

OPT OUT AND CLAIM REGISTRATION NOTICE

FEDERAL COURT OF AUSTRALIA NOTICE

CBA SHAREHOLDER CLASS ACTION

Zonia Holdings Pty Ltd v Commonwealth Bank of Australia Ltd
(VID1085 of 2017)

**THIS NOTICE IS IMPORTANT
PLEASE READ IT CAREFULLY, AS IT MAY AFFECT YOUR
LEGAL RIGHTS**

WHAT IS THIS NOTICE?

This notice relates to a class action which is underway in the Federal Court of Australia (the **Court**) against the Commonwealth Bank of Australia (**CBA Class Action**) by Zonia Holdings Pty Ltd (**Zonia Applicant**).

The Federal Court has ordered that this notice be sent for the information of persons who might be members of the class on whose behalf the CBA Class Action has been brought and who may be affected by the action.

If you purchased ordinary shares in CBA between 16 June 2014 to 3 August 2017 (inclusive), you should read this notice carefully as it may affect your rights. Any questions you have concerning the matters contained in this notice should not be directed to the Court. If there is anything in it that you do not understand, please use the contact details in Section 4 below, or alternatively seek your own legal advice.

WHY IS THIS NOTICE IMPORTANT?

This notice provides important information about:

- a) the CBA Class Action and who is eligible to participate in it;
- b) what you need to do if you do not wish to participate in the CBA Class Action, and instead wish to remove yourself ('opt out') from being a group member in the CBA Class Action; and
- c) if you are eligible to participate and do not wish to opt out from being a group member, how you can register for the CBA Class Action.

Group members who intend to remain in the class action and who have not yet signed up may register **before 4.00 pm AEST on 7 June 2022**. While registration is not mandatory, failure to do so could have significant consequences because the parties intend to seek an order that group members who do not register by the deadline will not be entitled to participate in any settlement that may be agreed to before 7 November 2022.

AM I A GROUP MEMBER?

You are a group member in the CBA Class Action if you:

- a) bought ordinary shares in CBA during the period from 16 June 2014 to 1.00pm on 3 August 2017 (inclusive, the "**Relevant Period**");

- b) suffered loss or damage by reason of the alleged conduct of CBA, as alleged in the statements of claim in the CBA Class Action (which is summarised below under the heading 'What is the CBA Class Action?'); and
- c) are not the following persons:
- i. during any part of the Relevant Period you were a related party, officer, or a close associate of CBA (as defined in the *Corporations Act 2001* (Cth)); or
 - ii. you are already a group member in a concurrent class action in the Federal Court, *Baron & Anor v Commonwealth Bank of Australia* (NSD1158/2018) (**Baron Class Action**). Group members in the Baron Class Action must have entered into a funding agreement with Therium Australia Ltd as at 29 June 2018.

If you meet the above criteria, you should read this notice carefully.

INFORMATION ABOUT THE CLASS ACTIONS

1. KEY INFORMATION TO BE AWARE OF

- If you do not wish to be involved in the CBA Class Action you must, before **4.00 pm AEST on 7 June 2022**, complete an Opt Out Notice in the form attached as Schedule 1 to this notice and submit it **directly to the Court**.
- If you wish to remain a group member in the CBA Class Action but have not yet signed up for the CBA Class Action, you may register your claim by **4.00pm AEST on 7 June 2022**. If you fail to submit your registration in time you will be treated as having not responded to this notice. While registration is not mandatory, failure to register could have significant consequences because the parties intend to seek an order that group members who failed to register by the deadline will not be entitled to participate in any settlement that may be agreed to before 7 November 2022.
- If you do register:
 - a. you will remain eligible to participate in any settlement that is reached prior to 7 November 2022, even if the Court makes orders excluding non-registered group members from any such settlement;
 - b. your claim will be included in a mediation process which has been ordered to take place in these proceedings, which means it will be taken into account by the parties when negotiating the amount of any settlement; and
 - c. you will receive updates from Maurice Blackburn Lawyers about the progress of the CBA Class Action, including in the event that further steps are required in order for you to receive a distribution from any settlement or judgment.

If you wish to participate in the CBA Class Action, and have not already registered your claim, you may do so now by completing the online registration process at <https://portal.omnibridgeway.com/cba>.

- If you wish to remain a group member in the CBA Class Action and you have already signed a retainer with Maurice Blackburn Lawyers or a funding agreement with Omni Bridgeway Ltd (formerly known as IMF Bentham Ltd) (**Omni Bridgeway**) in relation to the CBA Class Action, then you do not need to take any further steps in relation to this notice. If any further information is required from you and you have already signed up for the CBA Class Action, you will be contacted directly.

If you are unsure whether you have already signed up for the CBA Class Action, you should contact Omni Bridgeway using the contact details on the CBA Shareholder Class Action

webpage at <https://portal.omnibridgeway.com/cba> to check if you are signed up. If you are unable to register online, you should also contact Omni Bridgeway using those contact details.

2. WHAT IS A CLASS ACTION?

A class action is a proceeding that is brought by one or more persons (the applicant/s) on their own behalf and on behalf of a group of people (group members) against another person or persons (respondent/s) where the applicant/s and the group members have similar claims against the respondent/s.

Class members are "bound" by the outcome in the class action, unless they have opted out of the proceeding. A binding result can happen in two ways being either a *judgment* following a trial, or a *settlement* at any time. If there is a judgment or a settlement of a class action, group members will not be able to pursue the same claims and may not be able to pursue similar or related claims against the respondent in other legal proceedings. Class members should note that:

- a. in a judgment following trial, the Court will decide various common factual and legal issues in respect of the claims made by the applicant and class members. Unless those decisions are successfully appealed they bind the applicant, class members and the respondent. Importantly, if there are other proceedings between a class member and the respondent, it may be that neither of them will be permitted to raise arguments in that proceeding which are inconsistent with a factual or legal issue decided in the class action.
- b. in a settlement of a class action, where the settlement provides for compensation to class members it may extinguish all rights to compensation which a class member might have against the respondent which arise in any way out of the events or transactions which are the subject-matter of the class action.

If you consider that you have claims against a respondent which are based on your individual circumstances or otherwise additional to the claims described in the class action, then it is important that you seek independent legal advice about the potential binding effects of the class action before the deadline for opting out (see below).

The applicant in a class action does not need to seek the consent of group members to commence a class action on their behalf. However, group members can cease to be group members by "opting out" of the class action. An explanation of how group members can opt out is set out below in the section headed 'Your Options' (Option 3).

3. WHAT IS THE CBA CLASS ACTION?

The CBA Class Action is brought on behalf of group members who bought ordinary shares in CBA between 16 June 2014 and 1.00pm on 3 August 2017 (the **Relevant Period**).

The Zonia Applicant in the CBA Class Action is represented by Maurice Blackburn Lawyers, and it is funded by Omni Bridgeway Ltd. The group members in this proceeding include people who have signed up with Maurice Blackburn Lawyers and/or Omni Bridgeway, but also include any people or entities who bought shares in the Relevant Period but have not yet signed up for the CBA Class Action.

The CBA Class Action alleges that in the period from 16 June 2014 to 3 August 2017, CBA failed to advise the ASX of information about various failures to comply with its obligations under the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (Cth) (**AML/CTF Act**) which were likely to have a material impact on the value of its shares, and that CBA made statements that misled the market about its compliance with the AML/CTF Act and continuous disclosure obligations.

The CBA Class Action alleges that this conduct breached CBA's disclosure obligations under the *Corporations Act 2001* (Cth) and the prohibition against misleading or deceptive conduct under the *Corporations Act 2001* (Cth), the *Australian Securities and Investments Commission Act 2001* (Cth) and the Australian Consumer Law, and that the group members suffered loss as a result of these alleged breaches.

CBA has denied the allegations made against it and is defending the action. The allegations made in the CBA Class Action are set out in full in the statement of claim filed in the Court and CBA's defence is set out in the defence that it has filed by way of response (see the next section '4. Where Can I Obtain More Information?').

There is a separate and concurrent class action against CBA - the Baron Class Action - which does not concern group members in this proceeding. The Baron Class Action is being conducted by a different law firm (Phi Finney McDonald) and litigation funder (Therium Australia Ltd). The Court has ordered that the Baron Class Action be jointly conducted with the Zonia Applicant's CBA Class Action as they both arise out of the same legal and factual issues and both law firms are working cooperatively. It is a 'closed' class action, which means if you have not already signed up for that proceeding, you cannot now become a group member in the Baron Class Action. If you are a group member of the Baron Class Action you will receive a separate opt out notice and you can disregard this notice.

4. WHERE CAN I OBTAIN MORE INFORMATION?

Copies of relevant documents filed in the CBA Class Action, including the harmonised amended statement of claim and the defence, may be obtained by:

- downloading them from the 'CBA Shareholder Class Action' webpage at <https://portal.omnibridgeway.com/cba>; or
- contacting a District Registry of the Federal Court (contact details are available at www.fedcourt.gov.au) and paying the appropriate inspection fee.

Please consider the above matters carefully. If there is anything about this notice you do not understand, or which you are unsure of, you should seek your own legal advice or contact Omni Bridgeway using the contact details provided on the CBA Shareholder Class Action webpage at <https://portal.omnibridgeway.com/cba>. You may also call Maurice Blackburn on 1800 879 144. You should not delay in making your decision.

YOUR OPTIONS

WHAT ARE MY OPTIONS?

If you are a group member, and have not already registered your claim, you now have three options:

1. Register for the CBA Class Action and remain a group member;
2. Do nothing and remain a group member. If you do not take any steps by the opt out and registration deadline you will remain a group member and your rights against CBA may be determined without your participation. If a settlement is agreed before 7 November 2022, the parties intend to apply for an order which would prevent group members who do not register by the deadline from participating in that settlement; or
3. Opt out and cease to be a group member.

There may be different consequences depending on which option you choose as follows:

OPTION 1 – Register and remain a group member

Register: If you wish to remain a group member and actively participate in the proceeding you may register by 4.00 pm AEST on 7 June 2022. While registration is not mandatory, failure to

do so could have significant consequences because the parties intend to seek an order that group members who do not register by the deadline will not be entitled to participate in any settlement that may be agreed to before 7 November 2022.

If the action is unsuccessful or is not as successful as you might have wished, you will not be able to pursue the same claims and may not be able to pursue related claims against the respondent in other legal proceedings.

There is no cost to register, and you can do so via the "CBA Shareholder Class Action" webpage, accessible at: <https://portal.omnibridgeway.com/cba>. Alternatively, if you are unable to register online please contact Omni Bridgeway using the contact details on that webpage and they will assist you further. In order to register, you will need to supply details of your trades in CBA ordinary shares between 16 June 2014 and 7 September 2017 (inclusive).

If you register for the CBA Class Action, you will not under any circumstances be liable to pay any 'out of pocket' costs to Maurice Blackburn and/or Omni Bridgeway.

If you have already signed up for the CBA Class Action, you do not need to (and should not) register again. You have already taken the steps required to register your claim, and you will be contacted directly if anything further is required from you.

If you wish to register, your registration must be completed and received by **4:00 pm AEST on 7 June 2022**. Registrations received after this time will not be accepted with the result that you will be treated as having not responded to this Notice.

OPTION 2 – Do nothing and remain a group member

If you do nothing (i.e. you do not register (Option 1, above) or opt out (Option 3, below) before **4:00 pm AEST on 7 June 2022**), you will remain a group member in the class action and be bound by any orders made in it, including any judgment or approved settlement agreement in the proceeding.

While registration is not mandatory, failure to do so could have significant consequences because if a settlement is agreed to before 7 November 2022, the parties intend to seek an order that group members who did not register by the deadline will not be entitled to participate in that settlement. If such an order is made, you will not receive any payment from the settlement and you will be prohibited from bringing a further claim against CBA in relation to the same issues.

If no settlement is agreed before 7 November 2022, or the Court declines to make the order, you will not lose your rights to participate.

OPTION 3 – Opt out and cease to be a group member

If you are currently a group member and you choose to opt out, you will cease to be a group member in the CBA Class Action.

By opting out of the CBA Class Action, you will:

- cease to be a group member in the CBA Class Action and will not be affected by, or entitled to the benefit of, any judgment or orders made in the CBA Class Action;
- not be able to join the Baron Class Action;
- not be entitled to receive any compensation for any damages award or settlement secured by the Applicant in the CBA Class Action; and
- be able to bring your own separate claim against CBA provided that you issue Court proceedings within the time limit applicable to your claim. If you wish to bring your own claim against CBA, you should seek your own legal advice about your claim and the applicable time limit prior to opting out.

If you do not wish to remain a group member in the CBA Class Action, you must complete the opt out notice attached to this notice (**Schedule 1**), and return it to the New South Wales Registry of the Federal Court of Australia **by no later than 4.00 pm AEST on 7 June 2022**.

Each group member seeking to opt out should fill out a separate form. If you are opting out on behalf of a company or business please provide your name, the name of the company or business and your position within the company or business (e.g. director or partner).

IMPORTANT: the opt out notice must reach the Court by no later than 4.00 pm AEST on 7 June 2022, otherwise it will not be effective. Opt out notices received after this time will not be accepted and you will be treated as having not responded to this notice, and thus you will remain a group member.

COSTS

WILL I BE LIABLE TO PAY LEGAL COSTS IF I REMAIN A GROUP MEMBER?

You will not become liable for any legal costs simply by remaining a group member. You will not be required to pay any upfront or out-of-pocket costs in relation to the CBA Class Action as it progresses in relation to common issues.

However, if you become entitled to any compensation following a judgment or settlement in the CBA Class Action, the Court may make an order requiring you to pay some of that amount by way of a contribution to the costs incurred by the Applicants in running the class action.

Any such amounts will only be payable in the event of a successful outcome by way of a deduction from any compensation to which you become entitled, and will never exceed the amount of compensation to which you may otherwise become entitled.

The Court will assess whether any amounts proposed to be deducted are fair and reasonable. You will be given a notice at that time informing you of the amount which it is proposed to be deducted and given an opportunity to tell the Court if you agree or disagree with what is proposed.

WILL I BE LIABLE TO PAY ANY OTHER COSTS IF I REMAIN A GROUP MEMBER?

The CBA Class Action is being funded by Omni Bridgeway. Omni Bridgeway has agreed to pay the costs of the proceeding as it progresses in relation to the common issues. If the CBA Class Action is unsuccessful, Omni Bridgeway has agreed to meet any order requiring the Zonia Applicant to pay CBA's costs for the CBA Class Action.

In return for funding the class action, Omni Bridgeway charges funding fees based on a percentage of the amount recovered in the class action. This means that if you have entered into a Funding Agreement with Omni Bridgeway, you have agreed to pay a funding commission to them from any compensation you receive.

In the event of a settlement or judgment, the Zonia Applicant in the CBA Class Action may apply to the Court for an order which will require each group member who receives compensation in the CBA Class Action, regardless of whether they entered into a funding agreement with Omni Bridgeway, to pay a share of the costs in conducting these proceedings and to pay the funder a percentage of any compensation to which the group member becomes entitled as commission for funding the proceeding. If, and when, such an order is sought, group members will be provided with further information and have an opportunity to object to it should they wish to do so.

The total amounts deducted for legal costs and the funder's commission from compensation payable to group members will never exceed the amount a group member receives in the event of a successful outcome.

If the CBA Class Action is unsuccessful, you will not be liable for any legal or funding costs.

No group member will ever be "out-of-pocket" simply by remaining a group member or by registering for the CBA Class Action

Form 21
Rule 9.34

SCHEDULE 1 Opt Out Notice

Only complete this form if you wish to opt out of the CBA Class Action

No: VID1085/2017

ZONIA HOLDINGS PTY LTD (ACN 008 565 286)
Applicant

COMMONWEALTH BANK OF AUSTRALIA LIMITED (ACN 123 123 124)
Respondent

To: The Registrar
Federal Court of Australia
New South Wales District Registry
Level 17, Law Courts Building
184 Phillip St
Queens Square
Sydney NSW 2000

..... (print name), a group member in this representative proceeding, gives notice under section 33J of the *Federal Court of Australia Act 1976* (Cth), that [he, she or it] (circle as applicable) is opting out of the representative proceeding.

Date:

Signature:

Signed by (print name):

Group Member/Lawyer for the Group Member (delete as appropriate)

[please complete the next page]

Group member details

Telephone:

Email:

Address:
.....
.....

ACN/ABN (if a company or trustee):

HIN/SRN:

If the shares were acquired on behalf of another person/entity, name of that person/entity:

.....

If you are signing as the solicitor or representative of the Group Member:

Name:

Capacity in which you are signing:

Telephone:

Email:

Address: