

REGISTRATION AND SETTLEMENT APPROVAL NOTICE

FEDERAL COURT OF AUSTRALIA

RMBL CLASS ACTION (VID 1093 OF 2018)

PLEASE READ THIS NOTICE CAREFULLY

This notice is provided pursuant to orders made by the Federal Court of Australia on 5 March 2020. It contains important information about the proposed settlement of a class action brought on behalf of persons who from time to time borrowed money from RMBL Investments Ltd, and you should read it carefully as it concerns your legal rights.

THERE ARE THREE THINGS YOU MAY DO (AS DETAILED IN THIS NOTICE):

1. **OPTION A:** REGISTER BY 4.00 PM (AEST) ON 7 APRIL 2020 TO PARTICIPATE IN THE CLASS ACTION (IN WHICH CASE YOU MAY BE ENTITLED TO RECEIVE A DISTRIBUTION FROM THE PROPOSED SETTLEMENT OF THE CLASS ACTION)
2. **OPTION B:** DO NOTHING (IN WHICH CASE, IF THE PROPOSED SETTLEMENT OF THE CLASS ACTION IS APPROVED BY THE COURT, YOU WILL NOT BE ENTITLED TO RECEIVE A DISTRIBUTION FROM THE PROPOSED SETTLEMENT, AND NOR WILL YOU KEEP YOUR RIGHTS (IF ANY) AGAINST RMBL IN RESPECT OF THE MATTERS WHICH ARE THE SUBJECT OF THE CLASS ACTION)
3. **OPTION C:** OBJECT TO THE PROPOSED SETTLEMENT OF THE CLASS ACTION (IF YOU CHOOSE TO OBJECT TO THE PROPOSED SETTLEMENT, YOU MAY STILL DO EITHER OF OPTION A OR OPTION B)

Why is this notice important?

1. A class action has been commenced in the Federal Court of Australia against RMBL Investments Ltd (**RMBL**) by Mr Noel Uren on his own behalf and on behalf of all persons who at any time:
 - a. entered into a loan agreement with RMBL, pursuant to which they were required to pay ‘collection charges’ to RMBL; and
 - b. paid to RMBL an amount or amounts by way of such ‘collection charges’,
(RMBL Class Action).

2. You should previously have received a court-approved notice in relation to the RMBL Class Action which set out some of the background to the class action, and advised you of your right to opt out of the class action if you did not wish to participate in it. The deadline for opting out has now passed. Accordingly, this notice is directed only to those persons who:
 - a. have been identified as a potential class member in the RMBL Class Action; and
 - b. did not opt out of the RMBL Class Action (by lodging an opt out notice with the Federal Court before the deadline of 4.00 pm (AEST) on 26 July 2019).

Any persons who did lodge an opt out notice with the Federal Court before the above deadline are no longer part of the RMBL Class Action, and are not affected by this notice.

3. The Federal Court has ordered that this notice be published. As noted above, you have received this notice because you have been identified as a potential class member in the RMBL Class Action, and did not opt out of the action by the applicable deadline. **You should read this notice carefully. Any questions you have concerning the matters contained in this notice should not be directed to the Court.** If there is anything in this notice that you do not understand, you should contact the solicitors for Mr Uren (Maurice Blackburn), whose contact details are set out in paragraph 26 of this notice, or you may seek alternative legal advice.

4. This notice provides important information about:
 - a. your status as a class member in the RMBL Class Action;
 - b. what you need to do if you wish to register to participate in the proposed settlement of the RMBL Class Action described below (and potentially receive some compensation);

- c. what will happen if you do not register to participate in the proposed settlement of the RMBL Class Action; and
- d. what you need to do if you wish to object to the proposed settlement of the RMBL Class Action.

What is a class action?

5. A class action is a legal action that is brought by one person (**Applicant**, being in this case Mr Uren) on his or her own behalf and on behalf of a group of persons (**Class Members**) against another person or persons (**Respondent(s)**, being in this case RMBL), where the Applicant and the Class Members all have similar claims against the Respondent(s).
6. The Applicant in a class action does not need to seek the consent of Class Members to commence a class action on their behalf, or to identify a specific Class Member or Members. However, Class Members can cease to be Class Members by ‘opting out’ of the class action before the court-appointed deadline. An explanation of how Class Members could opt out was contained in the previous notice to Class Members and, as noted above, the deadline for opting out has now passed.

What is the RMBL Class Action?

7. The RMBL Class Action was filed on 4 September 2018 in the Victorian Registry of the Federal Court of Australia. In it, the Applicant alleges that the clause of the loan agreement which he and his business partner entered into with RMBL (and the corresponding clause of the loan agreements which each Class Member entered into with RMBL), and pursuant to which RMBL imposed ‘collection charges’ on borrowers:
 - a. only permitted RMBL to impose ‘collection charges’ in an amount equal to its actual costs, charges and expenses of collecting interest, and specifically did not permit RMBL to impose ‘collection charges’ in the amount which it did impose on the Applicant and the Class Members; and
 - b. *alternatively*, to the extent that it purported to confer on RMBL a discretion to increase the ‘collection charge rate’ from time to time, it was either void for uncertainty, or was subject to an implied term that any increases would reflect increases in the actual costs, charges and expenses of collecting interest – and accordingly, any increases in the ‘collection charge rate’ from time to time were void and of no effect.

8. The Applicant therefore alleges that, by imposing the ‘collection charges’ which it did on himself and on the Class Members, RMBL acted in breach of contract, and/or engaged in misleading or deceptive and/or unconscionable conduct in contravention of the *Australian Securities and Investments Commission Act 2001* (Cth) and/or the *Australian Consumer Law*. The Applicant claims that he and the Class Members suffered loss as a result of those alleged breaches, in the form of the excessive ‘collection charges’ which they paid.
9. The detailed allegations are set out in the Applicant’s Statement of Claim filed with the Federal Court on 4 September 2018. RMBL has at all times denied the claims made against it, and has defended the RMBL Class Action. A copy of the Applicant’s Statement of Claim, and a copy of RMBL’s Defence:
 - a. are available on the website of the Applicant’s solicitors (<http://www.mauriceblackburn.com.au/current-class-actions/rmbl-class-action>);
or
 - b. can be obtained by contacting the Applicant’s solicitors (Maurice Blackburn), whose contact details are set out in paragraph 26 of this notice.

Are you a Class Member in the RMBL Class Action?

10. The RMBL Class Action is ‘open’, which means that it includes as Class Members all persons who at any time paid ‘collection charges’ to RMBL.
11. You are a Class Member if you meet the following criteria:
 - a. you have at any time entered into a loan agreement with RMBL which contains or contained a clause requiring you to pay ‘collection charges’;
 - b. you have paid to RMBL an amount or amounts by way of ‘collection charges’ pursuant to that clause; and
 - c. you had not, as at 4 September 2018, received from RMBL a full refund of those amounts.
12. If you do not meet the above criteria, you may disregard this notice. You may also disregard this notice if:
 - a. you do meet the above criteria, but you opted out of the RMBL Class Action before the deadline for opting out referred to above (with the result that you are no longer a Class Member); or

- b. (for companies only) you previously met the above criteria, but you are currently deregistered – in those circumstances, you are not currently a Class Member.

In each of the above cases, your rights will not be affected by the proposed settlement of the RMBL Class Action which is described further below.

- 13. If you do meet the above criteria, you should read this notice carefully as it will affect your rights.
- 14. If you are unsure as to whether or not you are a Class Member, you should contact the Applicant's solicitors (Maurice Blackburn), or you may seek alternative legal advice.

Are Class Members liable for legal costs?

- 15. The Applicant has retained Maurice Blackburn to act as his solicitors, but it is not necessary for you or other Class Members to retain Maurice Blackburn in order to participate as a Class Member.
- 16. The costs of the RMBL Class Action have been, and will continue to be, funded by Litigation Lending Services Ltd (LLS), initially pursuant to a Funding Agreement between LLS and the Applicant, and subsequently pursuant to orders made by the Court on 2 May 2019 (commonly referred to as a '**Common Fund Order**'). A copy of the Common Fund Order, which sets out the terms of the funding arrangements:
 - a. is available on the website of the Applicant's solicitors (<http://www.mauriceblackburn.com.au/current-class-actions/rmbl-class-action>);
or
 - b. can be obtained by contacting the Applicant's solicitors (Maurice Blackburn), or otherwise by visiting any Registry of the Federal Court of Australia.
- 17. If the proposed settlement is approved by the Court and you are eligible to participate in the settlement distribution, it is likely that the Court will order that your share of the settlement will be calculated and paid to you after deduction of legal costs. Under no circumstances will you, by registering to participate in the settlement, be liable to pay any 'out-of-pocket' costs, whether to LLS, Maurice Blackburn or otherwise.

The Proposed Settlement

18. The initial trial of the RMBL Class Action commenced on 7 August 2019 and having heard the evidence, the Court directed the parties to attend a mediation. That mediation commenced on 8 August 2019, and continued over the following weeks. Ultimately the parties agreed to an in-principle settlement of the proceeding under which RMBL will pay \$3 million inclusive of interest and costs (**Settlement Sum**) in full and final settlement of the claims of the Applicant and Class Members.
19. The settlement does not come into effect unless it is approved by the Federal Court. If the proposed settlement of \$3 million is approved by the Court there are likely to be some substantial deductions from the Settlement Sum before distribution of any monies to eligible Class Members:
 - a. Legal costs and disbursements: The Applicant will seek reimbursement of the reasonable legal costs incurred in the proceeding, estimated at approximately \$950,000 so that they are shared on a pro-rata basis by all Class Members. The Court will determine the amount which is fair and reasonable;
 - b. Applicant's reimbursement payment: The Applicant will seek payment of \$5,000 for the time, inconvenience and expense incurred in prosecuting the proceeding on behalf of Class Members as a whole, to be paid on a pro rata basis by all Class Members. Any such payment is subject to approval by the Court;
 - c. Litigation Funding Charges: The costs and adverse costs risks of the proceeding have been funded by LLS initially pursuant to a funding agreement and later pursuant to a Common Fund Order made by the Court on 2 May 2019. A recent decision of the High Court of Australia indicates that the Court did not have the power to make the Common Fund Order at the time that it was made, but the order remains in force unless challenged. If the existing order is challenged the Applicant intends to seek a fresh common fund order under s 33V of the Act and/or in the Court's general equitable jurisdiction. The Applicant will seek Court approval for a payment of approximately \$750,000 to LLS representing 25% of the settlement. The Court will determine the litigation funding charges which are reasonable in the circumstances of the case.

If the Court approves the proposed deductions from the Settlement Sum there will be approximately \$1.295 million available for distribution to Class Members.

20. At the present time, it is not possible to estimate how much each registered Class Member will receive by way of a distribution from the proposed settlement, because that will depend on factors including:
 - a. the amount of the payments to LLS and Maurice Blackburn on account of legal and litigation funding costs which the Court approves as reasonable; and
 - b. the number of Class Members who register before the applicable deadline, and the amount of the 'collection charges' which each such Class Member paid.
21. The settlement deed provides for all Class Members to release RMBL from any claim in relation to, concerning, arising out of, connected with or related to:
 - a. the claims relating to 'collection charges' made in the RMBL Class Action;
 - b. the matters relating to 'collection charges' which are or were at any time the subject of the RMBL Class Action or any part of them, or which are raised in that action, whether arising at common law, in equity, under statute or otherwise; and
 - c. 'collection charges' which are or were at any time paid by and/or levied to the Class Members, whether arising at common law, in equity, under statute or otherwise.

If the proposed settlement is approved by the Court, Class Members (whether they register or not) will be bound by that settlement, and will not be permitted to make any subsequent claim against RMBL in relation to 'collection charges' which they have previously paid to RMBL.

The Settlement Approval Process

22. The Court will only approve the proposed settlement if it is satisfied that the settlement is fair and reasonable in the interests of the Class Members, including as between the Class Members. If it is not so satisfied, it will not approve the settlement.
23. The Court will hear the application for approval of the proposed settlement at 10.15 am on 6 May 2020 at the Federal Court in Melbourne. If you are a Class Member in the RMBL Class Action, you have the right, if you wish, to make submissions as to why the Court should, or should not, approve the proposed settlement, or any particular aspect of it. If you wish to exercise that right, you need to follow the steps outlined below (see Option C below).

What do Class Members need to do?

24. Class Members may do the following three things:

- a. **Option A:** register to participate in the proposed settlement of the RMBL Class Action.
- b. **Option B:** do nothing.
- c. **Option C:** Class Members may (in addition to Option A or Option B) object to the proposed settlement of the RMBL Class Action.

There are different consequences depending on which of the above you choose.

Option A – Register to Participate: Class Members who wish to receive a distribution from the proposed settlement of the class action must register their claim by no later than 4.00 pm (AEST) on 7 April 2020 by:

- completing and submitting the online registration form via Maurice Blackburn’s website, accessible at <http://www.mauriceblackburn.com.au/current-class-actions/rmbl-class-action>; or
- alternatively, completing the Class Member Registration Form and returning it to Maurice Blackburn by email (RMBLclassaction@mauriceblackburn.com.au) or by post to the address shown on the form – a copy of the Class Member Registration Form can be obtained by downloading it from Maurice Blackburn’s website (<http://www.mauriceblackburn.com.au/current-class-actions/rmbl-class-action>) or by contacting Maurice Blackburn, whose contact details are set out in paragraph 26 of this notice.

As noted above, if you do register your claim by no later than 4.00 pm (AEST) on 7 April 2020, and:

- you provide sufficient information to enable Maurice Blackburn to verify with RMBL that you are a Class Member (i.e. that you meet the criteria set out in paragraph 11 of this notice); and
- the proposed settlement is ultimately approved by the Court,

you will be entitled to receive a distribution from the settlement sum. The precise amount of that distribution is presently uncertain, for the reasons outlined in this notice. There is no cost to register your claim.

Your registration must be completed and received by Maurice Blackburn before **4.00 pm (AEST) on 7 April 2020**. Registrations received after this time will not be accepted, and you will be treated as having not responded to this notice (see Option B below).

Option B – Do Nothing: Class Members who do nothing (i.e. do not register before the applicable deadline) will remain as Class Members for all purposes, but will not, unless the Court determines otherwise, be entitled to receive a distribution from the proposed settlement of the proceeding. Thus, if the Court approves the proposed settlement, Class Members who do nothing will be bound by the settlement, and therefore not able to pursue the same or similar claims against RMBL in the future, but will not be entitled to receive a distribution from the proposed settlement either.

Option C - Object to the Proposed Settlement: If you are a Class Member you have the right, if you wish, to make submissions as to why the Court should, or should not, approve the proposed settlement, or any particular aspect of it. If you wish to exercise that right, you must complete the Notice of Objection to Proposed Settlement form attached to this Notice (**Attachment A**), and email it to both the Federal Court (ea.murphyj@fedcourt.gov.au) and to Maurice Blackburn (RMBLclassaction@mauriceblackburn.com.au) by no later than 4.00 pm (AEST) on 20 April 2020. Any Class Member who so objects may also (but is not obliged to) appear before the Court at the hearing of the application to approve the proposed settlement at 10.15 am on 6 May 2020 at the Federal Court in Melbourne. You may make such submissions even if you have registered pursuant to Option A above, or done nothing pursuant to Option B above. Any objections received by the Court will be considered by the Court, along with all of the other evidence and submissions filed by the parties, in determining whether or not the proposed settlement should be approved.

Where can you obtain copies of relevant documents?

25. Copies of relevant documents, including the Originating Application, Statement of Claim, Defence, Reply and relevant orders of the Court:
 - a. are available on the website of the Applicant's solicitors (<http://www.mauriceblackburn.com.au/current-class-actions/rmbl-class-action>);
 - or
 - b. may be obtained by contacting the Applicant's solicitors (Maurice Blackburn), whose contact details are set out in paragraph 26 of this notice.

What if you have further questions?

26. If you have any questions or queries, you may contact the Applicant's solicitors (Maurice Blackburn) as follows:

Email: RMBLclassaction@mauriceblackburn.com.au

Tel: 1800 931 361

Post: Maurice Blackburn
Level 8, 179 North Quay
Brisbane Qld 4000

Attachment A

Complete this form only if you intend to choose Option C above, and object to the proposed settlement of the RMBL Class Action

NOTICE OF OBJECTION TO PROPOSED SETTLEMENT

RMBL CLASS ACTION

Uren v RMBL Investments Ltd (VID 1093 of 2018)

To:

- the Federal Court of Australia (ea.murphyj@fedcourt.gov.au); and
- Maurice Blackburn (RMBLclassaction@mauriceblackburn.com.au).

The person identified below gives notice that the person objects to the proposed settlement of this proceeding:

A. DETAILS OF OBJECTOR

Name of class member (i.e. the person or entity who entered into a loan agreement with RMBL)	
Contact name (if different from name of class member), and authority to complete this form on class member's behalf (e.g. director / secretary of class member, lawyer for class member)	
Postal address	
Email address	
Telephone number(s)	

B. GROUND(S) OF OBJECTION

The ground(s) for my objection to the proposed settlement are as follows (set out in the space below any submissions you wish to make – you may attach additional pages if necessary):

C. ATTENDANCE AT HEARING ON 6 MAY 2020

- I do not intend to appear at the settlement approval hearing, but wish for my submission to be considered in my absence
- I do intend to appear at the settlement approval hearing

(please tick one of the above two options)

If you do intend to appear at the settlement approval hearing, please complete the following:

- I will appear on my own behalf
- I will be represented by a lawyer:

D. SIGNING OF NOTICE

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Please sign here

Date: