

Matthew Hall v Slater & Gordon Ltd

Federal Court of Australia

VID 1213 of 2016

SETTLEMENT DISTRIBUTION SCHEME

Settlement Distribution Scheme

14 December 2017

1. Background & Summary

- 1.1 This Settlement Distribution Scheme (**SDS**) establishes a procedure for verifying and distributing the Settlement Sum to be paid by Slater & Gordon Ltd (**SGH**) and its insurers (**Insurers**) pursuant to a settlement of the case *Matthew Hall v Slater & Gordon Ltd* VID 1213/2016 (**Proceeding**) approved by the Court.
- 1.2 Under the terms of the settlement, the SDS will operate in parallel with a Senior Lender Scheme and Shareholder Claimant Scheme (**SCS**) that have been propounded by SGH in *In re Slater & Gordon Ltd* VID 1146/2017.
- 1.3 This SDS becomes operative on the later of the Settlement Approval Date and the date the SCS is approved and becomes effective (**SDS Effective Date**).
- 1.4 The Deed, the SCS and this SDS provide for the following major steps:
- (a) Maurice Blackburn will be appointed as Settlement Administrator of the SDS (clause 3.1);
 - (b) On the SCS becoming effective, in accordance with the terms of the Settlement Deed, Maurice Blackburn will:
 - (i) open an interest bearing trust account of an Australian Bank for the benefit of Group Members (**Settlement Distribution Fund**) (cl 4.1);
 - (ii) transfer to the Scheme Administrators the Insurer Contribution Balance for the purposes of establishing the Scheme Fund (cl 4.3);
 - (iii) retain the Slater & Gordon Contribution in the Settlement Distribution Fund pending the completion of the assessment by the Scheme Administrators of proofs lodged in the SCS and payment to Maurice Blackburn in its capacity as solicitors for the Hall Proceeding Claimants and Settlement Administrator of this SDS, of the amount assessed by the Scheme Administrators as payable to Group Members from the SCS (that is, the Entitlement) for deposit into the Settlement Distribution Fund (cll 4.2, 4.4); and
 - (c) Maurice Blackburn will as soon as practicable after the SDS Effective Date, having regard to the SCS and after consultation with the Scheme Administrators:
 - (i) Publish a notice to Registered Group Members requiring them, on or before a date to be determined by the Settlement Administrator, having regard to the progress of the SCS and after consultation with Scheme Administrators, to complete a Participant Declaration confirming that their Trade Data are true and correct (or amending their Trade Data) (cl 6); and
 - (ii) Publish a notice to Unregistered Group Members notifying them that, if they wish to claim a distribution from the Settlement, they must, on or before a date to be determined by the Settlement Administrator, having regard to the progress of the SCS and after consultation with the Scheme Administrators,, register and provide Trade Data, and

complete a Participant Declaration confirming that those data are true and correct (cl 7);

- (iii) Having regard to the progress of the SCS, and after consultation with the Scheme Administrators, publish as necessary any further notice or notices to Registered and Unregistered Group Members, which may, but do not have to, notice of any deadline on or before which Trade Data must be provided and a Participant Declaration completed confirming the Trade Data as true and correct if a group member wishes to claim a distribution under this SDS (cll 6.3, 7.3);
- (d) Following receipt of Entitlements from the SCS which will be paid into the Settlement Distribution Fund, Maurice Blackburn will (no earlier than the Earliest Distribution Date):
 - (i) notify each Registered Group Member and Unregistered Group Member that returns a Participant Declaration (thereafter referred to as **Participants**) of their estimated distribution from the Residual Settlement Sum and give them an opportunity to notify any objections to it, and for those objections to be referred to Independent Counsel (cll 9-10)
 - (ii) deduct Administration Costs, the Applicant's Legal Costs (as approved by the Court, and only to the extent not deducted previously from the Insurer Contribution prior to the establishment of the Scheme Fund) and the Applicant Reimbursement Payment from the Settlement Distribution Fund, leaving a Residual Settlement Sum (cl 12).
 - (iii) distribute the Residual Settlement Sum to Participants (cl 13).
- (e) Interest earned on the amount in the Settlement Distribution Fund will be applied, to the extent necessary, for payment of Administration Costs (cl 11).

2. Definitions and Interpretation

2.1 In this SDS, the following terms have the meanings defined below (clause references are references to the clauses of this document unless otherwise specified):

Act means the *Federal Court of Australia Act 1976* (Cth).

Administration Costs mean the costs and disbursements incurred by the Settlement Administrator and approved by the Court calculated at the rates set out in Schedule A in connection with the administration of this SDS, including (without limitation) the identification of and communications to Unregistered Group Members, preparing a proof of debt for submission to, and otherwise communicating with, the Scheme Administrators, assessing Group Members' claims, administering the SDS, and fees payable to experts and counsel, inclusive of tax.

Amended Notice of Distribution means a notice of distribution that may be issued by the Settlement Administrator to correct an error, slip or omission contained in an earlier Notice of Distribution, as described in clause 9.4.

Applicant means Matthew Hall, the applicant in the Proceeding.

Applicant's Legal Costs means the Applicant's reasonable legal costs and disbursements, including fees payable to counsel and to experts, on a solicitor and own client basis (calculated in accordance with the Retainer between the Applicant and Maurice Blackburn) incurred on his own behalf and on behalf of all Group Members in the Proceeding, and as approved by the Court.

Applicant Reimbursement Payment means an amount of \$12,000 by way of compensation for time and expenditure reasonably incurred by the Applicant in the interests of prosecuting the Proceeding on behalf of the Group Members as a whole, awarded to the Applicant by an order pursuant to s 33ZF of the Act.

Assessment means the value of a Participant's Claim calculated in accordance with clause 9.2 or assessed by Independent Counsel in accordance with clause 10.3.

Banking Details means such requisite banking information as may be necessary to permit the Settlement Administrator to distribute to a Participant a distribution in accordance with clause 13 by way of electronic funds transfer.

Claim or **Claims** means any and all claims (present and future and including any claim for costs) of the Applicant and any Group Member arising out of, or in connection with, the Proceeding or the subject matter of the Proceeding.

Claim Data means the following information for each Registered Group Member:

- (a) the Group Member's name;
- (b) the Group Member's address; and
- (c) the Trade Data for each the Group Member's holdings of SGH Shares.

Claimant Database means the database constructed by or on behalf of Maurice Blackburn to contain the Claim Data for each Group Member and any information required to identify the Group Member, including names, addresses and telephone numbers.

Corporations Act means the *Corporations Act 2001* (Cth).

Court means the Federal Court of Australia.

Earliest Distribution Date means the date no later than 90 days after all of the following have occurred; the Settlement Approval Orders become final and unconditional; the expiry of all appeal rights from the Settlement Approval Orders, being the date which is XX days from the date of the Settlement Approval Orders; and the disposition of all Reviews as provided for in this SDS.

Entitlement means the amount of such monetary distribution from the Scheme Administrators to the Settlement Administrators, being the amount of the sum of the entitlements of Group Members as Shareholder Creditors to share rateably in the proceeds of the SCS.

Final Assessment means:

- (a) an Assessment contained in a Notice of Estimated Distribution or an Amended Notice of Estimated Distribution which is taken to have been accepted by a Participant under clause 9.5 or 10.2; and

- (b) an Assessment contained in a Review Determination under clause 10.4.

Funder means International Litigation Partners No 15 Pte Ltd.

Funding Agreement means the current funding agreement between the Funder and any individual Registered Group Member relating to the Proceeding.

Funding Costs means the amount, payable to the Funder, as ordered by the Court pursuant to s 33ZF of the Act.

Group Member means those persons: referred to in para [1] of the Statement of Claim filed in the Proceeding, including for the avoidance of doubt those persons, funds or trusts on whose behalf the Group Members' acquisition of SGH Shares (or an interest therein) is the subject of a claim to which the Proceeding relates, but does not include:

- (a) those persons who have opted out of the Proceeding pursuant to s 33J of the Act;
- (b) any related party of SGH within the meaning of s 228 of the Corporations Act;
- (c) any related body corporate of SGH within the meaning of s 50 of the Corporations Act;
- (d) an associated entity of SGH within the meaning of s 50AAA of the Corporations Act;
- (e) an officer or a close associate of SGH within the meaning of s 9 of the Corporations Act;
- (f) a judge or the Chief Justice of the Federal Court of Australia or a Justice or the Chief Justice of the High Court of Australia; or
- (g) an officer or employee of, or other legal practitioner engaged by, Maurice Blackburn in relation to the Proceeding.

Independent Counsel means a barrister of the Victorian Bar having at least 5 years' post-admission experience nominated by the Settlement Administrator, who is empowered under this SDS to conduct any Review.

Insurers means SGH's insurers, as described in clause 1.1.

Insurer Contribution means \$32.5 million paid pursuant to the Settlement Deed by the Insurers, including any interest accrued after receipt from SGH's insurers.

Insurer Contribution Balance means the balance of the Insurer Contribution after the deduction of:

- (a) Funding Costs; and
- (b) the Applicant's Legal Costs in an amount approved by the Court, including a reasonable estimate of the Applicant's Legal Costs incurred in obtaining Settlement Approval.

Loss Assessment Formula means the formula by which losses are calculated as contained in Confidential Schedule B to this SDS.

Maurice Blackburn means Maurice Blackburn Pty Ltd (ACN 105 657 949) and, where applicable, the Settlement Administrator appointed by operation of the Settlement Deed and this SDS.

Notice of Claim Data means the notice required by clause 6.1 of this SDS to be sent by the Settlement Administrator to each Registered Group Member.

Notice of Estimated Distribution means the notice required by clause 9.3 of this SDS to be sent by the Settlement Administrator to each Participant setting out the Assessment of the value of that Participant's Claim (and, where the context permits, includes any Amended Notice of Estimated Distribution under clause 9.4).

Notice to Unregistered Group Members means the notice required by clause 7.1 to be published by the Settlement Administrator in a form determined by the Settlement Administrator.

Participant has the meaning given in sub-clause 1.4(g).

Participant Declaration means a statutory declaration in a form to be produced by the Settlement Administrator.

Preliminary Payment means a partial payment to a Participant in accordance with clause 13.2.

Proceeding means Federal Court of Australia proceeding VID 1213 of 2016 titled *Matthew Hall v Slater & Gordon Ltd*.

Proof of Debt means a proof of debt lodged with the Scheme Administrators as per the terms of the SCS.

Registered Group Member means a Group Member who or which has provided their contact details and Trade Data to Maurice Blackburn prior to the SDS Effective Date.

Registration Form means a form, in the form to be decided upon by the Settlement Administrator, which allows a Group Member to provide to the Settlement Administrator such Claim Data as is necessary to allow for a Group Member to be recorded in the Claimant Database.

Relevant Period means the period from 30 March 2015 to 24 February 2016 inclusive.

Residual Settlement Sum means the amount of the Settlement Distribution Fund after the deductions described in clause **Error! Reference source not found.**

Retainer means the costs disclosure and costs agreement between Maurice Blackburn and the Applicant relating to the Proceeding.

Review means the procedure provided in clause 10 for the review of a Notice of Estimated Distribution at a Participant's request.

Review Determination means a written determination of Independent Counsel providing notice to the Participant and the Settlement Administrator of the calculation and the result of the Review under clause 10.3.

SCS means the shareholder claimant scheme propounded by SGH in Federal Court of Australia proceeding VID 1146 of 2017 titled *In re Slater & Gordon Ltd* as described in clause 1.2.

Scheme Administrators means Mark Korda and Bryan Webster of KordaMentha, acting as Court-appointed administrators of the SCS.

Scheme Fund means the fund established by the Scheme Administrators upon receipt of the Insurer Contribution Balance from Maurice Blackburn.

SDS Effective Date means the later of the Settlement Approval Date and the date the SCS is approved and becomes effective, as described in clause 1.3.

Senior Lenders means SGH's secured creditors.

Settlement Administrator means Maurice Blackburn acting as Court-appointed administrator of the SDS.

Settlement Approval means the approval of the terms of settlement of the Proceeding and the SDS by the Court pursuant to section 33V of the Act.

Settlement Approval Date means the date on which Settlement Approval is granted by the Court and the Settlement Approval Orders are made.

Settlement Approval Orders means the orders made by the Court approving the settlement of the proceeding under s 33V of the Act.

Settlement Deed means the deed of settlement dated 21 September 2017 between the Applicant, SGH, Insurers and the Senior Lenders.

Settlement Distribution Fund has the meaning given in sub-clause 1.4(b)(iii).

Settlement Distribution Scheme or **SDS** means the terms of this settlement distribution scheme as approved by the Court, including any Schedules.

Settlement Sum means the sum comprising the Entitlement and the Slater & Gordon Contribution.

SGH means Slater & Gordon Ltd (ACN 097 297 400), the respondent in the Proceeding.

SGH Share means an interest in fully paid ordinary shares of SGH.

Shareholder Creditor means any Shareholder Claimant whose Proof of Debt is lodged with the Scheme Administrators which the Scheme Administrators determine to be entitled to share rateably in the Scheme Fund, as per the terms of the SCS.

Shareholder Claimant means any person who has a "Shareholder Claim" against SGH, as per the terms of the SCS.

Slater & Gordon Contribution means \$4 million paid by SGH pursuant to the Settlement Deed to Maurice Blackburn as solicitors for the Applicant in the Proceeding, including any interest accrued after receipt from SGH.

Trade Data means the following information for each Group Member:

- (a) name;
- (b) postal address;
- (c) email address (if applicable);
- (d) identification of each holding of SGH Shares; and
- (e) for each such holding:
 - (i) the number of SGH Shares held in each holding at the start of the Relevant Period;
 - (ii) the dates during the Relevant Period of any acquisitions or disposals of SGH Shares, and the number of SGH Shares acquired or disposed of on each such date; and
 - (iii) any other information that may be requested by Maurice Blackburn about any acquisitions or disposals of SGH Shares, including but not limited to information relating to acquisitions or disposals of SGH Shares prior to, or after, the Relevant Period or information relating to the nature of any acquisition or disposal of SGH Shares during the Relevant Period.

Unregistered Group Member means a Group Member who or which has not provided their contact details and Trade Data to Maurice Blackburn prior to the SDS Effective Date for the purposes of participating in the Proceeding.

2.2 Headings are for convenience only and do not affect interpretation. The following rules apply unless the context requires otherwise:

- (a) the singular includes the plural, and the converse also applies;
- (b) a gender includes all genders;
- (c) if a word or phrase is defined, its other grammatical forms have a corresponding meaning;
- (d) a reference to a person includes a corporation, trust, partnership, unincorporated body or other entity, whether or not it comprises a separate legal entity;
- (e) a reference to dollars and \$ is to Australian currency; and
- (f) a reference to any act done by any person includes a reference to the thing as done by a director, officer, servant, agent, personal representative or legal representative if permitted to be so done by law or by any provision of the Settlement Deed or this SDS.

3. Settlement Administrator

3.1 The Settlement Distribution Fund shall be administered and applied by Maurice Blackburn as Settlement Administrator.

3.2 In acting as Settlement Administrator (including any incidental functions) Maurice Blackburn will be lawyers working as the Settlement Administrator with an obligation to do so properly on behalf of the Group Members as a whole, and shall not act as the lawyer for any individual Group Member (or sub-group of Group Members) in relation to his, her or its Claim, in relation to the settlement of the Proceeding which is the subject of this SDS.

3.3 In consideration of the provisions made by the Settlement Deed and this SDS regarding the payment of Administration Costs, Maurice Blackburn undertakes not to seek to recover from the Settlement Sum, the Settlement Distribution Fund or from any individual Group Member any costs incurred in connection with the Claims of the individual Group Member, except as otherwise provided in this SDS. All such costs whether incurred prior to the Settlement Approval Date or after the Settlement Approval Date shall form part of the Administration Costs.

4. Establishment of the Settlement Distribution Fund

4.1 The Settlement Administrator, as soon as practicable after the SDS Effective Date, shall:

- (a) cause to be opened an interest-bearing trust account of an Australian bank for the benefit of the Group Members (that is, the Settlement Distribution Fund); and
- (b) provide the details of the Settlement Distribution Fund to each of the Insurers, SGH and the Scheme Administrators;

4.2 The Settlement Administrator shall, as soon as practicable after the SDS Effective Date, cause the Slater & Gordon Contribution to be transferred to the Settlement Distribution Fund.

4.3 The Settlement Administrator shall, as soon as practicable after the SDS Effective Date, cause the Insurer Contribution Balance to be transferred to the Scheme Administrators.

4.4 The Settlement Administrator shall receive the Entitlement into the Settlement Distribution Fund following administration of the SCS by the Scheme Administrators.

4.5 The Settlement Administrator will:

- (a) hold the Settlement Sum in trust until it is to be distributed;
- (b) distribute the Settlement Sum (plus any interest accrued) as expeditiously as possible; and
- (c) provide the Scheme Administrators with account details and information sufficient to the Entitlement into the Settlement Distribution Fund,

in accordance with this SDS.

5. Claimant Database

5.1 As soon as practicable after the SDS Effective Date, the Settlement Administrator shall create and maintain the Claimant Database.

5.2 At all times, the Settlement Administrator must use reasonable endeavours to ensure the accuracy of the Claimant Database, including, to the extent necessary, requesting further information or documents from a Group Member or requesting further information or documents from SGH or other third parties.

6. Confirmation of Trade Data by Registered Group Members

6.1 As soon after the SDS Effective Date as practicable, having regard to the progress of the SCS and after consultation with the Scheme Administrators, the Settlement

Administrator will deliver to each Registered Group Member a Notice of Claim Data and Participant Declaration, which will list the Trade Data pertaining to a Group Member as held by the Settlement Administrator in the Claimant Database.

6.2 Each Registered Group Member wishing to receive a distribution from the Settlement Distribution Fund must provide to the Settlement Administrator, on or before a date to be determined by the Settlement Administrator, having regard to the progress of the SCS and after consultation with the Scheme Administrators, complete a Participant Declaration which either:

- (a) confirms that the Trade Data in the Notice of Claim Data is true and correct; or
- (b) in the event that the Claimant Database does not contain Trade Data for that Registered Group Member, provides Trade Data and confirms that such Trade Data is true and correct; or
- (c) provides amended or corrected Trade Data and declares that such amended or corrected Trade Data is true and correct; and

which further:

- (a) provides information to the Settlement Administrator regarding the preferred means of receiving any distribution that Participant may be eligible to in accordance with this SDS; and
- (b) in the event that method is electronic funds transfer, Banking Details and declares those Banking Details to be true and correct.

6.3 If the date referred to in clause 6.2 above is not determined prior to publication of the Notice of Claim Data, as soon as practicable after the date is determined, the Settlement Administrator will deliver to each Registered Group Member a Supplementary Notice informing them of the date.

6.4 Subject to clause 18, any Registered Group Member that does not make and deliver to the Settlement Administrator a valid Participant Declaration in accordance with clause 6.2 shall not be entitled to receive a distribution from the Settlement Distribution Fund, and the Settlement Administrator shall not be required to provide to any such Group Member any further notices under this SDS.

7. Registration and provision of trade data by Unregistered Group Members

7.1 As soon after the SDS Effective Date as practicable, having regard to the progress of the SCS and after consultation with the Scheme Administrators, the Settlement Administrator will publish a Notice to Unregistered Group Members, in a form to be determined by the Settlement Administrator.

7.2 Each Unregistered Group Member wishing to receive a distribution from the Settlement Distribution Fund must provide to the Settlement Administrator, on or before a date to be determined by the Settlement Administrator, having regard to the progress of the SCS and after consultation with the Scheme Administrators, register and provide Trade Data, and complete a Participant Declaration which confirms that the Trade Data provided is true and correct.

7.3 If the date referred to in clause 7.2 above is not determined prior to publication of the Notice to Unregistered Group Members, as soon as practicable after the date is determined, the Settlement Administrator will publish a Supplementary Notice to Unregistered Group Members providing notice of the date.

7.4 Subject to clause 18, any Unregistered Group Member that does not make and deliver to the Settlement Administrator a Registration Form and executed Participation Declaration in accordance with clause 7.2 shall not be entitled to receive a distribution from the Settlement Distribution Fund, and the Settlement Administrator shall not be required to provide to any such Group Member any further notices under this SDS.

8. Settlement Administrator's ability to rely

8.1 Subject to clause 8.2, for the purpose of the administration of this SDS, Trade Data and Banking Details confirmed by way of a Participant Declaration may be relied upon as accurate by the Settlement Administrator, in its absolute discretion, when administering this SDS.

8.2 Notwithstanding clause 8.1, if in the Settlement Administrator's opinion, a Participant Declaration:

- (a) contains insufficient information to substantiate the claim made by a Group Member or is not a valid Participant Declaration, the Settlement Administrator may in its absolute discretion by written notice require the Group Member to provide and verify by a Statutory Declaration such further information as the Settlement Administrator may require. If the Group Member does not provide the further information within 14 days of such a request being made, the Settlement Administrator may determine, in its absolute discretion, that the Group Member is not entitled to receive a distribution from the Settlement Distribution Fund and, save for notice of that determination, the Settlement Administrator shall not be required to provide to any such Group Member any further notices under this SDS; or
- (b) contains sufficient information notwithstanding that some information may not be included, the Settlement Administrator may in its absolute discretion accept the Trade Data as complete.

8.3 Where a Participant is a Participant by virtue of a Retainer and/or Funding Agreement entered into on their behalf by a trustee, investment manager, responsible entity or agent, the Settlement Administrator may rely on any information, instruction or declarations provided by that trustee, investment manager, responsible entity or agent as if it has been provided by the Participant itself.

9. Assessment of Claims and provision of Notices of Estimated Distribution

9.1 As soon as practicable after the receipt of the Entitlement from the Scheme Administrators, the Settlement Administrator shall calculate the Assessment of each Participant's Claim using the Trade Data in the Claimant Database.

9.2 The Assessment for each Participant shall be calculated by applying the Loss Assessment Formula to that Participant's Trade Data.

9.3 As soon as practicable after calculating the Assessment for each Participant, the Settlement Administrator shall send a Notice of Estimated Distribution to each Participant notifying them of:

- (a) the Trade Data relating to that Participant;

- (b) the Settlement Administrator's reasonable estimate of the Participant's expected distribution under this SDS;
- (c) the terms of clause 9.4 and 9.5 below;
- (d) the availability and terms of the Review procedure in clause 10 below; and
- (e) any other information that the Settlement Administrator considers would assist Participants in determining whether to seek a Review.

9.4 If, within 14 days of the date of the Notice of Estimated Distribution, a Participant notifies the Settlement Administrator of any error, slip or omission in the Notice of Estimated Distribution, the Settlement Administrator may, in its absolute discretion, correct the Claimant Database and issue to that Participant and any other Participant affected by the correction, if that other Participant's estimated distribution is reduced by more than 5 per cent, an Amended Notice of Estimated Distribution.

9.5 The accuracy of a Notice of Estimated Distribution shall be deemed to be accepted by a Participant unless the Participant, within 14 days of the date of a Notice of Estimated Distribution, delivers to the Settlement Administrator a written request for a Review together with copies of all documents on which the Participant relies for the purposes of the Review, including any statement of reasons for seeking the Review.

10. Review of Estimated Distributions

10.1 If a Participant requests a Review of a Notice of Estimated Distribution, the Settlement Administrator shall review the request and copies of documents on which the Participant relies for the purposes of the Review and:

- (a) if satisfied that the request discloses an error, slip or omission by the Settlement Administrator or any other administrative or clerical error, correct the notice to which the request relates; or
- (b) in all other cases, refer the request to the Independent Counsel.

10.2 If a request for a Review is referred to the Independent Counsel, the Independent Counsel may by written notice direct the Participant to submit such further documentation in support of the Review as the Independent Counsel may consider appropriate. Such documentation must be submitted within 14 days of the date of any such written notice, failing which the request for Review shall be deemed never to have been made and the accuracy of the Notice of Estimated Distribution shall be deemed to be accepted by the Participant.

10.3 The Independent Counsel shall, within 14 days after either the receipt by the Settlement Administrator of the request for the Review or receipt by the Independent Counsel of documentation provided in response to a written direction under clause 10.2, whichever is the later:

- (a) calculate the Assessment for the Participant according to the methodology prescribed in clause 9.2; and
- (b) give written notice of the result of the Review to the Participant and the Settlement Administrator.

10.4 A Review Determination is final and binding, save that, prior to the expiry of 7 days after notice is given of the Review Determination in accordance with clause 10.3(b),

the Participant has liberty to apply to the Court only on a question of law arising from the Review Determination.

- 10.5 A Participant who requests a Review shall pay the costs of the Review calculated at \$800 exclusive of GST for the first two hours' attendance by the Independent Counsel (or any part thereof) and \$450 per hour exclusive of GST for each subsequent hour (or any part thereof), unless the assessed amount of the Review Determination is at least 110% of the assessed amount of the corresponding Notice of Estimated Distribution.
- 10.6 The Independent Counsel may, by written notice, require a Participant to pay to the Settlement Administrator an amount as the Independent Counsel reasonably estimates will represent the cost of the Review, which amount will be held by the Settlement Administrator on trust for the purposes of paying the costs of the Review upon presentation by the Independent Counsel of a tax invoice. If this amount is not provided as required within 10 days of the date that the written notice requiring payment into trust was sent to the Participant requesting the Review, the Independent Counsel shall issue a Review Determination confirming the Participant's Notice of Estimated Distribution, noting that no payment has been made into trust as required.
- 10.7 Subject to clause 10.5, if any costs of a Review have not been paid by a Participant before any distribution to that Participant, the Settlement Administrator shall deduct those costs from any sum which otherwise would be distributed to the Participant who sought the Review in priority to all other entitlements. That Participant shall remain liable for any costs not recovered by a deduction pursuant to this clause and the Settlement Administrator, in administering the SDS, may apply to the Court for an order requiring the Participant to pay those costs.
- 10.8 The Settlement Administrator may in its absolute discretion waive the costs of a Review.

11. Application of Interest

- 11.1 Interest earned on the Settlement Distribution Fund (net of any tax payable on such interest) will be applied, in the first instance, to payment of Administration Costs if and to the extent that the Administration Costs are approved by the Court.
- 11.2 Any additional Administration Costs incurred or estimated shall, subject to Court approval, be paid to the Settlement Administrator before any final distribution of the Settlement Distribution Fund.
- 11.3 If the total amount of interest earned on the Settlement Distribution Fund exceeds the Administration Costs, including any estimated Administration Costs referred to in clause 11.2, such residual interest will be allocated to Participants in the proportion that their Assessments bear to the Residual Settlement Sum distributed in accordance with clause 13.

12. Residual Settlement Sum

- 12.1 Prior to any distribution from the Settlement Distribution Fund to Participants, the Settlement Distribution Fund shall be treated as a common fund and the following payments shall be made from it:

- (a) the Applicant's Legal Costs (as approved by the Court, and only to the extent not deducted previously from the Insurer Contribution prior to the establishment of the Scheme Fund);
- (b) the Applicant Reimbursement Payment; and
- (c) an amount to the Settlement Administrator for Administration Costs incurred by the Settlement Administrator.

12.2 Once the payments referred to in clause 12.1 are made, the amount in the Settlement Distribution Fund, referred to as the Residual Settlement Sum, shall then be distributed in accordance with clause 13.

13. Distributions

13.1 The Residual Settlement Sum shall be distributed to Participants as follows:

- (a) the Residual Settlement Sum shall be allocated between Participants in the proportion which the Final Assessment of each Participant bears to the aggregate of the Final Assessments for all Participants, and
- (b) each Participant's allocation will be distributed to each Participant.

13.2 Notwithstanding clause 1.4(d) above, if at any time in respect of the Participants:

- (a) no Review has been requested by any Participants, or where one or more Reviews have been requested, all Review Determinations have been made; or
- (b) the highest reasonable estimate of the value of the Assessments still awaiting the determination of Final Assessment is less than 20% of the amount available for distribution to Participants,

the Settlement Administrator may in its absolute discretion make a Preliminary Payment to Participants by distribution from the Settlement Distribution Fund in accordance with the procedure set out in in this clause, but shall withhold an amount not less than double the highest reasonable estimate of the Assessments still awaiting the determination of Final Assessment, plus its highest reasonable estimate of the Administration Costs likely to be incurred prior to the final distribution of the Settlement Distribution Fund. For the avoidance of doubt, any such Preliminary Payment:

- (i) may be made prior to the determination of the Final Assessments of all Participants; but
- (ii) may not be made to a Participant until the determination of the Final Assessment of that Participant's Claim.

13.3 Subject to clause 18, other than a Preliminary Payment made under clause 13.2, no distribution shall be made from the Settlement Distribution Fund until the Final Assessment of every Participant has been determined and the Applicant's Legal Costs, Applicant Reimbursement Payment, and Administration Costs have been paid in full.

13.4 If a Preliminary Payment is made, any Administration Costs incurred after the date of the Preliminary Payment shall be paid to the Settlement Administrator prior to the final distribution of the remaining amount in the Settlement Distribution Fund.

- 13.5 If, after the final distribution of the Settlement Distribution Fund to Participants, any amount remains or is held in the Settlement Distribution Fund, such as further interest amounts accrued prior to the final distribution but received after the final distribution, the amount shall be distributed pro rata among the Participants, subject to clause 13.6.
- 13.6 At the Settlement Administrator's absolute discretion, the following amounts required to be distributed under clause 13.5 may instead be paid to the Australian Shareholders' Association:
- (a) if the total amount to be distributed is less than \$40,000, the total amount; or
 - (b) if the amount to be distributed to any individual Participant is less than \$40, that amount.

14. Immunity from Claims

- 14.1 The completion of distributions made pursuant to clause 13 (including distributions made by cheques that remain unrepresented for 120 days) shall satisfy any and all rights, claims or entitlements of all Group Members in or arising out of the Proceeding.

15. Errors, slips and omissions

- 15.1 Notwithstanding anything elsewhere contained in this SDS, the Settlement Administrator may at any time and in its sole discretion correct any error, slip, or omission occurring in the course of its administration of the SDS.

16. Supervision by the Court

- 16.1 The Settlement Administrator may refer any issues arising in relation to the SDS or the administration of the SDS to the Court for determination.
- 16.2 Any costs incurred in any such reference to the Court made by the Settlement Administrator shall be deemed to be Administration Costs.

17. Notices

- 17.1 Any notice to be given pursuant to the SDS by the Settlement Administrator to Group Members shall be deemed given and received for all purposes associated with this SDS if it is:
- (a) addressed to the person to whom it is to be given; and
 - (b) either:
 - (i) delivered, or sent by pre-paid mail, to that person's postal address (being, in respect of any Group Member, the current postal address recorded in the Claimant Database, as obtained from the Group Member's Retainer or Funding Agreement, Trade Data, Participant Declaration or directly from the Group Member); or
 - (ii) sent by fax to that person's fax number (being, in respect of any Group Member, the fax number included with the Trade Data or Participant Declaration submitted by that person) and the

machine from which it is sent produces a report that states that it was sent in full; or

- (iii) sent by email to that person's email address (being, in respect of a Group Member, the email address included with the Trade Data or Participant Declaration submitted by that person) and a server through which it is transmitted produces a report that states that the email has been delivered to the inbox of that person.

17.2 A notice that complies with this clause 17 will be deemed to have been given and received:

- (a) if it was sent by mail to an addressee in Australia, two clear business days after being sent;
- (b) if it was sent by mail to an addressee overseas, five clear business days after being sent;
- (c) if it was delivered or sent by fax, at the time stated on the report that is produced by the machine from which it was sent; and
- (d) if it was sent by email, at the time it was sent.

17.3 Where a Group Member is not a natural person and where one person has been nominated as the contact in respect of several Group Members, it is sufficient for the purpose of giving notice that any of the provisions of clause 17.1 are complied with in relation to that nominated person.

17.4 The Settlement Administrator's address and email address shall be as set out below unless and until the Settlement Administrator notifies the sender otherwise:

Slater & Gordon Class Action

Maurice Blackburn Pty Ltd

Level 21, 380 Latrobe St

MELBOURNE VIC 3000

Email: SGH@mauriceblackburn.com.au

18. Time

18.1 The time for doing any act or thing under the SDS may be extended by the Settlement Administrator in its absolute discretion.

18.2 The time for doing any act or thing under the SDS may be extended by order of the Court.

SCHEDULE A

Person / Position	Hourly Rate (ex GST)
Principal	\$800.00
Special Counsel	\$750.00
Senior Associate	\$635.00
Associate	\$560.00
Lawyer	\$460.00
Trainee Lawyer / Law Graduate	\$365.00
Paralegal / Law Clerk	\$335.00
Litigation Technology Consultant	\$250.00

CONFIDENTIAL SCHEDULE B

[redacted]