defendant who is refusing to pay• Expect delays before payments are made• Have spent more time and money securing a favourable decision than expected
Pricing	<p>Given the costly, time-consuming, and risky process involved, the discount to the claim value is high and pricing at 5-20% of the claim value is not uncommon.</p> <p>For successful claims that are being appealed the pricing can be higher, depending on the quality of the judgment or award being appealed.</p> <p>Where we require continued engagement from the claimant to ensure success, we would most likely look to acquire part of the claim with you retaining the balance.</p>	<p>With low or no enforcement risk prices can be up to 90% of face value of the judgment depending on other risks and expected timing of payments.</p> <p>With more significant enforcement risk, pricing is typically lower, depending on perceived risk, expected costs, and duration.</p>
Example	<p>A recently acquired renewable energy company had a \$10m commercial arbitration claim, which it had yet to pursue.</p> <p>The new owner wanted to move all litigation costs off-balance sheet by selling the claim.</p> <p>As the claim had yet to commence, had an expected duration of five years, and was far from certain to be successful, pricing was at 7% of the claim value.</p>	<p>A leading food manufacturer was looking to sell an award that required enforcement against a distributor of its products.</p> <p>The company had already incurred higher than expected legal costs and preferred to sell the award to realise value as soon as possible.</p> <p>Assets were identified in a good jurisdiction but with substantial costs to enforce, and so pricing was at 25% of the award.</p>



Is selling a claim or award right for you?

We need to understand the details of your claim so we can agree a fair price for you, reflecting the costs, risks, and duration of the claim. It is also important for us to know we can rely on your support in bringing the claim to a successful resolution; your experience of the case and the defendant provides us with helpful information, and we want to reflect your assistance in the pricing we propose. The following information will help us to quickly assess your claim and provide indicative pricing.

Recoverability If the claim has been or is successful, will we be able to recover proceeds?	Who is the defendant, and where is the litigation or arbitration taking place? What steps have you taken to satisfy yourself that the defendant has sufficient assets to satisfy a judgment/award against them? What interim steps have you taken, if any, to ensure you can enforce against those assets? If required, are you, as the claimant, prepared to remain involved to assist Harbour with information on the history of the dispute? How long have proceedings taken to date, and how long are they likely to take to conclude?
Economics Can we offer you a meaningful sum to acquire the claim?	What is the value of the claim, and how is that substantiated? What proportion of it do you want to sell? Why do you want to sell all or part of your claim?
Experience Is the right team on board?	What is the legal team's track record in bringing this sort of case to successful conclusion?
Merits Does the case have good prospects of success?	At which stage are the proceedings? Under the law of the relevant jurisdiction, are you able to assign a claim, judgment, or award? Can that be done immediately, or must the claim be brought in the name of the original claimant? Are there any impending limitation periods about to expire? Does the claim arise from a liquidation, insolvency, or restructuring? If so: <ul style="list-style-type: none">• Is the claimant company still operating?• Who is selling the claim? A liquidator, creditor, trustee in bankruptcy, etc.?• Is there a creditors' committee?• On what legal basis can a judgment or award be recognised in the jurisdiction in which you seek to enforce?

What sets us apart?

Harbour is amongst the largest and most experienced funders in the world, having supported cases in 14 jurisdictions and 6 arbitral forums since 2007. Our experience of reviewing over 4,000 claims means we can quickly review the responses to the questions above and provide an indicative view on pricing, before guiding you through our due diligence process.



Appendix: claim acquisition examples

Acquiring a claim from a distressed corporate

Situation	A large corporate facing restructuring needed to raise cash to fund operations and pay its creditors. As a result, it was open to selling assets including litigation assets to generate cash.
Key considerations for the client	Whilst the need for capital was immediate, the company felt it was sitting on a portfolio of seven valuable, albeit early-stage arbitration claims. It was important for its shareholders and its future revenue prospects that it balance the need to inject capital today with giving away the potential upside (particularly given the discount on the claim value was likely to be high).
Key considerations for Harbour	<ul style="list-style-type: none">• Which of the claims were of good enough quality to be funded - often only a subset of any portfolio are likely to be successful• The proportion of the claim that Harbour would be willing to buy to ensure the claimant remained motivated to secure a positive outcome• These were claims that were subject to a number of counterclaims, which needed to be considered in the case assessment
Proposal	<ul style="list-style-type: none">• Fund the arbitrations and acquire 50% of the claims for 15.5 cents per dollar of claim value• We would receive a return on the funding of the arbitrations, and thereafter receive our 50% share of proceeds
Why Harbour was approached	We are one of only a few funders operating in this market. We were introduced to this company through one of our partner law firms, who recognised the company was restructuring and looking for ways to save money. The company was keen to partner with us because of our experience of funding globally and our ability to create a funding solution that met their goals.



Helping a bank enforce a judgment

Situation	After a longer than expected legal battle, upon securing a judgment on liability and quantum a large European bank unexpectedly learned that further costs would need to be incurred to enforce their action and receive the proceeds. The action related to the non-payment of loans and the recovery of debt.
Key considerations for the client	The claimant was seeking ways to receive proceeds immediately and to avoid spending any further money. That said, as a well-capitalised listed entity, any sale had to make economic sense.
Key considerations for Harbour	<ul style="list-style-type: none">• How difficult it would be to enforce the judgment, i.e., the value of the defendant's assets and how easy they would be to freeze and liquidate.• Whether the costs and risk involved allowed us to price something at a discount to claim value that would make economic sense for the client.• The lawyers and advisers that would be best placed to achieve a cost-effective and swift result.
Proposal	<ul style="list-style-type: none">• The assets were in jurisdictions that made enforcement relatively straightforward, and assets representing most of the claim value were identified and frozen.• However, the costs of enforcement would be substantial, so pricing was therefore set at 25 cents per dollar of claim value.
Why Harbour was approached	Over recent years, we have developed a specialisation in enforcement. This action came to us through our network of enforcement contacts who know we understand these situations and can quickly come up with a fair pricing proposal.



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