

FEDERAL COURT OF AUSTRALIA (PROCEEDING NO: NSD 881/2020)

S&P RATINGS CLASS ACTION

NOTICE TO GROUP MEMBERS

(INCLUSION OF ADDITIONAL PRODUCTS IN THE CLASS ACTION)

THIS IS AN IMPORTANT NOTICE ISSUED TO YOU BY THE FEDERAL COURT OF AUSTRALIA

This is an important notice that the Federal Court of Australia has ordered to be published to class members in the S&P Ratings Class Action.

This notice provides important information relating to the class action commenced against S&P Global, Inc. and Standard & Poor's International, LLC (together, **S&P**) concerning S&P's rating of certain collateralised debt obligations (**CDOs**), now amended to include Constant Proportion Debt Obligations (**CPDOs**). The class action concerns products assigned ratings by S&P in the period around December 2005 to mid to late-2007.

You are receiving this notice because you are a known or potential group member in the S&P Ratings Class Action, or have already registered in respect of the class action.

The purpose of this notice is to inform you of amendments made to the claims in the S&P Ratings Class Action, which:

- Clarify that AA- products are included in the class action, and
- Expand the scope of the class action to include further products rated by S&P including:
 - CPDOs; and
 - CDOs rated on or after 19 December 2005 using version 2.4.3 of S&P's ratings model, CDO Evaluator.

You should read this notice carefully and consider whether you may have any claims in relation to products which have been added to the class action.

A. ARE YOU AFFECTED BY THE AMENDMENTS TO THE CLASS ACTION?

1. The S&P Ratings Class Action was initially commenced against S&P Global, Inc. and Standard & Poor's International, LLC (together, **S&P**) concerning S&P's rating of certain collateralised debt obligations (**CDOs**) in the period around December 2005 to late 2007. The original notice relating to the action dated 22 April 2022, and a further confidentiality notice dated 23 August 2022, are enclosed with this notice.
2. On 25 July 2023, the Court gave leave to the Applicants to amend the class action to include claims in relation to additional products. Following the amendments to the class action, you are a class member in the S&P Ratings Class Action if you:

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- a. acquired interests in tranches of CDOs or constant proportion debt obligations (**CPDOs**) rated AAA, AA+, AA, or AA- by S&P using:
 - i. CDO Evaluator 3.0, 3.1 or 3.2; and/or
 - ii. CDO Evaluator 2.4.3 (if rated on or after 19 December 2005); and/or
 - iii. CPDO Evaluator;

(Claim Products)

- b. acquired those interests by reason of the publication or dissemination of such ratings in Australia; and
 - c. did not invest in products that have already been the subject of previous proceedings. Those excluded products are listed in **Schedule 1**.
3. Following this amendment, you may have claims in the class action in relation to products if:
- a. **You acquired interests in CPDOs:** the amendments add claims in relation to “constant proportion debt obligations” or “CPDOs” rated AA- or higher by S&P. The claims relate to the ratings model used by S&P to assign ratings to CPDOs, known as CPDO Evaluator, which was affected by some of the same alleged errors which are said to impact CDO Evaluator.
 - b. **You acquired interests in CDOs rated on or after 19 December 2005 using an earlier version of S&P’s ratings model:** prior to the amendments, the class action was limited to CDOs which were rated using certain versions of S&P’s ratings model, CDO Evaluator (versions 3.0, 3.1 or 3.2). However, some CDOs continued to be rated using an older version of S&P’s ratings model (known as version 2.4.3) even after the release of version 3.0 on 19 December 2005.

The class action now includes claims in relation to these CDOs, which were rated on or after 19 December 2005 using CDO Evaluator version 2.4.3. Investors will often not know what version of CDO Evaluator was used to rate a CDO. If you invested in a CDO that was first issued in the period from around 19 December 2005 to late 2007, you should consider whether you may be a class member.
 - c. **You acquired interests in CDOs or CPDOs rated AA- by S&P:** the amendments clarify that the class action includes CDOs or CPDOs rated AAA, AA+, AA, or AA-.
4. **If you fall into any of the above categories,** you may be a class member and may choose to register (if you have not already) as explained below.
5. **If you have already registered as a class member,** you should consider whether you invested in any other CDOs or CPDOs which are now included in the S&P Ratings Class Action due to the amendments. If you identify any products that are affected, or are not sure whether another product is affected, please contact Banton Group with details of those investment(s).

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6. If you have already registered as a class member, and are satisfied that you have not invested in any other products which may be included in the class action due to the amendments, you do not need to do anything in response to this notice.
7. Investors will often not know which ratings model was used to rate a CDO or CPDO. If you are not sure whether you are a class member or if you are affected by the amendments, please contact Banton Group with details of your investment by email to sandpcdos@bantongroup.com, or if you are unable to email, then by phone on 02 8076 8090.

B. THE MEDIATION

8. The Applicants and S&P have begun engaging in mediation to explore the possibility of a settlement of the class action (**Mediation**). The mediation is expected to continue.
9. As explained in the first notice dated 22 April 2022, if you are a class member, your rights may be affected by any settlement that is reached as a result of the mediation.
10. In order for your claim to be considered at the Mediation and for the parties to have sufficient information to reach a settlement, we may be required to provide details to S&P of your name, address, and details of your investments in any Claim Product. This information will be kept confidential, and will only be used for the purposes of the class action and will not be shared with the public.
11. If there is any settlement of this proceeding arising from the mediation, the Applicants will seek an order which, if made, has the effect of providing that any class member who by 17 November 2023:
 - a. has not registered; and
 - b. has not opted out in accordance with the orders made by the Court,

will remain a class member for all purposes but shall not, without leave of the Court, be permitted to participate in any settlement of this proceeding that occurs prior to the commencement of the trial of common issues.

12. Before any settlement that may be reached at the Mediation becomes effective, the Court must assess that it is a fair and reasonable compromise of the claims against S&P and must approve its terms as being in the interests of class members.

C. YOUR THREE OPTIONS

13. If you are a class member who has not registered or opted out, you may do one of three things in response to this notice:
 - a. Opt out of the class action;
 - b. Register in the class action; or
 - c. Do nothing.
14. These options are explained in more detail below. **The deadline for making this choice is 4.00pm AEST on 17 November 2023.**

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15. **If you have already registered as a class member or opted out of the proceedings and you have not invested in any other products which may be included in the class action due to the amendments, you do not need to do anything in response to this notice.**
16. You have a right to opt out and cease to be a class member. However, if you wish to remain a class member and ensure that you will be permitted to seek any benefit if the class action settles at mediation (subject to Court approval), you should register to become a **Registered Class Member**.
17. If you do not opt out or register (**Unregistered Class Member**), you will remain a class member but, it is possible that the Court will make orders which will mean that, unless leave is granted by the Court, you will not be permitted to seek any benefit if the class action settles at the Mediation and the settlement is approved by the Court.
18. **Class members are bound by any judgment or Court-approved settlement entered into as a result of the Mediation in the class action unless they have opted out of the class action.**
19. **As the choice you make may affect your legal rights 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 it that you do not understand, you should seek legal advice.**

OPTION 1 – OPT OUT AND CEASE TO BE A CLASS MEMBER

20. Class members who opt out will not be bound by the outcome of the class action and will not receive any money from the class action if it wins or settles. However, a class member who opts out may bring their own proceeding against S&P (if this new proceeding is issued within the time limit applicable to the claim).
21. Because the relevant conduct of S&P occurred a long time ago, if this class action had not been brought, then some claims may have been lost from around August 2020 onwards, depending upon the law that governs the claims. This class action “stopped the clock” on those claims being lost (to the extent that they were not already lost prior to August 2020) and if you opt out, you may only have a very short period of time to take your own action before your claim is lost (to the extent not already lost). Class members should seek legal advice before opting out.
22. If you wish to opt out you must complete the Opt Out Form at Schedule 3 to this notice and send it directly to the New South Wales District Registry of the Federal Court of Australia at the address on the form before **4:00 pm AEST on 17 November 2023**.

OPTION 2 – REGISTER

Registration

23. If you are not already a Registered Class Member, you can register to become a Registered Class Member by:
 - a. completing the online registration form at <https://bantongroup.com/sandp-cdos-registration/>; or
 - b. completing the form at **Schedule 2** to this notice and returning it to the Applicants’ lawyers, Banton Group.

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24. If you are already a Registered Class Member and wish to register your interests in any additional CDOs or CPDOs which fall within the class action, please contact Banton Group with details of those investment(s).
25. Registered Class Members will be bound by, and share in any benefit, pursuant to the terms of any settlement negotiated by the Applicants, if those terms are agreed by the Court. It would also assist the Applicants in preparing for the mediation if you provide Banton Group with any documentation or other supporting evidence concerning:
 - a. your interests (past or present) in the Claim Products;
 - b. the matters you relied upon in making the decision to acquire the Claim Products;
 - c. the loss or damage you allege you have suffered; and
 - d. any steps you took to mitigate the alleged losses.
26. Providing these details will mean that it may be possible for your loss to be considered in any settlement discussions.
27. If you wish to register, you must complete the online registration form or the form at **Schedule 2** to this notice and return it to Banton Group by **4:00 pm AEST on 17 November 2023**.

Becoming a Funded Class Member

28. If you wish to register, you may also choose to sign up as a Funded Class Member.
29. Becoming a Funded Class Member will mean that you agree to pay LCP an amount for litigation funding costs and for commission out of any money you get, which Registered Unfunded Class Members are not obliged to pay. That commission is likely to be between 25% and 40%, or another amount that the Court thinks is reasonable. However, if you remain a Registered Unfunded Class Member, this may still involve you making some contribution out of any money you receive if the Court makes an order to this effect at a later date.
30. If you want to become a Funded Class Member, please contact Banton Group by:
 - a. email at sandpcdos@bantongroup.com, or
 - b. if you are unable to email, by telephone at +61 2 8076 8090and you will be provided with a copy of the standard funding agreement.
31. If you are considering becoming a Funded Class Member, you should carefully read the funding agreements including the retainer and, if you do not understand everything, you should get legal advice from your own solicitor.

Registered Unfunded Class Members

32. If you register in respect of the class action but do not sign up to become a Funded Class Member, you will be treated as a Registered Unfunded Class Member.

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33. In this situation, you will not enter into any contract with LCP and Banton Group. It will still be possible for your claim to be specifically considered to some extent during the Mediation, but if further steps are required to bring your claim, you will have to pay any legal costs yourself.
34. Also, as noted above, at the end of the class action, an order may be sought requiring Unfunded Class Members who benefit, to contribute to the costs and the funding.

OPTION 3 – DO NOTHING

35. If the Mediation results in a settlement, the Applicants will seek Court approval of the settlement. The Applicants will also ask the Court to make orders which will have the effect that any class member who has not registered by **17 November 2023** will not be entitled to a share of any settlement monies without leave of the Court, but will otherwise be bound by the terms of the settlement.
36. This means that if you do nothing by **17 November 2023**, and a settlement agreement is reached at or shortly after the Mediation, it is possible that you may not be entitled to any compensation from the Class Action unless the Court gives you leave. You may also be prevented from making a claim against S&P in respect of or relating to the subject matter of this class action.
37. Before deciding to do nothing, you should obtain your own legal advice about your rights in respect of claims against S&P in those circumstances.
38. If the Mediation does not result in a settlement, then the class action will continue and both Registered Class Members and Unregistered Class Members will remain eligible to participate in the class action (unless and until they opt out).
39. In this scenario, if you do nothing, you will be treated as an Unregistered Unfunded Class Member. You will remain a class member and will be sent further notices from time to time concerning the proceeding.
40. However, as noted above, if the class action does not settle at the Mediation but is successful at trial, at some point Unregistered Unfunded Class members may need to run their individual case if the class action is successful but there are some individual issues outstanding (and because you are not a Funded Class Member you will have to pay any legal costs of these individual claims yourself).

D. HOW TO GET MORE INFORMATION

41. Further information is included in the enclosed original notice relating to the action dated 22 April 2022, and further confidentiality notice dated 19 August 2022.
42. You can obtain further information about the S&P Class Action and relevant documents by:
 - a. visiting Banton Group’s website at <https://bantongroup.com/sandp-cdos/>; or
 - b. contacting Banton Group by email at sandpcdos@bantongroup.com or, if you are unable to email, then by phone on 02 8076 8090.

SCHEDULE 1 – EXCLUDED PRODUCTS

You are not a member of this class action if you only invested in one or more of the following products:

| Product | ISIN |
|---|----------------|
| Aphex Pacific Capital Ltd Series 2006-5 | AU300AFEX047 |
| Beryl Finance Limited Series 2008-4 | AU3FN0005260 |
| Corsair (Cayman Islands) No.4 Ltd Series 2006-5 | AU300CSRJ039 |
| Corsair (Jersey) No.2 Ltd Series 2006-72 | AU300CSRJ021 |
| Corsair (Jersey) No.2 Ltd Series 88 | AU300CSRJ054 |
| Corsair (Jersey) No.2 Ltd Series 89 | AU300CSRJ062 |
| Duke Funding XI Ltd Series 2006 Class A-3E | XS0261422702 |
| Ethical CDO 1 Limited Series 2 | AU300ETHI010 |
| Helium Capital Limited Series 60 | AU300HCAP019 |
| Helium Capital Limited Series 64 | AU300HCAP027 |
| Helix Capital (Jersey) Limited Series 2006-3A | AU3TI000031 |
| Helix Capital (Jersey) Limited Series 2006-3B | AU3TI000049 |
| Helix Capital (Jersey) Limited Series 2006-3C | AU3TI000056 |
| Khamsin Credit Products (Netherlands) II B.V. Silver Square 2006-12 Series 13 | XS0254089260 |
| Managed ACES SPC Series 2006:7 Class 1A | AU300MSMA020 |
| Managed ACES SPC Series 2006:7 Class 11A | AU300MSMA012 |
| Momentum CDO (Europe) Ltd Series 2006-19 | AU300MTEL030 |
| Momentum CDO (Europe) Ltd Series 2007-7 | AU3FN0002598 |
| Obelisk Trust 2006-2 | AU300OBSK069 |
| Prelude Europe CDO Ltd Series 2006-3 | AU300PRE011 |
| STARTS (Cayman Islands) No.4 Ltd Series 2005-5 | AU300STRC012 |
| STARTS (Cayman Islands) No.4 Ltd Series 2006-5 | Repeated above |

SCHEDULE 2 - CLASS MEMBER REGISTRATION FORM

“S&P Class Action”

Federal Court of Australia proceeding NSD 881 of 2020

To: Banton Group
 Level 12
 60 Martin Place
 Sydney NSW 2000
 Attention: Amanda Banton

Email: sandpcdos@bantongroup.com

The class member named below registers their claim with Banton Group:

| | |
|--|----------------|
| Name of class member (i.e. person or entity who held an interest in a Claim CDO/CPDO): | ..... ..... |
| Person completing this form (print): | ..... |
| Authority of person completing this form (e.g. company director, lawyer): | ..... ..... |
| Telephone contact: | ..... |
| Postal address: | ..... ..... |
| Name of CDO/CPDO(s) acquired: | ..... ..... |
| Series/ISIN (if known): | ..... ..... |
| Purchase amount (in \$AUD): | ..... |
| Amount of loss (in \$AUD): | ..... |
| Date of acquisition of CDO/CPDO: | ..... |
| Date sold: | ..... |
| Date of last payment received: | ..... |

ANNEXURE C

Form 21
Rule 9.34

Opt-Out Notice

No. NSD 881 of 2020

Federal Court of Australia
District Registry: New South Wales
Division: General

A.C.N. 117 641 004 PTY LTD (IN LIQUIDATION)

First Applicant

CITY OF COCKBURN

Second Applicant

S&P GLOBAL, INC. (A COMPANY INCORPORATED IN NEW YORK)

First Respondent

STANDARD & POOR’S INTERNATIONAL, LLC (A COMPANY INCORPORATED IN DELAWARE)

Second Respondent

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

The person named below as a class member in this representative proceeding gives notice under section 33J of the *Federal Court of Australia Act 1976* that the class member is opting out of the representative proceeding.

| | |
|---|----------------|
| Name of class member: | ..... |
| Person completing this form (print): | ..... |
| Authority of person completing this form (eg., company director, lawyer) | ..... ..... |
| Telephone contact: | ..... |
| Postal address | ..... |

Date:

Signed by (name):

Capacity (e.g. class member or lawyer for class member):



Annexure A

FEDERAL COURT OF AUSTRALIA (PROCEEDING NO: NSD 881/2020)

S&P RATINGS CLASS ACTION

NOTICE TO GROUP MEMBERS

(EXTENSION OF TIME AND CONFIDENTIALITY)

THIS IS AN IMPORTANT NOTICE ISSUED TO YOU BY THE FEDERAL COURT OF AUSTRALIA

This is an important notice that the Federal Court of Australia has ordered to be published to group members in the S&P Ratings Class Action.

This notice provides important information relating to the class action commenced against S&P Global, Inc. and Standard & Poor's International, LLC (together, **S&P**) concerning S&P's rating of certain collateralised debt obligations (**CDOs**) as 'AA' or higher in the period around December 2005 to mid to late-2007 (**Claim CDOs**).

You are receiving this notice because you are a known or potential group member in the S&P Ratings Class Action, or have already registered in respect of the class action.

1. The purpose of this notice is to inform you of a revised deadline for registration for any claims to be considered at the first mediation, and the confidentiality arrangements concerning the information you provide to Banton Group in relation to your registration.

Extension to the time for Registration

2. The Court has ordered the time to register your claims so that they may be considered at the first mediation (subject to Court approval) is now **30 September 2022**.

Confidentiality arrangements

3. As mentioned in the previous notice dated 22 April 2022, the applicants and S&P will participate in a mediation at which the parties will explore the possibility of a settlement of the class action (**Mediation**).
4. In order for your claim to be considered at the Mediation and for the parties to have sufficient information to reach a settlement, the Court will order the applicants to provide S&P with details of:
 - a. your name;



- b. your address; and
 - c. the details of your investments in any Claim CDO.
5. This information will be kept confidential, will only be used for the purposes of the class action and will not be shared with the public.
 6. S&P have provided an undertaking to the Court that they will not contact you in relation to the class action without the Court's approval.
 7. If you do not consent to this information being provided to S&P, S&P has indicated that it will not be able to consider your claims in the Mediation and it is unlikely that any settlement will be reached in respect of your claim.
 8. If you do not want the information set out in paragraph 3 above to be shared with S&P for the Mediation, you should notify Banton Group by no later than **4 September 2022** by visiting their website <https://bantongroup.com/SandP-CDOs/>, sending an email to sandpcdos@bantongroup.com, or if you are unable to email, then by phone on (+61) 2 8076 8090. If you have any questions about this notice, then you should also contact the Banton Group or seek your own legal advice without delay.

**FEDERAL COURT OF AUSTRALIA (PROCEEDINGS NO: NSD 881/2020)****S&P RATINGS CLASS ACTION****OPT OUT NOTICE AND NOTICE OF REGISTRATION FOR MEDIATION****THIS IS AN IMPORTANT NOTICE ISSUED TO YOU BY THE FEDERAL COURT OF AUSTRALIA**

This is an important notice that the Federal Court of Australia has ordered to be published to persons who may be class members in the S&P Ratings Class Action.

The **S&P Ratings Class Action** was commenced against S&P Global, Inc. and Standard & Poor's International, LLC (together, **S&P**) concerning S&P's rating of certain collateralised debt obligations (**CDOs**) as 'AA' or higher in the period around December 2005 to mid to late-2007 (**Relevant Period**). These CDOs are referred to below as **Claim CDOs**.

You are receiving this notice because you may be a class member in the S&P Ratings Class Action. **You may be a class member even if you acquired an interest in a Claim CDO in a secondary market.**

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 it that you do not understand, you should seek legal advice.

As explained below, you may do one of three things in response to this notice:

1. **opt out** of the class action by 31 July 2022 and lose your right to obtain any money compensation out of the class action (but keep your right to try to obtain some money compensation in an action you may start yourself); or
2. **register** in the class action by 31 July 2022 to guarantee the opportunity to receive any compensation that may become available in this class action pursuant to any settlement reached at the mediation (subject to Court approval); or
3. **do nothing** and remain a class member but risk losing your rights as a class member **if** the class action settles at the mediation unless the Court orders otherwise.

If you are unsure whether you are a class member, you should contact Banton Group Pty Ltd (**Banton Group**), the solicitors for the applicants in this class action, by visiting their website <https://bantongroup.com/SandP-CDOs/>, sending an email to sandpcdos@bantongroup.com, or if you are unable to email, then by phone on (+61)2 8076 8090, or seek your own legal advice without delay.



A. OVERVIEW OF THE CLASS ACTION

1. A class action is an action that is brought by one or a small number of people against another person in circumstances in which the applicants and the class members have similar claims.
2. The representative applicants are A.C.N. 117 641 004 Ltd (in liquidation) (in its capacity as trustee of the Vale Cash Management Fund) and the City of Cockburn. At a high-level, the applicants allege that:
 - a. S&P's ratings of certain CDOs were not reliable or were not based on reasonable grounds, and
 - b. S&P knew this, or was recklessly indifferent to this, and therefore deceitfully and dishonestly induced investors to purchase their interest in those CDOs.
3. The primary compensation claimed is the value of the investment in the Claim CDOs, losses arising from any decrease in the market value of the Claim CDOs, and/or the loss of opportunity to invest that money in other interest-bearing investments.
4. S&P denies the allegations and are defending the class action.
5. The applicants' solicitors are Banton Group. A company called Litigation Capital Partners LLP PTE Ltd (**LCP**) is funding the case.
6. **Class members are not, and will not be, liable for any "out of pocket" legal costs by remaining in this class action.** The costs of running the action to a trial of common issues are being paid for by LCP.
7. **If the class action is unsuccessful, class members will have no liability.**
8. However, if the class action is successful (that is, if money compensation is recovered), the Court might be asked to make an order distributing the legal and funding expenses among all persons who have benefitted from the class action. The effect of any such order, if made, would be that all class members who benefit will contribute to the costs and pay reasonable litigation funding charges. Class members who have entered into a funding agreement will do so under their contractual obligations. That means that class members who do not sign up to a funding agreement might have to contribute out of their share of any compensation received if the Court were to so order.



9. The applicants and S&P will participate in a mediation to begin no later than 15 October 2022 (**Mediation**) at which the parties will explore the possibility of a settlement of the class action.

B. ARE YOU A CLASS MEMBER?

10. The class action specifically relates to the Claim CDOs, which are tranches of CDOs **rated “AA” or higher by S&P** using a ratings model known as CDO Evaluator (**CDOE**) 3.0, 3.1, or 3.2.
11. The S&P Ratings Class Action claims compensation for losses suffered by those who:
- acquired interests in tranches of Claim CDOs rated “AA” or higher by S&P, if S&P used CDOE 3.0, CDOE 3.1, or CDOE 3.2 (referred to as **E3**);
 - acquired those interests by reason of the publication or dissemination of such ratings in Australia; and
 - did not only invest in products that have already been the subject of previous proceedings. Those excluded products are listed in **Schedule 1**.
12. Investors will often not know whether a tranche of a CDO was assigned a rating using E3. This model was used by S&P as part of the process to assign ratings in the Relevant Period.
13. **It is important to note that you may be a class member even if you acquired your interest in a Claim CDO on a secondary market.**
14. It is not possible at present to be specific as to the extent of possible Claim CDOs. If you are not sure whether you invested in a Claim CDO, please contact Banton Group with details of your investment by email to sandpcdos@bantongroup.com, or if you are unable to email, then by phone on 02 8076 8090.
15. If there is any settlement of this proceeding arising from the Mediation, the applicants will seek an order which, if made, has the effect of providing that any class member who by 31 July 2022:
- has not registered; and
 - has not opted out in accordance with the orders made by the Court,
- will remain a class member for all purposes but shall not, without leave of the Court, be permitted to participate in any settlement of this proceeding that occurs prior to the commencement of the trial of common issues.



C. WHY ARE YOU RECEIVING THIS NOTICE?

16. You have received this notice because you may be a class member in the class action.
17. The purpose of this notice is to inform you that the Court has ordered the parties to meet and commence mediation discussions by no later than 15 October 2022, and to provide you with information on how to register in respect of the class action or opt out of it.
18. You have a right to opt out and cease to be a class member. If you wish to remain a class member and ensure that you will be permitted to seek any benefit if the class action settles at the Mediation (subject to Court approval), you should register to become a **Registered Class Member**.
19. If you do not opt out or register (**Unregistered Class Member**), you will remain a class member, but the applicant proposes to seek an order that you will not be permitted to participate in any settlement prior to the commencement of the trial of common issues, without leave of the Court.
20. **The deadline for making this choice is 4.00 pm AEST on 31 July 2022.**
21. **Class members are bound by any Court-approved settlement entered into as a result of the Mediation in the class action unless they have opted out of the class action.**
22. **As the choice you make may affect your legal rights 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 it that you do not understand, you should seek legal advice.**

D. THE MEDIATION

23. The Court has ordered that the parties commence the Mediation by no later than 15 October 2022.

E. YOUR THREE OPTIONS

OPTION 1 – OPT OUT AND CEASE TO BE A CLASS MEMBER

24. Class members who opt out will not be bound by the outcome of the class action and will not receive any money from the class action if it wins or settles. However, a class member who opts out may bring their own proceeding against S&P (if this new proceeding is issued within the time limit applicable to the claim).



25. Because the relevant conduct of S&P occurred a long time ago, if this class action had not been brought, then some claims may have been lost from around August 2020 onwards, depending upon the law that governs the claims and the nature of the claims. This class action “stopped the clock” on those claims being lost (to the extent that they were not already lost prior to August 2020) and if you opt out, you may only have a very short period of time to take your own action before your claim is lost (to the extent not already lost). Class members should seek legal advice before opting out.
26. If you wish to opt out you must complete the Opt Out Form at **Schedule 3** to this notice and send it directly to the New South Wales District Registry of the Federal Court of Australia at the address on the form before **4:00 pm AEST on 31 July 2022**.

OPTION 2 – REGISTER

Registration

27. Class members can register to become a Registered Class Member by either completing the form at **Schedule 2** to this notice, or the form at the website <https://bantongroup.com/SandP-CDOs-registration/>, (to the best of their ability and based on their current state of knowledge) and returning it to the applicants’ solicitors, Banton Group.
28. Registered Class Members will be bound by, and share in any benefit, pursuant to the terms of any settlement negotiated by the applicants, if those terms are agreed by the Court. It would also assist the applicants in preparing for the mediation if you provide Banton Group with any documentation or other supporting evidence to the extent it is available to you concerning:
- a. your interests (past or present) in the Claim CDOs; and
 - b. the loss or damage you allege you have suffered.
29. If you wish to register, you must complete the form at **Schedule 2** to this notice, or the form at the website <https://bantongroup.com/SandP-CDOs-registration/>, and return it to Banton Group by **4:00 pm AEST on 31 July 2022**.

Becoming a Funded Class Member

30. If you wish to register, you may also choose to sign up as a Funded Class Member.
31. Becoming a Funded Class Member will mean that you agree to pay LCP an amount for litigation funding costs and for commission out of any money you get, which Registered Unfunded Class



Members are not obliged to pay. That commission is likely to be between 25% and 40%, or another amount that the Court thinks is reasonable. However, if you remain a Registered Unfunded Class Member, this may still involve you making some contribution out of any money you receive if the Court makes an order to this effect at a later date.

32. If you want to become a Funded Class Member, please visit the website at <https://bantongroup.com/SandP-CDOs/> to download a copy of the standard funding agreement. If you are unable to access this website, please contact Banton Group by email at sandpcdos@bantongroup.com, or if you are unable to email, by telephone on +61 2 8076 8090, to be sent a copy.
33. If you are considering becoming a Funded Class Member, you should carefully read the funding agreements and, if you do not understand everything, you should get legal advice from your own solicitor. If, however, you do wish to participate as a funded class member after deciding to enter into the funding agreement and you wish to retain Banton Group as your solicitors, you can contact Banton Group using the details in Section H below to obtain further information.

Registered Unfunded Class Members

34. If you register in respect of the class action but do not sign up to become a Funded Class Member, you will be treated as a Registered Unfunded Class Member.
35. In this situation, you will not enter into any contract with LCP. It will still be possible for your claim to be specifically considered to some extent during the Mediation, but if further steps are required to bring your claim, you will have to pay any legal costs yourself.
36. Also, as noted above, at the end of the class action, an order may be sought requiring Unfunded Class Members who benefit to contribute to the costs and the funding.

OPTION 3 – DO NOTHING

37. Class members who do not opt out or register by 31 July 2022 will remain as class members and await the outcome.
38. If the Mediation results in a settlement, the applicants will seek Court approval of the settlement. The applicants will also ask the Court to make orders which will have the effect that any class member who has not registered by **31 July 2022** will not be entitled to participate in any settlement without leave of the Court, but will otherwise be bound by the terms of the settlement.



39. **This means that if you do nothing by 31 July 2022, and a settlement agreement is reached at or shortly after the Mediation, it is possible that an order will be made that you not be entitled to any compensation from the class action unless the Court gives you leave. You may also be prevented from making a claim against S&P in respect of or relating to the subject matter of this class action.**
40. **Before deciding to do nothing, you should obtain your own legal advice about your rights in respect of claims against S&P in those circumstances.**
41. If the Mediation does not result in a settlement, then the class action will continue and both Registered Class Members and Unregistered Class Members will remain eligible to participate in the class action (unless and until they opt out).
42. In this scenario, if you do nothing, you will be treated as an Unregistered Unfunded Class Member. You will remain a class member and will be sent further notices from time to time concerning the proceeding.
43. However, as noted above, if the class action does not settle at the Mediation but is successful at trial, at some point Unregistered Unfunded Class members may need to run their individual case if the class action is successful but there are some individual issues outstanding (and because you are not a Funded Class Member you will have to pay or otherwise arrange for funding of any legal costs of these individual claims yourself).

F. ARE CLASS MEMBERS LIABLE FOR LEGAL COSTS?

44. Class members are not individually responsible for the legal costs associated with bringing the class action or for the costs of S&P if the claim is unsuccessful. In a class action, it is the applicants that are responsible for such costs.
45. If any compensation becomes payable to you in the class action, the applicant may ask the Court for an order that a contribution be made from your compensation towards the legal and funding expenses of the proceeding.
46. The total of any amounts deducted will never exceed the amount a class member receives. That is, class members **will never be out of pocket by participating in the class action.**

G. IMPORTANT THINGS TO NOTE

47. *First, this is not a scam.* You can check (and get any copies of relevant documents) by obtaining further information as explained at paragraph 49 below.



48. *Secondly*, if there is anything of which you are unsure and you do not want to contact Banton Group (or you want to understand their involvement or the funding agreements or retainer better), you should get legal advice from a solicitor you choose.

H. HOW TO GET MORE INFORMATION

49. You can obtain further information about the S&P Ratings Class Action by:
- a. visiting the website at <https://bantongroup.com/SandP-CDOs/>, where you can also inspect the current Amended Originating Application and Amended Statement of Claim;
 - b. contacting Banton Group at sandpcdos@bantongroup.com, or if you are unable to email then by phone on 02 8076 8090; or
 - c. requesting that Banton Group provide you with a copy of the current filed Amended Originating Application and Amended Statement of Claim for the S&P Ratings Class Action (at no cost to you).



SCHEDULE 1 – EXCLUDED PRODUCTS

You are not a member of this class action if you only invested in one or more of the following products:

| Product | ISIN |
|---|----------------|
| Aphex Pacific Capital Ltd Series 2006-5 | AU300AFEX047 |
| Beryl Finance Limited Series 2008-4 | AU3FN0005260 |
| Corsair (Cayman Islands) No.4 Ltd Series 2006-5 | AU300CSRJ039 |
| Corsair (Jersey) No.2 Ltd Series 2006-72 | AU300CSRJ021 |
| Corsair (Jersey) No.2 Ltd Series 88 | AU300CSRJ054 |
| Corsair (Jersey) No.2 Ltd Series 89 | AU300CSRJ062 |
| Duke Funding XI Ltd Series 2006 Class A-3E | XS0261422702 |
| Ethical CDO 1 Limited Series 2 | AU300ETHI010 |
| Helium Capital Limited Series 60 | AU300HCAP019 |
| Helium Capital Limited Series 64 | AU300HCAP027 |
| Helix Capital (Jersey) Limited Series 2006-3A | AU3TI000031 |
| Helix Capital (Jersey) Limited Series 2006-3B | AU3TI000049 |
| Helix Capital (Jersey) Limited Series 2006-3C | AU3TI000056 |
| Khamsin Credit Products (Netherlands) II B.V. Silver Square 2006-12 Series 13 | XS0254089260 |
| Managed ACES SPC Series 2006:7 Class 1A | AU300MSMA020 |
| Managed ACES SPC Series 2006:7 Class 11A | AU300MSMA012 |
| Momentum CDO (Europe) Ltd Series 2006-19 | AU300MTEL030 |
| Momentum CDO (Europe) Ltd Series 2007-7 | AU3FN0002598 |
| Obelisk Trust 2006-2 | AU300OBSK069 |
| Prelude Europe CDO Ltd Series 2006-3 | AU300PRE011 |
| STARTS (Cayman Islands) No.4 Ltd Series 2005-5 | AU300STRC012 |
| STARTS (Cayman Islands) No.4 Ltd Series 2006-5 | Repeated above |



SCHEDULE 2 - CLASS MEMBER REGISTRATION FORM

“S&P Ratings Class Action”

Federal Court of Australia proceeding NSD 881 of 2020

To: Banton Group
 Level 12
 60 Martin Place
 Sydney NSW 2000
 Attention: Amanda Banton
 Email: sandpcdos@bantongroup.com

The class member named below registers their claim with Banton Group:

| | |
|--|----------------|
| Name of class member (i.e. person or entity who held an interest in a Claim CDO): | ..... ..... |
| Person completing this form (print): | ..... |
| Authority of person completing this form (e.g. company director, lawyer): | ..... ..... |
| Telephone contact: | ..... |
| Postal address: | ..... ..... |
| Please provide as much of the below information as possible, to the best of your state of knowledge | |
| Name of CDO(s) acquired: | ..... ..... |
| Series/ISIN (if known): | ..... ..... |
| Purchase amount (in \$AUD) (if known): | ..... |
| Amount of loss (in \$AUD) (if known): | ..... |
| Date of acquisition of CDO (if known): | ..... |
| Date sold (if known): | ..... |
| Date of last payment received (if known): | ..... |

Date:

.....
 Signed by [Name]

.....
 [Insert capacity eg class member / Lawyer for the class member]



Form 21
Rule 9.34

Opt-Out Notice

No. NSD 881 of 2020

Federal Court of Australia
District Registry: New South Wales
Division: General

A.C.N. 117 641 004 PTY LTD (IN LIQUIDATION)

First Applicant

CITY OF COCKBURN

Second Applicant

S&P GLOBAL, INC. (A COMPANY INCORPORATED IN NEW YORK)

First Respondent

STANDARD & POOR’S INTERNATIONAL, LLC (A COMPANY INCORPORATED IN DELAWARE)

Second Respondent

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

The person named below as a class member in this representative proceeding gives notice under section 33J of the *Federal Court of Australia Act 1976* that the class member is opting out of the representative proceeding.

| | |
|---|----------------|
| Name of class member: | ..... |
| Person completing this form (print): | ..... |
| Authority of person completing this form (eg., company director, lawyer) | ..... ..... |
| Telephone contact: | ..... |
| Postal address | ..... |

Date:

Signed by (name):

Capacity (e.g. class member or lawyer for class member):