

Scenic Tours Litigation Funding Scheme Class Action Answers to Questions

Defined terms have the same meaning as in the Constitution for the Scenic Tours Litigation Funding Scheme (“**the Constitution**”).

1. Who is Omni Bridgeway?

Omni Bridgeway Limited previously known as IMF Bentham Limited (“**OBL**”), is a public company listed on the Australian Securities Exchange (ASX code: OBL). Omni Bridgeway Limited provides, through its funding entities, funding for significant and large-scale litigation. Information about Omni Bridgeway Limited can be found on the Omni Bridgeway Limited website at <https://omnibrigeway.com/>.

Omni Bridgeway Investment Management Pty Limited (referred to as **OBIMPL**) is the Trustee of the Scenic Tours Litigation Funding Scheme (“**the Scheme**”). OBIMPL is a wholly owned subsidiary of Omni Bridgeway Limited. OBIMPL recently effected a change from a public company limited by shares to a proprietary company limited by shares. . This is an administrative step and should have no effect on the operation of the Scheme or OBIMPL’s role as Trustee. You may see references to “OBIML” in some of the documentation which reflects the status of OBIMPL as at the date of that documentation.

Omni Bridgeway (Fund 5) Australian Invnt. Pty Limited (generally referred to as “Omni Bridgeway”) is the Funder Member of the Scenic Tours Litigation Funding Scheme and is providing litigation funding to law firm Somerville Pty Ltd (ACN 117 159 172) a firm of lawyers which has experience in class action litigation (**the Lawyers**). The Lawyers are appointed by the representative party who brings the proceedings in their own name and on behalf of the claimants in the Class Action more broadly (and who is referred to in the Constitution as the Representative Member).

Omni Bridgeway is wholly owned by Omni Bridgeway (Fund 5) LP (referred to as Fund 5), which is an exempted limited partnership incorporated under the laws of the Cayman Islands. Fund 5 was launched in June 2019 with aggregate capital commitments of US\$400million, which when combined with Omni Bridgeway Limited’s funding commitment of US\$100 million, amounted to US\$500million for investment in dispute financing, including through Omni Bridgeway. Further details in relation to Fund 5, including the current status of the deployment of Fund 5’s capital commitments for investments in dispute financing is set out in our Investment Portfolio Quarterly Reports, available on our website here: <https://omnibrigeway.com/investors/annual-and-quarterly-reports/quarterly-reports>.

Omni Bridgeway Limited will provide litigation management services during the Class Action.

2. Who is the claim against, and what will the claim be for?

In August 2022, the Class Action proceedings were filed against Scenic Tours Pty Ltd in the Supreme Court of New South Wales.

It is alleged that Scenic Tours breached the consumer guarantees contained in the Australian Consumer Law by operating river cruises during the European Summer of 2018 on the Rhine-Moselle-Main-Danube river systems that did not meet the experience and level of service that the passengers had been promised and paid for.

More details about the Class Action are available on this website:

<https://portal.omnibrigeway.com/cases/register/scenic-tours-class-action-overview>.

3. Is Omni Bridgeway my lawyer?

No. None of Omni Bridgeway, OBIMPL or Omni Bridgeway Ltd, are giving you legal advice and they are not acting as your lawyers. The Lawyers will act for the Class (including you if you are eligible to join the Scheme) in relation to the Class Action.

Under the Claim Funding Terms in the Constitution and the Standard Lawyers Terms, the Lawyers (being Somerville Legal) are instructed that they can accept day to day instructions from Omni Bridgeway in the management of the Class Action (subject to certain exceptions), but Omni Bridgeway is doing that on its own behalf, with the aim of obtaining a positive outcome for itself, by way of a Resolution Sum (as defined in the Constitution) in relation to the Class Action that is as large as it assesses that it can achieve, and at the optimal balance of risk and cost to Omni Bridgeway and in accordance with the rules of the Scheme and the law.

4. Am I eligible to participate in the Class Action, and how do I do so?

The Class Action is brought on an 'open' basis. This means that each of the passengers (with limited exceptions) are group members if they:

- booked a place and travelled on any of the European river cruises scheduled from 1 June 2018 to 31 December 2018 (as specified on our website here <https://portal.omnibridgeway.com/cases/register/scenic-tours-class-action-overview>); and
- have suffered loss or damage because of the conduct of the defendant alleged in the Amended Statement of Claim.

Passengers that meet this description will be group members in the Class Action unless they have taken positive steps to opt out of the proceedings.

If you return an Application Form and are accepted, you will be a Claimant Member of the Scheme, as that term is defined in the Constitution. You will be bound by the terms of, and enjoy the rights afforded to Claimant Members by, the Constitution.

If you do not return an Application Form but also do not opt out by taking the relevant steps, you will be treated as a "Passive Member" of the Scheme (as that term is defined in the Constitution). In the event that the proceedings are successful and a Resolution Sum (as defined in the Constitution) is received, a Passive Member's share of any such Resolution Sum may be deemed by Court order as being contributed to, and distributed according to, the Constitution of the Scheme. This means that a Passive Member's share of the Resolution Sum may still be treated as part of the Scheme.

If you wish to take part in the Class Action, we encourage you to return an Application Form.

If you are unsure whether or not you are a group member, you should contact the Omni Bridgeway Client Liaison Team using the contact details available at <https://portal.omnibridgeway.com/cases/register/scenic-tours-class-action-overview> or email scenictours@omnibridgeway.com, or seek your own legal advice without delay.

5. Who should sign the Application Form?

The claimant is the passenger on river cruises operated by the Respondent from 1 June 2018 to 31 December 2018 on the Rhine-Moselle-Main-Danube river systems. Each passenger should sign their own Application Form.

6. How long will the Class Action take to resolve?

We are unable to predict how long the European River Cruise Class Action will take, however, we do anticipate that Class Actions can take between 3 to 5 years.

If you submit an Application Form and are accepted as a claimant member of the Scheme, you will receive updates from Omni Bridgeway on the progress of the Class Action throughout.

If you do not submit an Application Form but remain in the 'open class' because you do not opt out of the Class Action, you will be sent court ordered updates (where Omni Bridgeway have up-to-date contact details on record).

7. How does applying to join the Class Action affect my participation in any other Class Action against the Respondents?

By applying to join the Scheme, you are agreeing that you will opt-out of any other similar proceedings.

8. If I sign an Application Form, what will be the charges?

Irrespective of whether or not you sign an Application Form, you will not be required to pay any upfront or out-of-pocket costs in relation to the Class Action as it progresses in relation to common issues.

9. How much time will I have to devote to the legal proceedings?

Provided you are not the representative party, the need to give evidence is unlikely to occur at all, and then only after the representative party's case has been determined by the Court. If you do elect to submit an Application Form to join the Scheme, you may need to provide certain information about your claim in that Application Form. Ultimately you may need to provide further information about your claim, including providing a written witness statement and possibly giving evidence in Court.

10. What if I want to sue the Respondents by myself, without funding?

You may opt out of the Class Action and the Scheme and bring a claim by yourself, but you will need to meet your legal costs yourself.

11. What if I don't want to be part of the Class Action?

As the Class Action has been brought on an open basis, you will have to take steps to opt out of the Class Action in order to withdraw from the Scheme.

If you do nothing you may be treated as a **Passive Member** of the Scheme.

A **Passive Member** is someone who is a member of the class of people who have a claim in the Class Action (because you were a passenger of the affected cruises), have not positively opted out of the Class Action (refer to question 12), and the Court has agreed that all such people are covered by the decision to be made in the Class Action.

OBIMPL encourages all Passive Members who do not wish to opt out of the Class Action to complete an Application Form so that OBIMPL can include you as a Claimant member of the class

action. You do not have to pay anything to be a Passive Member, or to convert your Passive Membership to being treated as a Claimant Member (Please refer to question 8).

12. What if I decide to withdraw from the Class Action?

- (a) If you **do not** wish to be involved in the Class Action you must complete an Opt Out Form and submit it directly to the Court using the details provided at the bottom of that Opt Out Form before the Opt Out Deadline on 4pm (AEST) on 27 September 2024. The Opt Out and court notice can be found on the Omni Bridgeway website: <https://portal.omnibridgeway.com/cases/register/scenic-tours-class-action-overview>
- (b) Opt out notices received after the Opt Out Deadline time may not be accepted unless granted leave by the Court, and you may remain a group member.
- (c) By opting out of the Class Action, you will:
 - i. Cease to be a group member in the Class Action and will not be affected by, or entitled to the benefit of, any judgment or orders made;
 - ii. Not be entitled to receive any compensation for any damages award or settlement secured in the Class Action; and
 - iii. Be able to bring your own separate claim against the defendant, provided that you issue Court proceedings within the time limit applicable to your claim. If you wish to bring your own claim against the defendant, you should seek your own legal advice about your claim and the applicable time limit prior to opting out.
- (d) Each group member seeking to opt out should fill out a separate Opt Out 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).

13. What if I'm late Opting Out?

Please note that the deadline to submit the Opt Out Form for the Class Action to the Supreme Court of New South Wales is 4:00pm (AEST) on 27 September 2024. Once the deadline has passed, you will require the Court's leave to submit an Opt Out Form.

We note there is no guarantee that any Opt Out Forms that are submitted late will be accepted by the Court.

14. Do I get a say in whether the Class Action settles and for how much?

A lot of thought and analysis goes into whether a class action settles and, if so, on what basis and for what amount (if any).

Any settlement must be agreed between the representative party on the one hand and the Respondent(s) on the other hand. In recognition of Omni Bridgeway's involvement in the Class Action, any settlement must also be on terms that Omni Bridgeway considers appropriate. If there is a difference of opinion between the representative party and Omni Bridgeway regarding any potential settlement, the difference of opinion will be resolved by the most senior barrister of those retained by the Lawyers in respect of the Class Action.

If you are not a representative party, you are not entitled to participate in any settlement discussions, but you will be entitled to lodge an objection (at your own cost) at a settlement approval Court

hearing to let the Court know that you disagree with the settlement. It is the Court that ultimately decides whether a settlement is fair and reasonable and should be approved.

15. What will it cost me if any legal proceedings are not successful?

Nothing. If the Class Action is unsuccessful, you will not pay anything and you will not receive anything. Subject to the terms of the Constitution and in particular, the Claim Funding Terms, Omni Bridgeway will pay the Lawyers' fees and may be liable to pay the Respondents' costs.

If you are a Group Member only and not a representative party (the person in whose name the proceeding have been brought), the Court has no power to make a costs order (in respect of the Class Action) directly against you in any event.

16. What will Omni Bridgeway receive?

If proceedings are successfully resolved, Omni Bridgeway will be paid an amount out of the Resolution Sum. This will be a return of the costs and expenses it has paid and a percentage of your recovery as set out in clause 12 of the Constitution.

For this Scheme, the amounts to which Omni Bridgeway and the Lawyers (as Remaining Costs) are entitled cannot exceed 50% of the Resolution Sum. There is no guarantee that the Resolution Sum will be a significant amount (or anything at all).

17. What is Omni Bridgeway's Conflicts Management Policy?

Omni Bridgeway is required to have in place adequate practices for managing any conflict of interest that may arise between Omni Bridgeway, the Lawyers, and funded claimants and others in relation to any litigation funded by Omni Bridgeway.

Omni Bridgeway's Conflicts Management Policy sets out how Omni Bridgeway and/or Omni Bridgeway Limited identifies and manages any such conflict so as to ensure that Omni Bridgeway Limited and Omni Bridgeway comply with the Regulations. You can access Omni Bridgeway's Conflict Management Policy by going to Omni Bridgeway Limited's website and using the password which Omni Bridgeway Limited will provide to you.

18. Are there cooling off rights?

If you do submit an Application Form, you have a 21-day cooling-off period to determine whether participation in the Scheme and the funding arrangements with Omni Bridgeway meets your needs. If, during the 21-day cooling-off period, you decide that the funding does not meet your needs, you may withdraw your application by notifying us in writing at scenictours@omnibridgeway.com.

If you decide to exercise your cooling off right and withdraw your application you will also need to positively opt out of the Class Action that is being funded by Omni Bridgeway using the relevant Opt Out Notice. Please contact us if you require a form of Opt Out Notice.

Once you have withdrawn your application and provided the relevant Opt Out Notice, you will have no continuing or further obligation to OBIMPL or the Scheme save for any obligations of confidence arising in respect of information received by you prior to withdrawal. If you withdraw your application during the cooling-off period and successfully opt out of the Class Action, Omni Bridgeway will not fund any claim you may bring against the Respondents, you will not be treated as a general member

of the Class Action funded by the Scheme and you will not be entitled to a share of any Resolution Sum that is awarded as a result of that Class Action.

The **21-day cooling-off period commences on the day you send us an Application Form**. Any cooling-off period ends automatically if the Court makes an order that stipulates an end date for opting out of the Class Action. Please note that the date set by the Court is 27 September 2024 at 4.00 pm (AEST). You will not be able to exercise any cooling-off rights or withdraw from the Scheme after the date so stipulated.

OBIMPL will hold your application to become a member of the Scheme when you send it to us, and only process it once the cooling-off period has expired unexercised.

19. Will my contact and investment details be kept private?

We will only use and/or disclose your personal information strictly for the purpose of the legal proceedings, or as required by the Court or by law or as requested by the Lawyers noting that Members of the Scheme are able to obtain from Omni Bridgeway, on request, a copy of the register of Members of the Scheme containing the name and address of the relevant Members. In all other cases, we will seek your consent before disclosing any of your personal information.

Omni Bridgeway Limited's privacy policy can be found on the Omni Bridgeway Limited website at <https://omnibridgeway.com/website-policies/privacy-policy>.

20. Is Omni Bridgeway regulated?

From September 2020, both Omni Bridgeway (Authorised Representative No. 1283704) and Omni Bridgeway Limited (Authorised Representative No. 1283703) were authorised representatives of OBIMPL which was the holder of Australian Financial Services Licence ("AFSL") No. 524023). This is because regulations passed in July 2020 removed a previously available statutory exemption in respect of services provided in connection with litigation funding schemes, including an exemption from the need to hold an AFSL.

On 29 March 2021, the Scenic Tours Litigation Funding Scheme was registered with ASIC as a managed investment scheme. However, the Corporations Regulations 2001 ("**Regulations**"), as amended by the Corporations Amendment (Litigation Funding) Regulations 2022 (which came into force on 10 December 2022) has again provided for an exemption to the requirement to hold an AFSL with respect to services provided in connection with litigation funding schemes.

Consequently, the Scenic Tours Litigation Funding Scheme was deregistered by ASIC on 25 December 2022. OBIMPL surrendered its AFSL which was accordingly cancelled on 28 March 2023; this means that both Omni Bridgeway and Omni Bridgeway Limited have ceased to be Authorised Representatives. Despite the deregistration and the surrender of the AFSL, the Scenic Tours Litigation Funding Scheme still operates as a Trust in accordance with its Constitution.

21. Where do I obtain more information?

You may contact our Client Liaison Team on 1800 016 464 (if calling within Australia) or scenictours@omnibridgeway.com.