

ANZ AND ONEPATH SUPER CLASS ACTION

NOTICE OF PROPOSED SETTLEMENT

Federal Court of Australia Proceeding VID9 of 2021

IT IS IMPORTANT THAT YOU READ THIS NOTICE CAREFULLY BECAUSE IT MAY AFFECT YOUR LEGAL RIGHTS.

This notice is about a **Proposed Settlement** that has been agreed by the parties to the ANZ and OnePath Super Class Action (**OnePath Class Action**). The Proposed Settlement is subject to the Court's approval. The Court will only approve the Proposed Settlement if it considers that it is fair and reasonable and is in the interests of Group Members.

You have received this notice because you are likely a Group Member in the OnePath Class Action.

1. **OPTION A – REGISTER.** To be eligible to receive a payment from the Proposed Settlement, you must register by **3 February 2025**

To register:

- (a) Complete and submit the registration form on the Group Member Portal at **www.ANZOnepathSuperClassAction.deloitte.com.au** by **3 February 2025**.
- (b) If you are unable to register through the above website, you need to contact **1 800 979 608** by **3 February 2025**.

If you do not register by **3 February 2025**, you will **not** be eligible to receive a payment from the Proposed Settlement. You must register even if you have previously given your details to Slater and Gordon. Slater and Gordon have engaged Deloitte to assist with the distribution of this notice and Group Member registration. The above Group Member Portal and hotline are operated by Deloitte.

2. **OPTION B – OBJECT.** If you wish to object to any aspect of the Proposed Settlement, you must complete and email a completed 'Notice of Objection to Proposed Settlement' in the form attached to **the Federal Court** at vicreg@fedcourt.gov.au by **14 February 2025**. You can also request to be heard at the hearing on **23 April 2025**. You do not need to be represented or incur any costs in order to object.

If you object you should still register (Option A) to ensure that you are eligible for a payment from the Proposed Settlement if it is approved by the Court.

3. **OPTION C – DO NOTHING.** If you do not register, and the settlement is approved, you will be bound by the Proposed Settlement, but **you will not be entitled to receive any payment** and you will not be able to bring your own claim against the Respondents separately relating to the claims in the OnePath Class Action.

For more information, please visit www.ANZOnepathSuperClassAction.deloitte.com.au or contact 1 800 979 608.

WHAT IS THE ONEPATH CLASS ACTION?

1. There are two key claims in the OnePath Class Action:
 - (1) **Cash Claim:** relates to the interest rates paid on cash investment options called “ANZ Cash Advantage”, “ANZ SmartChoice Cash” and “ANZ Term Deposits” in pension and superannuation products offered in the Master Fund and later the Retirement Portfolio Service (RPS) Fund between 1 September 2011 and 31 January 2020. The primary claim is against OnePath Custodians (**OPC**). OnePath Life (**OPL**) and ANZ Bank (**ANZ**) are alleged to be accessories.
 - (2) **Commissions Claim:** relates to fees charged to members of the Master Fund, who were invested in certain pension and superannuation products before 1 July 2013, where those fees were charged between 1 July 2013 and 14 April 2019 to fund the payment of commissions to financial advisers. The primary claim is against OPC. OPL is alleged to be an accessory.
2. Further information on the OnePath Class Action, including the Statement of Claim and the defences filed, can be found at: www.slatergordon.com.au/anz-and-onepath-super-class-action.

WHAT IS THE PROPOSED SETTLEMENT?

3. The total settlement amount is **\$50 million (Settlement Sum)**.
4. Under the terms of the Proposed Settlement, ANZ, OPC and OPL will jointly pay this amount (inclusive of costs and interest) in full and final settlement of all claims made by or on behalf of the Applicants and Group Members in the OnePath Class Action.
5. OPC, ANZ and OPL deny any wrongdoing.
6. ANZ, OPC and OPL will not use any RPS Fund assets, nor rely on any RPS Fund indemnity to pay the Settlement Sum.
7. The Proposed Settlement is subject to the approval of the Federal Court of Australia (the **Court**) before it is binding on the parties and Group Members.
8. The Court will only approve the Proposed Settlement if it is satisfied that the Proposed Settlement is fair and reasonable and in the interests of Group Members.
9. The Court will hear the application for approval of the Proposed Settlement at **10.15am on Wednesday 23 April 2025** in Melbourne. Group Members may attend that hearing, if they wish.
10. If approved, the Proposed Settlement will be distributed in accordance with the proposed Settlement Distribution Scheme (**SDS**). The SDS is also subject to the approval of the Court. The proposed SDS provides more detailed information about how the Proposed Settlement will be administered and distributed. The proposed SDS is available at www.slatergordon.com.au/anz-and-onepath-super-class-action or **1 800 979 608**.

AM I A GROUP MEMBER?

Cash Claim Group Members

11. In summary, you are a Group Member if:
 - (a) Any time between 1 September 2011 and 13 April 2019 (the **Master Fund Period**) or at any time between 14 April 2019 and 31 January 2020 (the **RPS Fund Period**) you:
 - i. were a member of the OnePath Master Fund or RPS Fund as relevant; and
 - ii. had units or rights in respect of investment options called: ANZ Cash Advantage; ANZ Term Deposit; or ANZ SmartChoice Cash.

OR

- (b) You received payment from the Master Fund and/or RPS Fund of all or part of the benefits of a deceased member who satisfied the definition at 11(a) or you were the spouse of a member who satisfied the definition at 11(a) and received a transfer from the Master Fund and/or RPS Fund pursuant to a family law settlement or proceeding.

Commission Claim Group Members

12. In summary, you are a Group Member if:

- (a) You became a member of the Master Fund prior to 30 June 2013, and were a member of one of the following products:
- i. ANZ OneAnswer Personal Super or Pension;
 - ii. OnePath OneAnswer Personal Super or Pension;
 - iii. ANZ Super Advantage;
 - iv. Integra Super or Pension;
 - v. OptiMix Super or Pension.
- AND
- (b) On or after 1 July 2013 to 13 April 2019, you were charged one or more contribution fees or ongoing fees (which were referable to contribution commissions or trail commissions).
- OR
- (c) You received payment from the Master Fund and/or RPS Fund of all or part of the benefits of a deceased member who satisfied the definition at 12(a) and (b), or you were the spouse of a member who satisfied the definition at 12(a) and (b) and received a transfer from the Master Fund and/or RPS Fund pursuant to a family law settlement or proceeding.
13. If you are unsure whether you are a Group Member, please review the full definition at **www.slatergordon.com.au/anz-and-onepath-super-class-action** or seek your own legal advice.
14. If you opted out of the OnePath Class Action by June 2024, you will not be eligible to receive a payment from the Proposed Settlement. The deadline to opt out was 4:00pm 24 June 2024.

WHAT ARE THE LEGAL AND OTHER COSTS?

15. There are no 'out-of-pocket' costs to Group Members.
16. The OnePath Class Action has been run by Slater and Gordon on a "no win, no fee" basis. This means that Slater and Gordon have incurred professional legal fees, counsel's fees, disbursements and After the Event (**ATE**) insurance on the basis that Slater and Gordon will only be paid in the event of a successful outcome. Slater and Gordon will therefore seek payment or reimbursement of those legal costs, plus an uplift of 25% on the professional legal fees, from the Settlement Sum.
17. An estimate of the Applicants' legal costs is set out below. These are estimates only and are based on the best information currently available. If the scope of the work required for settlement approval or distribution of the Proposed Settlement changes costs may increase.
18. The Court has appointed an independent Costs Referee to inquire into and report on the reasonableness of the Applicants' legal costs. The Costs Referee will provide a report to the Court which will be considered as part of the application for approval of the Proposed Settlement.
19. **All deductions from the Proposed Settlement, including all claimed legal and other costs, are subject to the review and approval of the Court.**

Legal Costs

20. The Applicants will seek approval from the Court for the payment of **approximately \$13 million** in legal costs from the Settlement Sum for the costs up to and including settlement approval.
21. This includes all professional legal fees and disbursements incurred in the proceeding to date and estimated future costs for the application for approval of the Proposed Settlement. This also includes an uplift of 25% on Slater and Gordon's professional legal fees which is claimed to account for the risk taken by Slater and Gordon in running the proceeding on a "no win, no fee" basis.

Administration Costs

22. The Applicants will seek approval from the Court for **approximately \$3 million** for settlement administration costs.
23. This includes all the costs involved in registration and administering the SDS and distributing the Settlement Sum to Group Members. It also includes costs for third parties to assist (including Deloitte and any third-party data specialist which is required by OPC to produce the data necessary to administer the Proposed Settlement).

24. The Applicants will seek court orders that Slater and Gordon be appointed as settlement administrator as part of the application for approval of the Proposed Settlement.

Lead Applicants' Reimbursement

25. The Applicants will seek a reimbursement payment of approximately \$20,000 each for their time, expense and effort in prosecuting the OnePath Class Action on behalf of Group Members.

ATE Insurance

26. The Applicants will seek reimbursement of 'After the Event' (ATE) insurance premiums of approximately **\$1.7 million**.
27. Slater and Gordon secured ATE insurance to cover the Applicants' risk of being ordered to pay the Respondents' legal costs in the event of an unsuccessful outcome.

Total Legal, Settlement Approval and Settlement Administration Costs

28. In total, the Applicants will seek approval for deductions of approximately **\$18 million** from the Settlement Sum.
29. All deductions sought are subject to Court approval and will only be approved if the Court considers they are fair and reasonable.
30. If the Court approves the proposed deductions, the net Settlement Sum to be distributed to Group Members will total approximately **\$32 million** (plus any interest accrued, less any applicable tax).

HOW MUCH WILL I RECEIVE?

31. The proposed process for distributing the Settlement Sum is outlined in the proposed SDS, which is available here: **www.slatergordon.com.au/anz-and-onepath-super-class-action**. The SDS includes a "Loss Calculation and Apportionment Formula" (**Loss Formula**) which details how each Group Member's share of the net Settlement Sum will be calculated.
32. It is not presently possible to provide an estimate of how much each individual Group Member may receive. Individual entitlements are likely to depend on at least some of the following factors:
- (a) the number of Group Members that register to participate in the Proposed Settlement;
 - (b) each Group Member's individual superannuation or pension balance and the time the member was in the super or pension product;
 - (c) the amount of the applicable fees charged to the member;
 - (d) the interest rates paid to the member on the cash investment options; and
 - (e) the amount of the Settlement Sum after the deductions approved by the Court.
33. The Respondents will provide the settlement administrator with the necessary information to enable the settlement administrator to calculate each Group Member's entitlement in accordance with the Apportionment Formula.
34. The Applicants will propose to the Court that any Group Member whose entitlement is calculated to be less than \$10 will not receive a distribution, as the costs of administering those distributions would likely be disproportionate. The value of all entitlements below that threshold would be part of the fund distributed to other Group Members in accordance with the Settlement Distribution Scheme.

WHAT DO I NEED TO DO TO REGISTER?

35. Registration for this class action is through the completion and submission of the registration form on the Group Member Portal at **www.ANZOnepathSuperClassAction.deloitte.com.au**.
36. To access the registration form, you will need to first set up an account on the Group Member Portal (instructions below):
- (a) Access **www.ANZOnepathSuperClassAction.deloitte.com.au** and navigate to the 'Sign up' tab.
 - (b) Once on the 'Sign up' tab, provide all the information in the relevant fields, including your first and last name and contact details. If you received your Notice of Proposed Settlement by email, it is important to use the email address to which you have received your notice.
 - (c) Review and consent to the terms and conditions and click the green sign-up button.

- (d) You will receive an email to the account you have entered asking you to verify the email address. Click on the 'Confirm Account' button in the email within 24 hours of receipt.
 - (e) You will receive an email to the account you have entered asking you to set the password for your account. Click on the 'Create Password' button in the email within 24 hours of receipt.
 - (f) Once you have successfully set your password, you will be directed to the log in page. Enter the email address and password you have set for the account. Do not navigate away from this page.
 - (g) On this page, enter the One Time Code that has been sent to your email address. This code is valid for one log in only.
37. Once logged in, follow the on-screen instructions on how to complete and submit your registration form. Once you have submitted your registration form you will receive an email confirmation that you have successfully submitted your form. You do not need to contact the dedicated support team separately to confirm your registration.
38. If you cannot complete the online registration process online, you must contact **1 800 979 608** by **3 February 2025** and either speak to an operator or leave a voicemail message that you cannot complete the registration process online along with your first name, surname and best contact number.

WHO WILL ADMINISTER THE PROPOSED SETTLEMENT?

39. The Applicants will apply for orders of the Court that Slater and Gordon be appointed as the settlement administrator as part of the application for approval of the Proposed Settlement. They anticipate that third parties will be retained to assist in settlement administration. These roles are set out in the SDS, which you can access here: **www.slatergordon.com.au/anz-and-onepath-super-class-action**.

HOW WILL I RECEIVE MY PAYMENT?

40. If the Proposed Settlement is approved the Settlement Sum will be distributed by Slater and Gordon, in accordance with the SDS. Under the proposed SDS, Group Members will be paid their entitlement into their bank accounts, in accordance with instructions provided in the registration process.

ANY QUESTIONS?

41. If you have any questions, please access the Frequently Asked Questions at **www.ANZOnepathSuperClassAction.deloitte.com.au**.
42. Further information is also available on Slater and Gordon's website at **www.slatergordon.com.au/anz-and-onepath-super-class-action**.
43. A large number of people are receiving this notice, and we expect a high volume of enquiries. Your call may be directed to a voicemail service and will be returned as soon as possible.

ANZ AND ONEPATH SUPER CLASS ACTION

NOTICE OF OBJECTION

Federal Court of Australia Proceeding VID9 of 2021

Complete this form if you want to object to the proposed settlement that will be considered by the Court when it is determining whether or not to approve it.

If you **wish to object** to the proposed settlement, your Notice of Objection must be received by the Court by **14 February 2025**.

If you do NOT wish to object to the proposed settlement, you do **NOT** need to return this form.

Please return this form to the Federal Court of Australia:

By email: vicreg@fedcourt.gov.au

By post: The Registrar
Federal Court of Australia, Victoria District Registry
Owen Dixon Commonwealth Law Courts Building
305 William Street
Melbourne VIC 3000

The person identified below gives notice that the person **OBJECTS** to the proposed settlement of this proceeding.

A DETAILS OF OBJECTOR

Name:	
Date of birth:	
Capacity: <i>(if objecting on behalf of someone else)</i>	
Telephone:	
Email:	
Postal address:	
Whether you are a current member of the RPS Fund: YES/NO	
Whether you are a commissions or cash claim Group Member (if known):	

Please attach any documentary evidence of fund membership during the Relevant Period.

B GROUND(S) OF OBJECTION

I object to the proposed settlement on the following grounds *[attach additional pages if necessary]*:

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You do not have to come to Court to object. Filing the Notice of Objection is enough.

C ATTENDANCE AT HEARING AT 10.15am ON Wednesday 23 April 2025

<input type="checkbox"/> I intend to appear before the Court at the hearing at 10.15am on 23 April 2025
<i>[If you intend to appear, please complete the following]:</i>
<input type="checkbox"/> I will appear on my own behalf
<input type="checkbox"/> I will be represented by a lawyer:
<input type="checkbox"/> I do not intend to appear, but wish for my submissions to be considered in my absence

Signed:	
Name of person signing:	
Date:	